

**Statement of Kathy Fosmark**  
**Co-Chair, Alliance of Communities for Sustainable Fisheries**  
**Subcommittee on Fisheries, Wildlife, and Oceans**  
**Hearing on H.R. 1187**  
**October 24, 2007**

Madame Chair, members of the Subcommittee, for the record my name is Kathy Fosmark and I am appearing today to present the views of the Alliance of Communities for Sustainable Fisheries on H.R. 1187, the “Gulf of the Farallones and Cordell Bank National Marine Sanctuaries Boundary Modification and Protection Act.”

The Alliance is a non profit organization representing eighteen commercial and recreational fishing organizations, ports, and harbors along the California Coast. Based in Monterey, California, the Alliance advocates for the heritage and economic value of fishing to California coastal communities by offering a broadly representative educational and promotional voice for waterfront communities to work constructively with interested agencies, individuals, and other marine protection organizations in order to ascertain and guarantee that: the best and most current oceanographic, socio-economic and fisheries science is accurately compiled; that science is readily available to the public for use in crafting and promoting public policy; and that the linkage between healthy sustainable fisheries, marine conservation, and coastal communities is firmly established in the public mind. The Alliance and its members have extensive experience in dealing with the National Marine Sanctuary Program over the past 15 years.

On a personal level, I am part of a multi-generation fishing family that first settled in California in the 1800’s. I fished commercially with my father and my husband over the course of 30 years and our eldest son now has entered the fishery. Our family has fished in the Pacific Ocean, including in the area covered by these Sanctuaries, for tuna, salmon, swordfish, crab, halibut, shrimp, and groundfish using a variety of gear types. I am also a member of the Pacific Fishery Management Council, although the views I am presenting today do not necessarily reflect those of the Council or its other members.

Fishermen do not oppose the concept of National Marine Sanctuaries. In fact, it was California fishermen who worked hard to have both of these Sanctuaries created. We recognize that Sanctuaries are designed to conserve special areas in the ocean and prevent damage to sensitive resources and habitats.

However, when California fishermen supported creation of these Sanctuaries, they did so under a condition that has become popularly known as the “promise to fishermen”: the Sanctuaries would not manage or otherwise regulate fisheries and fishing activities. Fisheries management in the ocean waters off California is in the hands of the Pacific Fishery Management Council. Fishermen are familiar and comfortable with the Council’s system of management, which is an open and transparent process that is based on the best scientific information available and that solicits and respects diverse views. Without that promise, fishermen would not have supported creation of the Sanctuaries.

This is the focus of our concerns regarding the language of H.R. 1187. We appreciate Congresswoman Woolsey’s statement up front in the bill (section 3(c)) that nothing is intended to “alter any existing authorities” regarding fishing. Those existing authorities rest on the weak

foundation of the Sanctuaries' respective designation documents. They are regulations, not law. And as such, they can be changed virtually at any time, as we saw happen over the last few years with the Channel Islands National Marine Sanctuary – an area where the promise to fishermen was broken.

Further reinforcing our concern is the language in sections 5(a)(2)(A)(i) and 5(b)(2)(A) which includes “living marine and other resources within” the expanded boundaries of the Sanctuaries. Fish are living marine resources and these sections give the Sanctuaries clear authority over fish. Because the language regarding fishing in section 3 is not clear, the Sanctuaries could easily change their designation documents during a future management plan review such as the one required under section 7(b).

In the area of sport fishing, section 6(c)(1)(C) of H.R. 1187 prohibits the “deposit or discharge of any introduced species” into Sanctuary waters. The Sanctuaries themselves recognize that there is a thriving catch and release fishery for striped bass (*Morone saxatilis*) within the Sanctuaries and the proposed management plan changes published by the Sanctuaries last October make a clear exception for that fishery.

Sport fishermen are also concerned about the language in section 6(c)(3)(B) on marine sanitation devices. While they agree with – and already meet - the requirements to use Type I or II devices, they are afraid that having this language in a statute governing Sanctuaries will mean that Sanctuary enforcement officers, along with the Coast Guard, will be stopping their fishing operations and boarding their boats to inspect marine sanitation devices.

California ports are worried about the effect of extending the Sanctuary boundaries to the mean high water line as described in section 5. The dynamic nature of our west coast currents requires frequent dredging of navigation channels and berthing areas to accommodate commercial and recreational vessel traffic. The prohibitions on discharge in section 6(c)(1)(A) effectively override the authority and scientific standards of the Environmental Protection Agency and the Corps of Engineers, making it difficult to keep our ports open.

Madame Chair, we appreciate Congresswoman Woolsey's efforts to expedite changes in the Sanctuary boundaries through legislation. But unless our concerns about keeping the promise to fishermen are met, we cannot support the bill. We would rather take our chances with the existing administrative process; even the proposed regulations changing the management plans for these Sanctuaries are explicit in protecting our commercial and recreational fisheries.

I have attached to my written testimony some suggested changes to H.R. 1187 that we think would provide continued protection for our fisheries. We would be happy to work with you and your staff to further refine the language in the bill.

Again, thank you for the opportunity to present the Alliance's views on H.R. 1187. I would be happy to answer any questions.

**Proposed changes to H.R. 1187 offered by the Alliance of Communities for Sustainable Fisheries**

1. Strike subsection 3(c)
2. Redesignate subsections 6(a) through (f) as subsections (b) through (g)
3. Insert a new subsection 6(a) as follows:

“(a) REGULATION OF FISHING—The regulation of commercial and sport fishing within the Sanctuaries shall be exclusively under the jurisdiction of the Pacific Fishery Management Council established under section 302(a)(1)(F) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)(F)) and applicable laws and regulations of the State of California.”

4. Before the period at the end of sub-paragraph 6(d)(1)(C) as redesignated, add:

“,except striped bass (*Morone saxatilis*) released during catch and release fishing activity.”

5. At the end of paragraph 6(d)(3) as redesignated, add:

“(F) of dredged material from an adjacent channel or harbor as part of a project approved by the United States Army Corps of Engineers provided that the material is deposited in an approved location within the Sanctuary.”

We would also appreciate appropriate report language or Floor statements clarifying the Committee’s intent that monitoring and enforcement of marine sanitation devices on private and charter sport fishing vessels be conducted by the U.S. Coast Guard and not the Sanctuaries.