



New England Fishery Management Council

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Mr. Matt Brookhart
Regional Director
Office of National Marine Sanctuaries
National Oceanic and Atmospheric Administration
105 east West Highway
Silver Spring, MD 20910

Dear Mr. Brookhart:

Thank you for your letters of July 6, 2022. Consistent with the National Marine Sanctuaries Act (specifically, 16 U.S.C. section 1434(a)(5)), your letter asked for our recommendation on fisheries management within the proposed Hudson Canyon National Marine Sanctuary (Sanctuary). While we are not taking a position in favor of or opposed to the Sanctuary designation, it is our belief that fisheries management that is consistent with the Magnuson-Stevens Fishery Conservation and Management Act (MSA) supports the goals of the proposed sanctuary. We do not believe additional fisheries regulations are necessary at this time, and should they become necessary in the future they should be implemented through the responsible Councils and the MSA.

I acknowledge that the proposed Sanctuary is outside our Council's geographic area of responsibility and would be located within the geographic area of the Mid-Atlantic Fishery Management Council. However, one of the principles of the MSA is that fisheries should be managed throughout their range. We manage or co-manage several fisheries that operate in the Hudson Canyon area. Our management of these fisheries justifies our interest.

The MSA has been an effective foundation for U.S. fisheries management since 1977. The key principle of science-based management to achieve national objectives is a proven, effective strategy for sustainable management of fishery resources. All fishery management plans must be consistent with ten National Standards and require consideration of and compliance with other applicable laws. Over the years, amendments to the original MSA have strengthened its successful approach, adding requirements to identify and protect essential fish habitats and to create accountability around harvest limits, among other measures. As noted in annual reports to Congress, 92 percent of stocks with a known status are not subject to overfishing. The Regional Fishery Management Councils, supported by federal and state scientists, and with extensive public input and advice, are a key element of the management program established by the MSA. The Councils provide an open, transparent process that manages fisheries for the best net benefits to the nation.

The MSA directly supports three of the primary goals of the sanctuary designation. First, the MSA itself is designed to conserve the nation's marine wildlife (primarily managed fish and shellfish species) and their habitats. Its mandate requires us to consider all applicable laws, such

as those that apply to the preservation of maritime cultural resources, marine mammals, and other protected species. Second, the MSA is designed to promote sustainable use of marine resources. Not only does it require science-based management, but it requires managers to consider impacts on communities when making decisions. Finally, the process we use is open and transparent, seeking participation from all members of the public. This is consistent with the goal of providing a platform for collaborative and diverse partnerships.

Regionally, the New England and Mid-Atlantic Fishery Management Councils combine to effectively manage the fishery resources in the Hudson Canyon area. While much of the fishing in NEFMC fishery management plans occurs in the Gulf of Maine and on Georges Bank, there is some activity that extends outside our geographic boundaries. The Atlantic Sea Scallop fishery, in particular, is prosecuted off New York and New Jersey near Hudson Canyon. This fishery is an example of the effectiveness of the MSA and the Council system. This \$500 million fishery has made New Bedford, Massachusetts the highest-revenue fishing port in the United States for over a decade. The management plan has reduced bycatch, prevented overfishing, and provided opportunities for both large and small commercial vessels. This highlights the biological, social, and economic benefits that are achieved with the Council's management program. I've enclosed brief summaries of our NEFMC fishery management plans. These summaries highlight the measures we have adopted and support our argument that, at present, additional measures are not necessary to achieve the Sanctuary's objectives.

In addition to managing fishery resources, the Council adopted an extensive program for identifying and protecting essential fish habitat. Both Councils adopted large closures to protect deep-sea corals, with the combined areas encompassing over 172,000 square kilometers, slightly larger than the state of Florida. The Mid-Atlantic closure includes Hudson Canyon. Fishing is prohibited within these areas, with narrow exemptions provided for selected gear types. These measures were enacted under section 303(b)(2) of the MSA which gives Councils the discretion to enact fishing restrictions to protect deep-sea coral habitats. This coral conservation work demonstrates the ability and willingness of the Council to protect valuable ecological components besides fishery resources.

Some who oppose Council management of fishery resources in the proposed Sanctuary inaccurately claim that the Councils can only protect habitat related to species managed as part of a fishery management unit. This is not correct. 50 CFR 600.805(b)(1) clearly states that "An FMP may describe, identify, and protect the habitat of species not in an FMU." While such habitat may not be designated as essential fish habitat, that does not prevent a Council from adopting measures to protect it from the adverse effects of fishing. This is an important clarification, since it is possible that the boundaries of the Sanctuary may extend outside the geographic range of essential fish habitat identified by one of the two Councils. If a future need for habitat protection from fishing, measures could be adopted by one or both of the Councils.

In closing, we reiterate that, should a Hudson Canyon National Marine Sanctuary be designated, any regulation of recreational or commercial fishing in the Sanctuary should be accomplished through the Council process authorized by the MSA. At present, we do not believe that any additional regulations are needed to achieve the goals of the proposed Sanctuary. We look forward to participating in the Sanctuary designation process to make sure our concerns are considered. Please contact me if you have questions.

Sincerely,