



Pacific Fishery Management Council

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

September 1, 2016

The Honorable Barack H. Obama
President of the United States
The White House
1600 Pennsylvania Ave., NW
Washington, DC 20500

Dear Mr. President:

At its June 21-28, 2016 meeting in Tacoma, Washington, the Pacific Fishery Management Council (Pacific Council) heard public testimony and held discussions regarding a proposal for a National Monument designation for several locations in Federal waters off the coast of California. The proposal would reportedly apply certain prohibitions to marine features within the West Coast Exclusive Economic Zone of the United States including the Mendocino and Gorda Ridges, the Gumdrops, Pioneer, Guide, Taney, Rodriguez, and San Juan Seamounts; and the Northeast, Cortes, and Tanner Banks. The Pacific Council is concerned with how these National Monument designations would impact our fishery management efforts in the west coast Exclusive Economic Zone.

While it is not clear the degree to which fishing activities may be affected, the Pacific Council has a long history of protecting marine resources on the West Coast and wishes to emphasize the actions it has taken to sustainably manage fisheries and protect sensitive habitats in the areas potentially affected by a National Monument designation. We note that through the Pacific Council's essential fish habitat (EFH) process, nine of the eleven areas listed above are already closed to bottom trawl fishing (see Attachment 1). The remaining two – Tanner and Cortes Banks – are within the Cowcod Conservation Area West, and are therefore also closed to all groundfish fishing in areas deeper than 20 fathoms. All 11 areas are also within designated EFH under the Pacific Council's Groundfish Fishery Management Plan and are subject to EFH consultation requirements and conservation measures (see Essential Fish Habitat Provisions, following page).

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.

Public Process

The Regional Fishery Management Council (RFMC) process was created by the MSA in 1976 to provide transparent, public, regional management of fisheries resources. All meetings of the Pacific Council and its advisory bodies are open to the public, and all materials used to make management decisions are publicly available and posted to our website. In addition, the Pacific Council process adheres to the provisions of the National Environmental Policy Act, the Marine Mammal Protection Act, the Endangered Species Act, the Federal Advisory Committee Act, and other applicable laws. In June, 2016, the RFMC's Council Coordination Committee unanimously adopted a resolution recommending that fishery management actions in the U.S. Exclusive Economic Zone should continue to be developed, analyzed, and implemented via the RFMC process, rather than being addressed by authorities such as the Antiquities Act of 1906 (see Attachment 2).

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 improving Pacific Council decision-making and natural resource management. The Pacific Council believes that informed decision-making should involve an open process where impacts to the natural and human environment are disclosed and diverse viewpoints can be considered.

Essential Fish Habitat Provisions of the Magnuson-Stevens Act

The EFH provisions of the MSA require the Pacific Council to identify those "*those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity*" for all Federally-managed species. As required under 50 CFR 600.905-930, the Council must identify non-fishing impacts to EFH, and describe conservation measures to avoid or minimize those impacts. Any Federal action must include consultation with the National Marine Fisheries Service, which then provides recommended conservation measures to the action agency.

The EFH provisions of the MSA also require the Pacific Council to protect sensitive habitats from fishing activities that may adversely affect EFH. As a result, over 130,000 square miles of seafloor off the U.S. West Coast are closed to groundfish bottom trawling. This includes over 50 discrete gear-specific closed areas, in addition to a "bottom trawl footprint" closure consisting of all waters deeper than 700 fathoms. The Council took these measures as precautionary measures and to mitigate for adverse effects of fishing. Many of these areas are spatially coincident with the seamounts proposed for protections as national monuments (see Attachment 3).

Cowcod Conservation Areas

There are two Cowcod Conservation Areas off southern California that are closed to all groundfish bottom trawling, and have restrictions on other commercial and recreational groundfish fishing activities as well. The Cowcod Conservation Area west wholly envelopes Cortes and Tanner Banks, which are included in the reported national monument proposal (see Attachment 4).

Economic and Social Impacts

The proposed area closures are economically and socially important to West Coast fisheries, both commercial and recreational. Although closed to most bottom trawling, Tanner and Cortes Banks are important to commercial and recreational fisheries for shallow-water rockfish, swordfish, tunas, spiny lobster, sea urchins, white seabass, and coastal pelagic species such as squid and mackerel. The charterboat, or commercial passenger fishing vessel, fleet relies on revenues from

fisheries in these areas, and independent anglers rely on these areas for recreational fishing opportunities.

Besides Tanner and Cortes Banks, the other potential monument areas are already closed to bottom trawl gear, but are important areas for hook and line fisheries such as tuna and salmon. Salmon fishing has been impacted by the California drought, and some fishermen have relied on other fisheries such as albacore as an alternative target species. Closing those areas to salmon and tuna fishing would reduce opportunities for fishermen.

West Coast fishing communities have been hit hard by many factors over the last 20 years, including closures that were put in place to rebuild overfished species or to avoid impacts to Endangered Species Act-listed species. Ten Pacific Coast groundfish species have been declared overfished by National Oceanic and Atmospheric Administration, and protective management measures adopted by the Council have resulted in rebuilding five of the ten overfished species. Rebuilding plans have been developed to help these species recover, but because of the low available harvest of species managed under rebuilding plans, the overall groundfish harvest has been significantly reduced. The fishing industry has sacrificed much to achieve these rebuilding goals, to minimize impacts with protected or non-target species, and to ensure sustainable fisheries.

Displacing domestic fisheries costs U.S. jobs and increases reliance on foreign fisheries, which in many cases are less sustainably managed than U.S. fisheries, and many of which contribute to illegal, unreported, and unregulated fishing, a point of emphasis for your Administration.

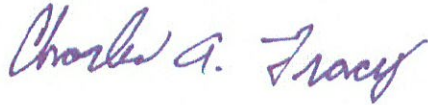
In summary, the Pacific Council works collaboratively with stakeholders to develop meaningful protections of both species and sensitive habitats. We are in the final phase of a six-year process to refine areas to be protected from fishing and non-fishing activities, and all of the proposed national monument areas are already closed to bottom trawling, resulting in extensive seafloor protection. Based on our track record of collaborative, effective fisheries and habitat management, the Pacific Council recommends fishery management decisions in the U.S. West Coast Exclusive Economic Zone remain exclusively under authority of the MSA. We would also be pleased to have the White House Center on Environmental Quality participate in a Pacific Council meeting agenda item on any monument proposal involving West Coast marine areas. This would facilitate communication with stakeholders, reduce speculation about what might be in a proposal in terms of area, activities allowed/prohibited, administrative agency responsibility, etc., and allow an analysis of the impacts to be considered. Any recommendations from the Council could then be considered as representative of broad interests.

To date, the Pacific Council has implemented bottom contact closures covering nearly 13,540,000 square miles (90 million acres), consisting of 130,000 square miles of EFH closed areas and 4,300 square miles of Cowcod Conservation Areas. All these areas are closed to groundfish bottom trawling. There is also a 230,000 square mile area off California and Oregon closed seasonally to certain pelagic gear-types to protect Pacific Leatherback turtles; this area also overlaps many of the proposed monument areas.

The Pacific Council thanks you for your consideration and the desire to protect important and sensitive marine habitats. We share that desire, as demonstrated by our efforts to protect such habitats from adverse fishery and non-fishing impacts. We look forward to future communication

and coordination with you. Please feel free to contact me with any questions or concerns, and thank you again for your time.

Sincerely,



Charles A. Tracy
Executive Director

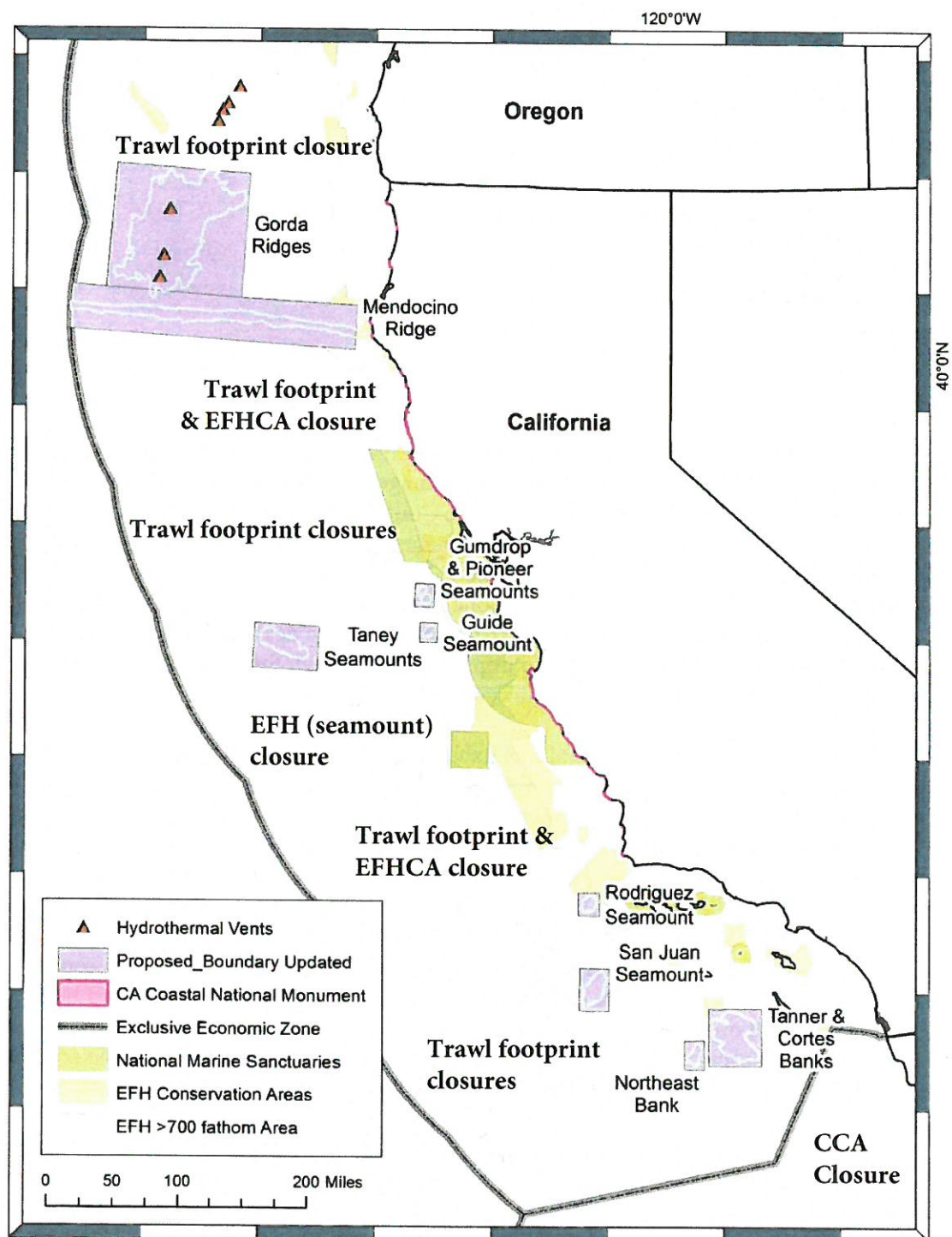
Attachments

KFG:kma

cc: Ms. Christy Goldfuss Managing Director, White House Council on Environmental Quality
Dr. Whitley Saumweber (CEQ)
Pacific Council Members
Mr. Judson Feder
Mr. Don Hansen
Mr. Dan Wolford
CPSAS Members
HMSAS Members
SAS Members
GAP Members
HC Members
EAS Members
EC Members
Mr. Chris Oliver, Executive Director, North Pacific Fishery Management Council
Ms. Kitty Simonds, Executive Director, Western Pacific Fishery Management Council
Mr. Doug Gregory, Executive Director, Gulf of Mexico Fishery Management Council
Mr. Miguel Rolon, Executive Director, Caribbean Fishery Management Council
Mr. Gregg Waugh, Executive Director, South Atlantic Fishery Management Council
Dr. Chris Moore, Executive Director, Mid-Atlantic Fishery Management Council
Mr. Tom Nies, Executive Director, New England Fishery Management Council

Attachment 1: Annotated Potential National Monument Closures

Map



Footprint closure = closed to bottom trawling based on 1280m-3500m trawl footprint closure
EFHCA = Essential Fish Habitat Conservation Area (closed to groundfish bottom trawling)
CCA = Cowcod Conservation Area (closed to groundfish bottom trawling)
EFH Seamount closure = (closed to groundfish bottom trawling)

**Attachment 2: Council Coordination
Committee Letter to President Obama**



June 27, 2016

The Honorable Barack H. Obama
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear Mr. President:

The nation's eight Regional Fishery Management Councils are charged under the Magnuson-Stevens Fishery Conservation and Management Act (MSA) with managing, conserving, and utilizing fishery resources. The Council Coordination Committee—which consists of the senior leaders of the Councils—respectfully requests your consideration of the attached resolution. We recommend that, if any designations impacting fishing activities are made within the U.S. exclusive economic zone (EEZ) waters under authorities such as the Antiquities Act of 1906, management of fisheries, including designation of essential fish habitat, continues to be developed, analyzed and implemented through the public, transparent, and science-based management process required by the MSA.

The Councils protect essential fish habitat, minimize bycatch, and comply with protections for species listed under the Endangered Species Act, marine mammals and seabirds within the U.S. EEZ. Through implementation of the MSA, the United States is the global leader in the successful conservation and management of fishery resources and associated ecosystems in a proactive sustainable manner. Spatial management, such as marine protected areas, is one of the tools utilized by the Councils. Through the Council process, more than 1,000 individual spatial habitat and fisheries conservation measures have been implemented protecting more than 72 percent of the nation's ocean waters. The Councils use a public process, in a transparent and inclusive manner, and rely on the best scientific information available as required by the MSA. As a result, we not only meet conservation objectives but also ensure sustainable seafood for U.S. consumers, promote the economies of coastal communities and maintain the social-cultural fabric of our nation's recreational, commercial and subsistence fishing communities.

We are concerned that decisions to close areas of the U.S. EEZ through statutory authorities such as the Antiquities Act of 1906 may not take into account MSA requirements to achieve optimum yield from the nation's fishery resources and may negatively impact jobs and recreational opportunities. We are concerned that authorities such as the Antiquities Act of 1906 do not explicitly require a robust public process or science-based environmental analyses. Designations, such as marine national monuments, may disrupt our ability to continue to manage

fisheries throughout their range and in an ecosystem-based manner. Marine monument designations can be counterproductive as they may shift fishing effort to less sustainable practices that are not regulated by the United States. For all of these reasons, we believe fisheries management decisions should be made using the robust process established by the MSA and successfully used for over forty years.

Your ocean legacy includes significant progress in curbing illegal, unregulated and unreported (IUU) fishing and minimizing our nation's dependence upon seafood imports. We hope you will continue to support our nation's sustainable fisheries and fishing communities by ensuring that fishing in the U.S. EEZ continues to be managed through the MSA.

Respectfully,



Carlos Farchette, Chair
Caribbean Fishery Management Council



Dan Hull, Chair
North Pacific Fishery Management Council



Kevin Anson, Chair
Gulf of Mexico Fishery Management Council



Dorothy Lowman, Chair
Pacific Fishery Management Council



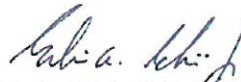
Richard Robins, Chair
Mid-Atlantic Fishery Management Council



Michelle Duval, Chair
South Atlantic Fishery Management Council



E.F. "Terry" Stockwell III, Chair
New England Fishery Management Council



Edwin Ebisui Jr., Chair
Western Pacific Fishery Management Council

Enclosure: CCC May 24-26, 2016, Marine National Monuments Resolution
Marine Protected Areas Established by Regional Fishery Management Councils
Antiquities Act of 1906
Celebrating 40 Years of Regional Fisheries Management booklet

CC: Christy Goldfuss, Managing Director, White House Council on Environmental Quality
Penny Pritzker, U.S. Secretary of Commerce
Sally Jewel, U.S. Secretary of the Interior
Senator Lisa Murkowski, Chair, U.S. Senate Committee on Energy and Natural Resource
Congressman Rob Bishop, Chair, US House Committee on Natural Resources



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Outcomes Statement and Recommendations

Council Coordination Committee

**MARRIOTT BEACH RESORT
ST. THOMAS, U.S.V.I.
MAY 24-26, 2016**

Marine National Monuments

The Council Coordination Committee (CCC) notes the successes of the Magnuson-Stevens Fishery Conservation and Management Act in managing fishery resources of the United States as well as the marine ecosystems of the United States Exclusive Economic Zone (EEZ) and the CCC recognizes that there have been a number of proposals regarding the designation of new, or the expansion of existing, Marine National Monuments within the U.S. EEZ.

Whereas, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) was originally passed by Congress in 1976 for the specific purpose of sustainably managing the nation's fishery resources to provide a food source, recreational opportunities and livelihoods for the people of the United States;

Whereas Congress, in passing the Magnuson-Stevens Act, found that "Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation."

Whereas, the Magnuson-Stevens Act created eight Regional Fishery Management Councils that are charged with managing, conserving, and utilizing fishery resources as well as protecting essential fisheries habitat, minimizing bycatch, and protecting listed species within the United States Exclusive Economic Zone;

Whereas, through the implementation of the Magnuson-Stevens Act and through the actions of the Regional Fishery Management Councils, the United States has become a global leader in the successful management of its fishery resources and associated ecosystems in a proactive sustainable manner;

Whereas, the Regional Fishery Management Councils and the National Marine Fisheries Service have made great strides in managing fisheries in an ecosystem-based manner;

Whereas, the Magnuson-Stevens Act requires that fisheries management actions be developed through a public process, in a transparent manner, and based on the best scientific information available;

Whereas, the Regional Fisheries Management Councils and the National Marine Fisheries Service manage fisheries stocks throughout their range and concerns have been raised that designations such as marine monuments may disrupt the ability of the Councils to continue to manage fisheries throughout their range and in an ecosystem-based manner;

Whereas, the designation process of marine national monuments under the Antiquities Act of 1906 does not explicitly require a robust public process or that decisions be based on a

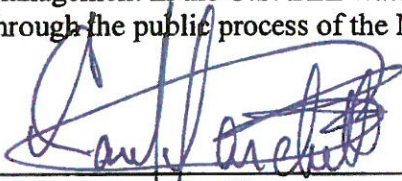
science-based environmental analyses, and does not require fishery management or conservation as an objective;

Whereas, the Regional Fishery Management Councils have a strong history of implementing spatial habitat and fisheries conservation measures (over 1000 individual spatial management measures) in a public, transparent, science-based manner through the Magnuson-Stevens Act.

Whereas, concern has been raised that decisions to close areas of the U.S. EEZ, through statutory authorities such as through the Antiquities Act of 1906, may not take into account requirements to achieve optimum yield (OY) from the Nation's fishery resources, may negatively affect domestic fishing jobs, recreational opportunities and undermine efforts by the Regional Fishery Management Councils to develop and implement ecosystem-based management;

Therefore be it resolved, the CCC reiterates its support for the public, transparent, science-based process and management required by the Magnuson-Stevens Fishery Conservation and Management Act.

Therefore be it further resolved, the CCC recommends that if any designations are made in the marine environment under authorities such as the Antiquities Act of 1906 that fisheries management in the U.S. EEZ waters continue to be developed, analyzed and implemented through the public process of the Magnuson-Stevens Fishery Conservation and Management Act.



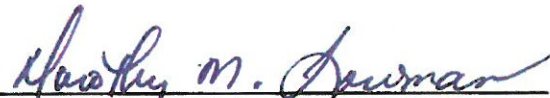
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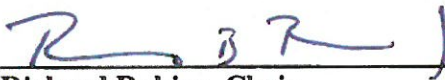
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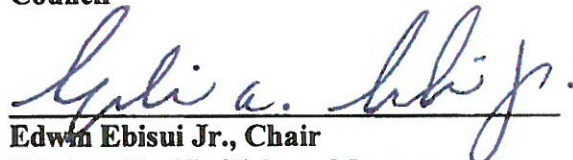
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Marine Protected Areas Established by the U.S. Regional Fishery Management Councils

72% of the nation's marine waters are protected by spatial management measures established through the scientifically based and transparent public process of the Magnuson-Stevens Act

- **The New England Council** established **8,923 square miles** (roughly the size of New Jersey) of habitat and groundfish management areas that restrict fishing activity, such as mobile bottom tending gear.
- **The Mid Atlantic Council** protects **4,600 square miles** through its Northern and Southern Scup Gear Restricted Area (GRA) and **177 square miles** through its Tilefish GRA. The proposed Frank R. Lautenberg Deep Sea Coral Protection Area would cover an additional **38,200 square miles**.
- **The South Atlantic Council** protects **24,697 square miles** as Coral Habitat Areas of Particular Concern and Marine Protected Areas/Special Management Zones in the South Atlantic where bottom-tending gear (bottom trawls, traps, rock-hopper rigs, bottom longline gear, etc. are prohibited. Proposed Spawning Special Management Zones will be submitted for formal review in June 2016.
- **The Gulf of Mexico Council** protects **214,000 square miles** through closures and gear restrictions.
- **The Caribbean Council** has established **869 square miles** of protected area.
- **The Pacific Council** protects **130,000 square miles** (about 42% of the US exclusive economic zone waters off the West Coast) from bottom trawling and, in some cases, other types of bottom contact fishing.
- **The North Pacific Council** has closed more than **600,000 square miles** of waters (66% of the area managed by the North Pacific Council) to all fishing or to bottom tending gear to protect habitat, marine mammals and spawning/nursery areas.
- **The Western Pacific Council** closed its entire **2.2 million square miles** of waters (100% of the area managed by the Western Pacific Council) to bottom tending gears, explosives and poisons. It also established spatial management measures covering **397,667 square miles** (about 18% of its jurisdiction) to protect a range of habitats, ecosystems and species, such as deep-water coral, coral reefs, lobsters and Hawaiian monk seals.

American Antiquities Act of 1906

16 USC 431-433

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who shall appropriate, excavate, injure, or destroy any historic or prehistoric ruin or monument, or any object of antiquity, situated on lands owned or controlled by the Government of the United States, without the permission of the Secretary of the Department of the Government having jurisdiction over the lands on which said antiquities are situated, shall, upon conviction, be fined in a sum of not more than five hundred dollars or be imprisoned for a period of not more than ninety days, or shall suffer both fine and imprisonment, in the discretion of the court.

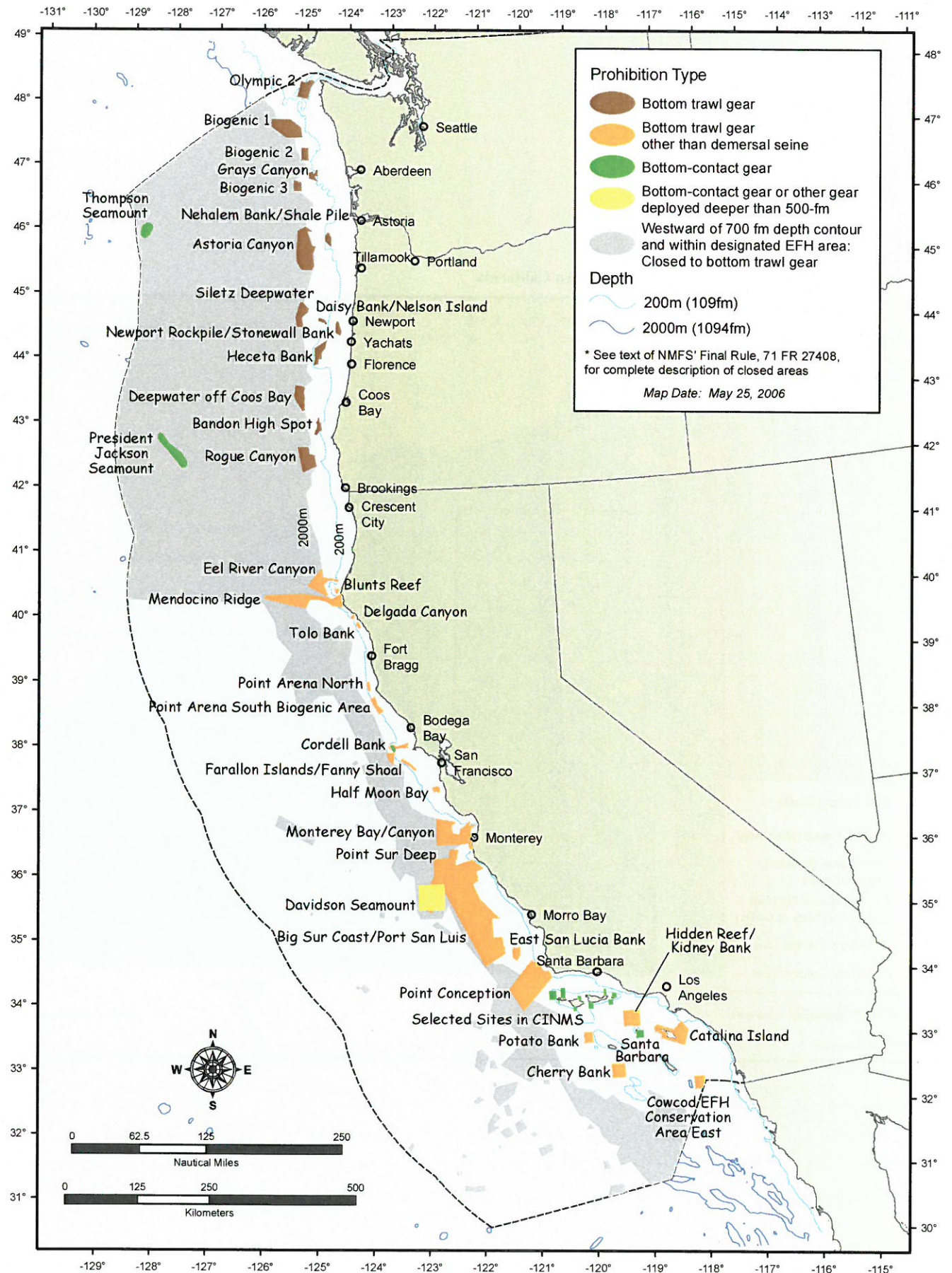
Sec. 2. That the President of the United States is hereby authorized, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with proper care and management of the objects to be protected: Provided, That when such objects are situated upon a tract covered by a bona fied unperfected claim or held in private ownership, the tract, or so much thereof as may be necessary for the proper care and management of the object, may be relinquished to the Government, and the Secretary of the Interior is hereby authorized to accept the relinquishment of such tracts in behalf of the Government of the United States.

Sec. 3. That permits for the examination of ruins, the excavation of archaeological sites, and the gathering of objects of antiquity upon the lands under their respective jurisdictions may be granted by the Secretaries of the Interior, Agriculture, and War to institutions which they may deem properly qualified to conduct such examination, excavation, or gathering, subject to such rules and regulation as they may prescribe: Provided, That the examinations, excavations, and gatherings are undertaken for the benefit of reputable museums, universities, colleges, or other recognized scientific or educational institutions, with a view to increasing the knowledge of such objects, and that the gatherings shall be made for permanent preservation in public museums.

Sec. 4. That the Secretaries of the Departments aforesaid shall make and publish from time to time uniform rules and regulations for the purpose of carrying out the provisions of this Act.

Approved, June 8, 1906

Attachment 3: Groundfish EFH Closed Areas



EFH area closures to protect Pacific Coast groundfish habitat - Coastwide.

Attachment 4: Cowcod Conservation Areas off Southern California

