



Mid-Atlantic Fishery Management Council

800 North State Street, Suite 201, Dover, DE 19901

Phone: 302-674-2331 | FAX: 302-674-5399 | www.mafmc.org

Michael P. Luisi, Chairman | G. Warren Elliott, Vice Chairman

Christopher M. Moore, Ph.D., Executive Director

April 26, 2017

John Armor, Director
NOAA Office of National Marine Sanctuaries
1305 East-West Highway, 11th Floor
Silver Spring, MD 20910

Dear Mr. Armor,

Please accept these comments from the Mid-Atlantic Fishery Management Council (Council) regarding the Wildlife Conservation Society/New York Aquarium's proposal¹ to designate the Hudson Canyon and surrounding area as a National Marine Sanctuary.

Following a review of the proposal document and a briefing by the sponsors of the proposal, the Council cannot support the nomination and recommends that it not be advanced to the designation stage. While the Council supports many of the proposal's conservation objectives, particularly usage of the sanctuary designation to protect the Hudson Canyon from possible offshore drilling impacts, the Council has significant concerns regarding the sanctuary designation and management process, and how that process may hinder or conflict with the Council's management authority and management objectives for fishery resources in the region.

The Council has management jurisdiction over 13 marine fishery species in federal waters of the Mid-Atlantic region, and members from the coastal states of New York to North Carolina (including Pennsylvania). The Council develops fishery management plans to achieve its vision of "Healthy and productive marine ecosystems supporting thriving, sustainable marine fisheries that provide the greatest overall benefit to stakeholders." The Council is committed to the effective stewardship of the marine fisheries and associated habitats in the Mid-Atlantic region. As such, many of the stated objectives of this proposal are in line with the Council's goals, including conservation of marine wildlife and habitats, sustainable economic uses of the Hudson Canyon, increased education and awareness of ocean environments, and promoting science and monitoring. The Council's concerns are thus not with the objectives nor with the sponsors of the proposal, but rather with the sanctuary designation and management process, particularly as it intersects with the Council's management authority under the Magnuson-Stevens Act (MSA). The Council believes that there are other opportunities to meet these conservation objectives, and that a sanctuary designation is not a necessary or efficient approach to

¹ <http://www.nominate.noaa.gov/nominations/hudson-canyon.pdf>.

achieve effective conservation goals.

The Council's primary concern with a sanctuary designation is the uncertainty regarding whether the Council would retain management authority for fishery resources in the designated area, whether that authority could be overruled for particular actions, and what role or level of participation the Council would have in sanctuary management activities. While the proposal includes the recommendation that the authority to manage fisheries within the sanctuary remain solely with the Council and the National Marine Fisheries Service (NMFS), the Council notes that this cannot be guaranteed until final designation, and even then, could potentially change in the long term. It remains unclear to the Council what degree of influence the Sanctuaries Program may or may not have over the Council's fisheries management activities. Council members have noted concerns that the National Marine Sanctuaries Act appears to explicitly allow for the Secretary of Commerce to disapprove Council-proposed regulations that the Secretary of Commerce deems inconsistent with the purpose and objectives of the sanctuary designation.² Given some of the language regarding fishing impacts in the proposal, the Council is concerned that there may be interest in regulating fishing activity under the sanctuaries program within this area in the future.

Additionally, the Council has heard concerns regarding Council and NMFS coordination with the Sanctuaries Program on the management of other sanctuaries, both those that do and do not have the authority to regulate fishing activity. The Hudson Canyon nomination proposal includes terms similar to those for the Stellwagen Bank National Marine Sanctuary, which does not have the authority to regulate fishing activity. However, the Council has heard concerns regarding difficult and contentious relationships between NMFS, fishing industry stakeholders, and the Sanctuaries Program regarding the management of the Stellwagen Bank sanctuary.

The Council has a history of managing mid-Atlantic fishery resources in an open and transparent manner. In 2015, the Council approved the designation of the "Frank R. Lautenberg Deep Sea Coral Protection Area," a roughly 100,000km² area in the Mid-Atlantic region that is restricted to most bottom-tending gear, in order to protect deep sea corals from the impacts of fishing gear. This protected area includes the Hudson Canyon. The boundaries of this area were carefully developed during a cooperative workshop, where managers and multiple stakeholder interest groups compromised on fine-scale spatial management priorities for designated gear-restricted coral zones. The Council is concerned that a sanctuary designation for Hudson Canyon would hinder this type of cooperative and transparent decision-making for this important fishing area in the future.

In summary, while the Council supports many of the stated objectives of the proposal, the Council has significant concerns with the sanctuary designation and management process, the uncertainty regarding the level of Council involvement and authority over fishing activity, and the potential for conflicting Council and sanctuary objectives. For these reasons, the Council, after careful discussion and deliberation, determined that this proposed sanctuary designation is not the best approach to achieve the

² Section 304(a)(5) of the National Marine Sanctuaries Act states that the Council's management proposals may not be accepted if the Secretary of Commerce finds that the Council's action "fails to fulfill the purposes and policies of [the National Marine Sanctuaries Act] and the goals and objectives of the proposed designation." Additionally, this section states that the Council "shall use as guidance the national standards of [the MSA], to the extent that the standards are consistent and compatible with the goals and objectives of the proposed designation."

intended conservation objectives and cannot support the Hudson Canyon proposal.

The Council intends to continue following the nomination process for Hudson Canyon and all other future sanctuary nominations within the Council's jurisdiction. To that end, the Council requests that the Sanctuaries Program continue to work with the Council and the NMFS Greater Atlantic Regional Office to keep the Council informed of the status of this and future sanctuary proposals in the region.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Luisi", written in a cursive style.

Michael Luisi

Chairman, Mid-Atlantic Fishery Management Council

cc: C. Moore, W. Elliott, S. Rauch, J. Bullard