

110TH CONGRESS
1ST SESSION

H. R. 1187

To expand the boundaries of the Gulf of the Farallones National Marine Sanctuary and the Cordell Bank National Marine Sanctuary.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2007

Ms. WOOLSEY (for herself and Mr. GILCREST) introduced the following bill;
which was referred to the Committee on Natural Resources

A BILL

To expand the boundaries of the Gulf of the Farallones National Marine Sanctuary and the Cordell Bank National Marine Sanctuary.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Gulf of the Farallones
5 and Cordell Bank National Marine Sanctuaries Boundary
6 Modification and Protection Act”.

7 **SEC. 2. FINDINGS.**

8 The Congress finds the following:

9 (1) The Gulf of the Farallones extends approxi-
10 mately 100 miles along the coast of Marin and

1 Sonoma counties of northern California. It includes
2 approximately one-half of California's nesting
3 seabirds, rich benthic marine life on hard-rock sub-
4 strate, prolific fisheries, and substantial concentra-
5 tions of resident and seasonally migratory marine
6 mammals.

7 (2) Cordell Bank is adjacent to the Gulf of the
8 Farallones and is a submerged island with spectac-
9 ular, unique, and nationally significant marine envi-
10 ronments.

11 (3) These marine environments have national
12 and international significance, exceed the biological
13 productivity of tropical rain forests, and support
14 high levels of biological diversity.

15 (4) These biological communities are easily sus-
16 ceptible to damage from human activities, and must
17 be properly conserved for themselves and to protect
18 the economic viability of their contribution to na-
19 tional and regional economies.

20 (5) The Gulf of Farallones and Cordell Bank
21 include some of the Nation's richest fishing grounds,
22 supporting important commercial and recreational
23 fisheries. These fisheries are regulated by State and
24 Federal fishery agencies and are supported and fos-
25 tered through protection of the waters and habitats

1 of Gulf of the Farallones National Marine Sanctuary
2 and Cordell Bank National Marine Sanctuary.

3 (6) The report of the Commission on Ocean
4 Policy established by Public Law 106–256 calls for
5 comprehensive protection for the most productive
6 ocean environments and recommends that they be
7 managed as ecosystems.

8 (7) New scientific discoveries by the National
9 Marine Sanctuary Program support comprehensive
10 protection for these marine environments by broad-
11 ening the geographic scope of the existing Gulf of
12 the Farallones National Marine Sanctuary and the
13 Cordell Bank National Marine Sanctuary.

14 (8) Cordell Bank is at the nexus of an ocean
15 upwelling system, which produces the highest bio-
16 mass concentrations on the west coast of the United
17 States.

18 **SEC. 3. POLICY AND PURPOSE.**

19 (a) **POLICY.**—It is the policy of the United States in
20 this Act to protect and preserve living and other resources
21 of the Gulf of the Farallones and Cordell Bank marine
22 environments.

23 (b) **PURPOSE.**—The purposes of this Act are the fol-
24 lowing:

1 (1) To extend the boundaries of the Gulf of the
2 Farallones National Marine Sanctuary and the
3 Cordell Bank National Marine Sanctuary to the
4 areas described in section 5.

5 (2) To strengthen the protections that apply in
6 the Sanctuaries.

7 (3) To educate and interpret for the public re-
8 garding those marine environments.

9 (4) To manage human uses of the Sanctuaries
10 under this Act and the National Marine Sanctuaries
11 Act (16 U.S.C. 1431 et seq.).

12 (c) EFFECT ON FISHING ACTIVITIES.—Nothing in
13 this Act is intended to alter any existing authorities re-
14 garding the conduct and location of fishing activities in
15 the Sanctuaries.

16 **SEC. 4. DEFINITIONS.**

17 In this Act:

18 (1) AQUACULTURE.—The term “aquaculture”
19 means the propagation or rearing of aquatic orga-
20 nisms in controlled or selected aquatic environments
21 for any commercial, recreational, or public purpose.

22 (2) CORDELL BANK NMS.—The term “Cordell
23 Bank NMS” means the Cordell Bank National Ma-
24 rine Sanctuary.

1 (3) FARALLONES NMS.—The term “Farallones
2 NMS” means the Gulf of the Farallones National
3 Marine Sanctuary.

4 (4) SANCTUARIES.—The term “Sanctuaries”
5 means the Gulf of the Farallones National Marine
6 Sanctuary and the Cordell Bank National Marine
7 Sanctuary, as expanded by section 5.

8 (5) SECRETARY.—The term “Secretary” means
9 the Secretary of Commerce.

10 (6) PERSON.—The term “person” means—

11 (A) any private or public individual, cor-
12 poration, partnership, trust, institution, associa-
13 tion, or other entity, whether foreign or domes-
14 tic; or

15 (B) any officer, employee, agent, depart-
16 ment, agency, or instrumentality of—

17 (i) the Federal Government;

18 (ii) any State, tribal, or local unit of
19 government; or

20 (iii) any foreign government.

21 **SEC. 5. NATIONAL MARINE SANCTUARY BOUNDARY AD-**
22 **JUSTMENTS.**

23 (a) GULF OF THE FARALLONES.—

24 (1) BOUNDARY ADJUSTMENT.—The areas de-
25 scribed in paragraph (2) are added to the existing

1 Gulf of the Farallones National Marine Sanctuary
2 described in part 922.80 of title 15, Code of Federal
3 Regulations.

4 (2) AREAS INCLUDED.—

5 (A) IN GENERAL.—The areas referred to
6 in paragraph (1) consist of the following:

7 (i) All submerged lands and waters,
8 including living marine and other resources
9 within and on those lands and waters,
10 from the mean high water line to the
11 boundary described in subparagraph (B).

12 (ii) The submerged lands and waters,
13 including living marine and other resources
14 within those waters, within the approxi-
15 mately two-square-nautical-mile portion of
16 the Cordell Bank NMS (as in effect imme-
17 diately before the enactment of this Act)
18 that is located south of the area that is
19 added to Cordell Bank NMS by subsection
20 (b)(2), which are transferred to the
21 Farallones NMS from the Cordell Bank
22 NMS.

23 (B) BOUNDARY DESCRIBED.—The bound-
24 ary referred to in subparagraph (A)(i) com-
25 mences from the mean high water line

1 (MHWL) at 39.00000 degrees north in a west-
2 ward direction approximately 29 nautical miles
3 (nm) to 39.00000 north, 124.33333 west. The
4 boundary then extends in a southeasterly direc-
5 tion to 38.30000 degrees north, 124.00000 de-
6 grees west, approximately 44 nm westward of
7 Bodega Head. The boundary then extends east-
8 ward to the most northeastern corner of the ex-
9 panded Cordell Bank NMS at 38.30000 north,
10 123.20000 degrees west, approximately 6 nm
11 miles westward of Bodega Head. The boundary
12 then extends in a southeasterly direction to
13 38.26500 degrees north, 123.18166 degrees
14 west at the northwestern most point of the cur-
15 rent Gulf of the Farallones Boundary. The
16 boundary then follows the current northern
17 Gulf of the Farallones NMS boundary in a
18 northeasterly direction to the MHWL near
19 Bodega Head. The boundary then follows the
20 MHWL in a northeasterly direction to the com-
21 mencement point at the intersection of the
22 MHWL and 39.00000 north. Coordinates listed
23 in this subparagraph are based on the North
24 American Datum 1983 and the geographic pro-
25 jection.

1 (b) CORDELL BANK.—

2 (1) BOUNDARY ADJUSTMENT.—The area de-
3 scribed in paragraph (2) is added to the existing
4 Cordell Bank National Marine Sanctuary described
5 in part 922.80 of title 15, Code of Federal Regula-
6 tions.

7 (2) AREA INCLUDED.—

8 (A) IN GENERAL.—The area referred to in
9 paragraph (1) consists of all submerged lands
10 and waters, including living marine and other
11 resources within those waters, within the
12 boundary described in subparagraph (B).

13 (B) BOUNDARY.—The boundary referred
14 to in subparagraph (A) commences at the most
15 northeastern point of the current Cordell Bank
16 NMS boundary at 38.26500 degrees north,
17 123.18166 degrees west and extends
18 northwestward to 38.30000 degrees north,
19 123.20000 degrees west, approximately 6 nau-
20 tical miles (nm) west of Bodega Head. The
21 boundary then extends westward to 38.30000
22 degrees north, 123.66666 degrees west, ap-
23 proximately 28 nautical miles west of Bodega
24 Head. The boundary then turns southward and
25 continues approximately 32 nautical miles to

1 37.83333 degrees north, 123.66666 degrees
2 west, and then approximately 11 nm eastward
3 to 37.83333 north, 123.42333 west at an inter-
4 section with the current Gulf of the Farallones
5 NMS boundary. The boundary then follows the
6 current Cordell Bank NMS, which is cotermini-
7 ous with the current Gulf of the Farallones
8 boundary, in a northeasterly and the northwest-
9 erly direction to its commencement point at
10 38.26500 degrees north, 123.18166 degrees
11 west. Coordinates listed in this subparagraph
12 are based on NAD83 Datum and the geo-
13 graphic projection.

14 (c) INCLUSION IN THE SYSTEM.—The areas included
15 in the Sanctuaries under subsections (a) and (b) shall be
16 managed as part of the National Marine Sanctuary Sys-
17 tem, established by section 301(c) of the National Marine
18 Sanctuaries Act (16 U.S.C. 1431(c)), in accordance with
19 that Act.

20 (d) UPDATED NOAA CHARTS.—The Secretary
21 shall—

22 (1) produce updated National Oceanic and At-
23 mospheric Administration charts for the areas in
24 which are located the Farallones NMS and Cordell
25 Bank NMS; and

1 (2) include on those charts the boundaries of
2 such national marine sanctuaries, as revised by this
3 Act.

4 (e) BOUNDARY ADJUSTMENTS.—In producing re-
5 vised charts as directed by subsection (d) of this section
6 and in describing the boundaries in regulations issued by
7 the Secretary, the Secretary may make technical modifica-
8 tions to the boundaries described in this section for clarity
9 and ease of identification, as appropriate.

10 **SEC. 6. PROHIBITION OF CERTAIN USES.**

11 (a) MINERAL AND HYDROCARBON LEASING, EXPLO-
12 RATION, DEVELOPMENT, AND PRODUCTION.—No leasing,
13 exploration, development, production, or transporting by
14 pipeline of minerals or hydrocarbons shall be permitted
15 within the Sanctuaries.

16 (b) AQUACULTURE.—

17 (1) PROHIBITION.—It is unlawful for any per-
18 son to conduct aquaculture—

19 (A) in any area of the Sanctuaries; or

20 (B) within Monterey Bay National Marine
21 Sanctuary.

22 (2) EXISTING BIVALVE FARMING ALLOWED.—

23 The prohibition in paragraph (1) shall not apply to
24 persons and their successors conducting bivalve
25 farming operations that are in existence on the date

1 of enactment of this Act, and shall not apply to their
2 successors in such operations.

3 (3) REGULATIONS.—The Secretary shall issue
4 regulations that specify the operations referred to in
5 paragraph (2).

6 (c) DISCHARGE OF MATERIALS AND SUBSTANCES.—

7 (1) PROHIBITIONS.—It is unlawful for any per-
8 son—

9 (A) to deposit or discharge any material or
10 substance of any kind within the Sanctuaries;

11 (B) to deposit or discharge any material or
12 substance of any kind that enters and injures
13 any sanctuary resource (as that term is defined
14 in the National Marine Sanctuaries Act); or

15 (C) to deposit or discharge any introduced
16 species in the Sanctuaries.

17 (2) CHANGES IN SALINITY.—No person shall
18 cause a change of salinity in the Sanctuaries that in-
19 jures, causes the loss of, or destroys any sanctuary
20 resource.

21 (3) LIMITATION ON APPLICABILITY.—Para-
22 graph (1) does not apply with respect to any dis-
23 charge—

1 (A) of fish, fish parts, and chumming ma-
2 terials resulting from, and while conducting
3 otherwise lawful, fishing activity;

4 (B) of biodegradable effluents incidental to
5 vessel use and generated by an operable Type
6 I or II marine sanitation device (as classified by
7 the Coast Guard) that is approved in accord-
8 ance with section 312 of the Federal Water Pol-
9 lution Control Act (33 U.S.C. 1322) if all ma-
10 rine sanitation devices on the vessel are secured
11 in a manner that prevents discharge of un-
12 treated sewage from a Type I or Type II Coast
13 Guard-approved sanitation devices on the ves-
14 sel, except that this subparagraph does not
15 apply with respect to a discharge from a cruise
16 ship within the boundaries of either of the
17 Sanctuaries;

18 (C) of biodegradable material resulting
19 from deck wash down from a vessel;

20 (D) from vessel engine exhaust; or

21 (E) that—

22 (i) originates in the Russian River
23 Watershed outside the boundaries of the
24 Gulf of the Farallones National Marine
25 Sanctuary;

1 (ii) originates from the Bodega Ma-
2 rine Laboratory; and

3 (iii) is permitted under a National
4 Pollution Discharge Elimination System
5 permit that is in effect on the date of en-
6 actment of this Act, or under a new or re-
7 newed National Pollution Discharge Elimi-
8 nation System permit that does not in-
9 crease pollution in the Sanctuaries.

10 (d) CONSULTATION REQUIREMENT FOR CHANGES IN
11 WATER FLOW.—Any Federal, State, or local government
12 agency that is responsible for significant alteration of
13 fresh water flow regimes that may affect the Sanctuaries
14 must consult with the Secretary prior to initiating such
15 change in order to ensure sanctuary resources are not in-
16 jured.

17 (e) PENALTIES AND ENFORCEMENT.—A violation of
18 this section shall be treated as a violation of section 306
19 of the Marine Protection, Research, and Sanctuaries Act
20 of 1972 (16 U.S.C. 1436).

21 (f) SECRETARIAL AUTHORITY NOT LIMITED.—

22 (1) IN GENERAL.—Except as provided in para-
23 graph (2), nothing in this Act limits the authority
24 of the Secretary to prohibit, allow, or otherwise reg-
25 ulate the discharge of materials or other substances.

1 (2) LIMITATION WITH RESPECT TO DIS-
2 CHARGES.—The Secretary may only modify the reg-
3 ulation of those activities listed in subsection (c) to
4 further protection of sanctuary resources and quali-
5 ties.

6 **SEC. 7. MANAGEMENT PLANS AND REGULATIONS.**

7 (a) INTERIM PLAN.—The Secretary shall complete an
8 interim supplemental management plan for each of the
9 Sanctuaries by not later than 30 months after the date
10 of enactment of this Act, that focuses on management in
11 the areas added to the Sanctuaries under this Act. The
12 Secretary shall ensure that these supplemental plans shall
13 not weaken existing resource protections.

14 (b) REVISED PLANS.—The Secretary shall issue a re-
15 vised comprehensive management plan for each of the
16 Sanctuaries during the first management review initiated
17 after the date of the enactment of this Act under section
18 304(e) of the National Marine Sanctuaries Act (16 U.S.C.
19 1434(e)) for each of the Sanctuaries, and issue such final
20 regulations as may be necessary.

21 (c) APPLICATION OF EXISTING REGULATIONS.—The
22 regulations for the Gulf of the Farallones National Marine
23 Sanctuary (15 C.F.R. 922, subpart H) and the Cordell
24 Bank National Marine Sanctuary (15 C.F.R. 922, subpart
25 K), respectively, shall apply to the areas added to the rel-

1 evant Sanctuary under section 5 until the Secretary modi-
2 fies such regulations in accordance with this section.

3 (d) CONTENTS OF PLANS.—Revisions to each com-
4 prehensive management plan under this section shall, in
5 addition to matters required under section 304(a)(2) of
6 the Marine Protection, Research, and Sanctuaries Act of
7 1972 (16 U.S.C. 1434(A)(2))—

8 (1) facilitate all public and private uses of the
9 national marine sanctuary to which the plan applies
10 consistent with the primary objective of sanctuary
11 resource protection;

12 (2) establish temporal and geographical zoning
13 if necessary to ensure protection of sanctuary re-
14 sources;

15 (3) identify priority needs for research that
16 will—

17 (A) improve management of the Sanc-
18 tuaries;

19 (B) diminish threats to the health of the
20 ecosystems in the Sanctuaries; or

21 (C) fulfill both of subparagraphs (A) and
22 (B);

23 (4) establish a long-term ecological monitoring
24 program and database, including the development
25 and implementation of a resource information sys-

1 tem to disseminate information on the Sanctuaries’
2 ecosystem, history, culture, and management;

3 (5) identify alternative sources of funding need-
4 ed to fully implement the plan’s provisions and sup-
5 plement appropriations under section 313 of the Ma-
6 rine Protection, Research, and Sanctuaries Act of
7 1972 (16 U.S.C. 1444);

8 (6) ensure coordination and cooperation be-
9 tween sanctuary superintendents and other Federal,
10 State, and local authorities with jurisdiction over
11 areas within or adjacent to the Sanctuaries to deal
12 with issues affecting the Sanctuaries, including
13 nonpoint discharges and navigation;

14 (7) in the case of revisions to the plan for the
15 Farallones NMS, promote cooperation with farmers
16 and ranchers operating in the watersheds adjacent
17 to the Farallones NMS and establish voluntary best
18 practices programs for farming and ranching;

19 (8) promote cooperative and educational pro-
20 grams with fishing vessel operators and crews oper-
21 ating in the waters of the Sanctuaries, and, when-
22 ever possible, include individuals who engage in fish-
23 ing and their vessels in cooperative research, assess-
24 ment, and monitoring programs and educational

1 programs to promote sustainable fisheries, conserva-
2 tion of resources, and navigational safety; and

3 (9) promote education, among users of the
4 Sanctuaries, about conservation and navigation safe-
5 ty.

6 (e) PUBLIC PARTICIPATION.—The Secretary shall
7 provide for participation by the general public in the revi-
8 sion of the comprehensive management plans and regula-
9 tions under this section.

10 **SEC. 8. FEASIBILITY OF A NEW SANCTUARY DESIGNATION.**

11 (a) REVIEW AND RECOMMENDATION.—As part of the
12 first review initiated after the date of enactment of this
13 Act of the Gulf of the Farallones National Marine Sanc-
14 tuary Management Plan pursuant to section 304(e) of the
15 National Marine Sanctuaries Act (16 U.S.C. 1434(e)), the
16 Secretary shall—

17 (1) conduct a review of the operations of the
18 Farallones NMS; and

19 (2) following not less than one public hearing
20 held in Sonoma County, California, and the receipt
21 of public comment, determine whether the aea of the
22 Gulf of the Farallones National Marine Sanctuary
23 expanded by this Act shall be designated as a new
24 and separate national marine sanctuary.

1 (b) CONSIDERATIONS FOR DETERMINATION.—In
2 making the determination under subsection (a)(2), the
3 Secretary shall consider responsiveness to local needs, the
4 effectiveness of conservation, education and volunteer pro-
5 grams, and organizational efficiency.

6 (c) IMPLEMENTATION OF DETERMINATION.—If the
7 Secretary determines under subsection (b) to designate a
8 new national marine sanctuary, the Secretary shall imple-
9 ment measures to assure a smooth and effective transition
10 to a separate national marine sanctuary.

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