

PROWLER FISHERIES

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FAX COVER SHEET

DATE: 9/02/04

FAX TO: 301-427-2572

ATTN: MR. ROLAND SCHMITZ

FROM: PROWLER FISHERIES - G. MERRIGAN

TOTAL PAGES (INCLUDING COVER): 5

MESSAGE:

COMMENTS ON OCEANA RULE-
MAKING PETITION ON CORAL
AND SPONGE HABITAT

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September 2, 2004

Mr. Rollie Schmitten, Director
Office of Habitat Conservation
NOAA NMFS, F/HC
1315 East-West Highway
Silver Spring, MD 20910

Re: Comments on Oceana's Rulemaking Petition Regarding Deep-sea Corals and Sponges

Dear Mr. Schmitten,

On behalf of Prowler Fisheries, I request that you reject this emergency rule-making petition as there is no unforeseen "emergency" and there is an existing ongoing public process (the regional management council system) in which this very subject matter is under consideration on a stipulated timeline already agreed to by the petitioner (Oceana).

Prowler Fisheries is a fishing company that owns and operates longline vessels in the Bering Sea and the Gulf of Alaska. While this petition is primarily concerned with bottom trawl gear, Prowler Fisheries believes that the NPMC is the best forum to take up this issue. As opposed to a petition, the NPFMC allows for public participation, involvement of stakeholders, as well as an open forum for scientific review. In contrast, the petition process has no public hearings, no multiple meetings, no Science and Statistics Committee review and very little stakeholder input. The petition represents an end run on a Council process, a process that has proven to be successful in the North Pacific (as cited in the USCOP report). The petition also will drain away valuable NMFS staff time and resources. This is the same staff time and resources that has to be devoted to meeting the originally agreed-to stipulated timeline.

It appears that Oceana's strategy is to ensure that NMFS (and the NPFMC) will not be able to meet the stipulated timeline. I infer this from these actions:

- 1.) Oceana agrees to joint stipulation with regulatory schedule (*American Oceans Campaign v. Daley*, No. 99-982 GK).
- 2.) Under the pretense of HAPCs (habitat areas of **particular concern**, i.e small discrete areas of specific importance), Oceana submitted the following laundry list:

- a. Every pinnacle in the Gulf of Alaska (54 pinnacles regardless of depth),
- b. Every pinnacle in the Aleutian Islands (79 pinnacles regardless of depth).



Frozen at Sea Longline Caught Fish

- c. Large geographic areas of the Aleutian Island,
- d. Large geographic areas of the Bering Sea,
- e. 23 seamounts (six of which are deeper than 3000 m with no known FMP species beyond that range).
- f. Discrete coral gardens in the Aleutian Islands (as identified by NMFS)

3.) Oceana files a petition which again includes (a.), (b.), (e.), and (f.) above.

Of the above, only parts of (e.) and (f.) were responsive to the call for HAPC proposals (unfished discrete hard coral areas and seamounts). The Plan Team – composed of federal, state, and university scientists – had the following comments in regards to the Oceana proposals:

Pinnacles: "The shotgun approach of listing all pinnacles likely masks the importance of some of the pinnacles.....The listed pinnacles are very diverse and the general documentation provided is insufficient to determine if all pinnacles have the same ecological importance. Furthermore, the listed pinnacles are found in several depths and distances from shore which presumably increases the diversity."

Aleutian Islands (large area closure): "The proposal uses a very limited data source to draw a conclusion to close off a massive area that is more than 80% of recent areas fished."

Bering Sea (large area closures): "The Teams found that this proposal uses poorly supported arguments for declaring a HAPC and failed to meet Council priorities....The Mdeny Seamount is not located within the US EEZ...The proposal contained a number of citation errors and the mis-location of the Medny Seamount suggests the proposers did not have a clear idea of what they were proposing." [emphasis added].

Although Oceana placed the Medny Seamount on a chart in the Eastern Bering Sea, the seamount is located deep within Russian waters. Apparently Oceana has some difficulty in differentiating East Longitude from West Longitude although they did note *"the precision and accuracy of our analyses is necessarily limited by the precision and accuracy of the underlying information."* Presumably Oceana was using an astrolabe and a stick for the underlying information regarding navigation.

This petition should be rejected and Oceana should be strongly urged to participate meaningfully at the RMCs. In its brief existence, Oceana has assembled a history of frivolous petitions and requests for emergency action. Recall that Oceana filed a bycatch petition involving seabirds to "kick-off" its opening of its Juneau office in March of 2001. The timing was curious, since the NPFMC had just taken final action on revising seabird avoidance measures three months prior to Oceana's petition. Oceana chose not to attend the NPFMC meetings on this subject, but instead filed an error-filled petition.

Oceana also petitioned the State of Alaska Board of Fisheries on an emergency basis, stating that the recently discovered coral gardens in the Aleutian Islands need to be

protected and their proposal could not be taken up in time within the normal meeting cycle. The BOF did not agree that an "emergency" did occur and chose not to accept the emergency petition.

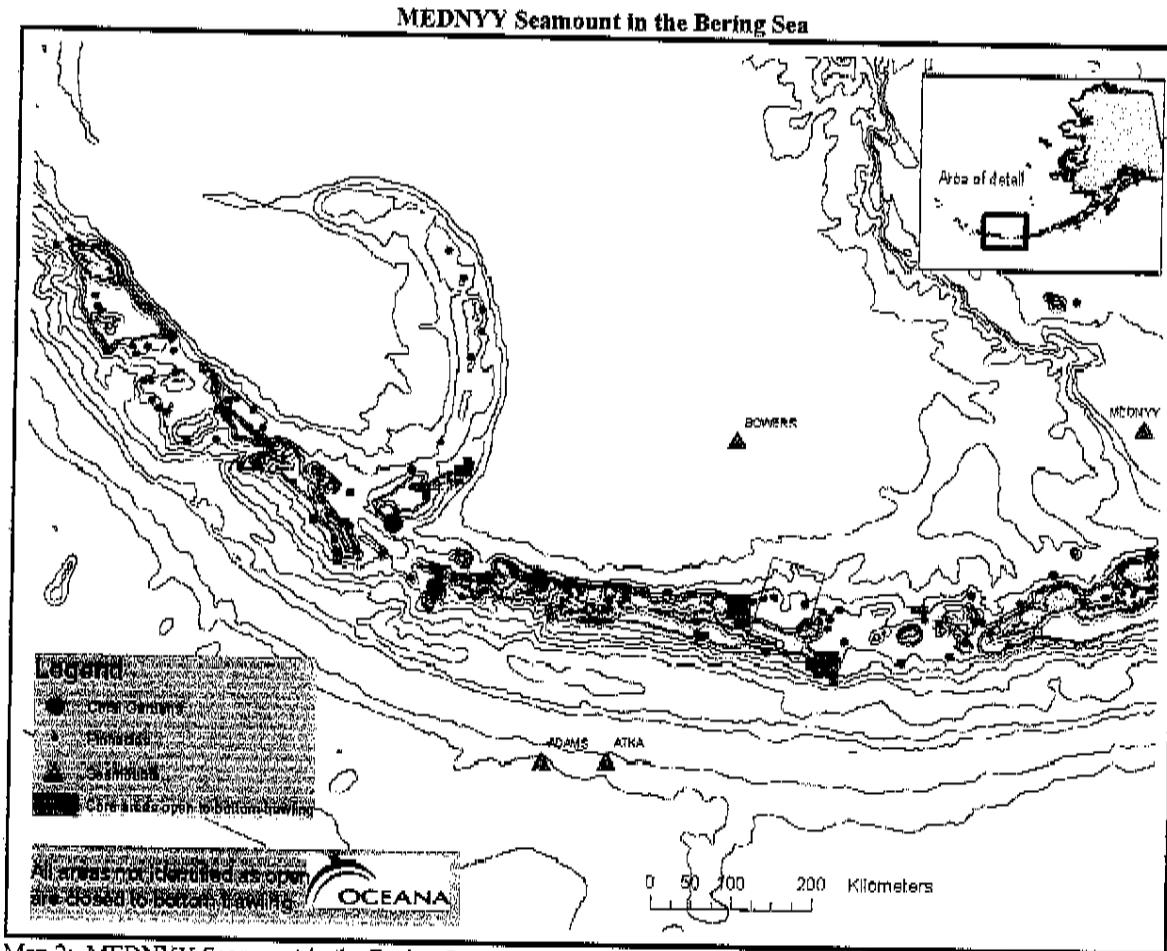
Many environmental groups have been very vocal about changing the Council process citing that it is a broken system. That appears to be a self-fulfilling prophecy as the very same groups choose not to work meaningfully in the process. Please reject this petition and devote the necessary resources to the existing process.

Thank you.



Gerry Merrigan
Gov't Affairs
Prowler Fisheries

PROPOSAL
OCEANA HAPC NEARBY TO NAFMC



Map 2: MEDNYY Seamount in the Bering Sea

Table 1: Seamounts in the Bering Sea

NAME	DEPTH (m)	LAT (dec. degrees)	LONG (dec. degrees)
MEDNYY	-526	55.420	-167.280

← ACTUALLY IN RUSSIA

Provide best available information and sources of such information to support the objectives for the proposed HAPC. (Citations for common information or copies of uncommon information):

Data Acquisition and Assumptions:

The following section describes the information and process Oceana used to develop proposed HAPC designations and associated management measures.

The precision and accuracy of our analyses is necessarily limited by the precision and accuracy of the underlying information. Our requests to the Fisheries Service for observer data were provided in aggregated 10x10 km blocks. The blocks, or "grids" are referenced by a master gridcode. Blocks displayed in figures in this proposal can be referenced to latitude/longitude coordinates on navigational charts. We used these data to analyze fishing effort and the approximate economic value of fishing areas. Data at this resolution covered approximately 90% of groundfish fishery effort (Ren Narita, AFSC pers. comm.). A necessary assumption for the analysis was that fishing effort was uniform across a given block. For example, a closed area within a block would have an economic impact proportional to the percentage of the block that was closed. As such, an area of 25 km² closed to a certain gear type within a 100 km² fishing block where \$1 million ex-vessel fish value was caught would result in an economic impact of \$250,000 of lost revenue. Another assumption is that unobserved vessels fished in the same blocks as observed vessels.