



April 6, 2015

George Schmahl, Sanctuary Superintendent
Flower Garden Banks National Marine Sanctuary
4700 Avenue U, Building 216
Galveston, Texas 77551

Re: Docket #NOAA-NOS-2014-0154
Expansion of Flower Garden Banks Sanctuary

Via electronic submission to: <http://www.regulations.gov>

To Whom It May Concern:

The Offshore Operators Committee (OOC), the American Petroleum Institute (API), the Independent Petroleum Association of America (IPAA), the National Ocean Industries Association (NOIA) and the International Association of Geophysical Contractors (IAGC) (the Associations) offer the following comments to the National Oceanic and Atmospheric Administration (NOAA) on the Notice of Intent (NOI) to revise the boundaries of the Flower Garden Banks National Marine Sanctuary (FGBNMS) and to prepare a draft environmental impact statement (DEIS) which was published on February 3, 2015. The Associations members conduct almost all of the OCS oil and gas exploration and production activities in the Gulf of Mexico (GOM) and are longstanding supporters of the FGBNMS.

OOC is a non-profit organization comprised of any person, firm or corporation owning offshore leases and/or engaged in offshore activity as a drilling contractor, service company, supplier or other capacity that chooses to participate. Currently, OOC has 142 member companies. The Committee's activities are focused supporting its member companies in operations that protective of human health and the environment.

API is a national trade association representing over 600 member companies involved in all aspects of the oil and natural gas industry. API's members include

producers, refiners, suppliers, pipeline operators, and marine transporters, as well as service and supply companies that support all segments of the industry. API and its members are dedicated to meeting environmental requirements, while economically developing and supplying energy resources for consumers.

IPAA is a national trade association representing the thousands of independent oil and natural gas explorers and producers, as well as the service and supply industries that support their efforts. Independent producers drill about 95 percent of American oil and natural gas wells, produce more than 50 percent of American oil, and more than 85 percent of American natural gas. IPAA is dedicated to ensuring a strong, viable domestic oil and natural gas industry, recognizing that an adequate and secure supply of energy developed in an environmentally responsible manner is essential to the national economy.

NOIA is the only national trade association representing all segments of the offshore industry with an interest in the exploration and production of both traditional and renewable energy resources on the U.S. OCS. The NOIA membership comprises more than 325 companies engaged in a variety of business activities, including production, drilling, engineering, marine and air transport, offshore construction, equipment manufacture and supply, telecommunications, finance and insurance, and renewable energy.

IAGC is the international trade association representing the industry that provides geophysical services (geophysical data acquisition, processing and interpretation, geophysical information ownership and licensing, and associated services and product providers) to the oil and natural gas industry. IAGC member companies play an integral role in the successful exploration and development of offshore hydrocarbon resources through the acquisition and processing of geophysical data.

Industry personnel have been directly involved in the National Marine Sanctuaries Program over the years by participating as members of regional site selection teams in the 1980s and have served as members of Sanctuary Advisory Councils (SAC) for the FGBNMS. The Associations will continue to support establishment of sanctuaries that satisfy the key statutory factors required for designation of sanctuaries, including special places of national significance, balancing resource protection and resource development needs, consideration of multiple and compatible uses, and the availability of resources for management.

The GOM is one of the most active areas of oil and gas exploration in the world. Since its designation in 1992, our industry has successfully managed to co-exist within and around the FGBNMS. Our industry also collaborates with regional partners to advance research projects in support of science and management priorities within and surrounding the Sanctuary. For example, NOAA, the Bureau of Ocean and Energy Management (BOEM), Texas A&M University, and Shell Exploration and Production Company are collaborating on the installation of a 'sentinel site' in the FGBNMS to monitor ocean acidification. This real-time monitoring site will enable the partners to gather baseline data at FGBNMS and assess the health and management of sensitive

environments in the GOM. Another example of how industry strongly supports preserving the rich and diverse living coral, invertebrate and fish communities in the GOM is demonstrated by industry's active role and donations made to the GOM states' Rigs-to-Reefs programs. Industry is also partnering with federal agencies (BOEM and NOAA) and the University of Southern Mississippi Department of Marine Science to monitor physical conditions using autonomous underwater vehicles. Data collected by the gliders is used to calculate upper ocean heat content to better understand hurricane intensities in the GOM. The data is also supplied to agencies to support GOM forecast modeling and management goals, including in the FGBNMS.

The NOI noted that the reasons for the proposed expansion are to: 1) address concerns about impacts of anchoring and safe access by fishers and divers (by adding mooring buoys), 2) mitigate damage as a result of unregulated activities (i.e., hunting for artifacts), and 3) protect unique features such as coral reefs. Oil and gas activities were not listed as a potential concern, and industry would reinforce this finding by recognizing the long-term coexistence of industry activities and the FGBNMS as well as the advances in safety and oil spill prevention that have developed over the last five years.

The Associations support preservation of the rich biological communities in the GOM, but the proposed expansion as outlined in the Flower Garden Banks Final Management Plan (FGBFMP) issued in April 2012 raises some concerns. For one, NOAA did not include a map in the NOI delineating the banks proposed for inclusion in the expansion of the sanctuary boundaries. We assume that the demarcations may follow previous recommendations from the FGBNMS SAC in 2007 and the 2012 FGBFMP, but it is believed that there is more recent survey data that may provide a better understanding of the extent of these features. The ambiguity regarding the topographic information that is currently available and specific areas to be included in the expansion limits our ability to provide more detailed scoping comments.

As proposed, the expansion would not only modify the existing boundaries of the East and West Flower Garden Banks and Stetson Bank, but would also add up to 12 other banks to the Sanctuary boundaries. The 2012 Sanctuary Expansion Action Plan included as part of the FGBFMP states:

*"Oil and gas infrastructure was examined and recommendations were made to either include or exclude areas with existing platforms, depending on their distance from the critical habitat area and their proximity to the edge of the recommended buffer zone. As a result, it was anticipated that oil and gas leasing activity would also continue within these new sanctuary boundaries, as well. The final sanctuary advisory council recommendation includes four oil and gas production platforms within the recommended boundaries (including HIA389A, which lies within the current sanctuary boundaries)."*¹

¹ U.S. Department of Commerce, National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries. 2012. *Flower Garden Banks National Marine Sanctuary Final Management Plan*. Silver Spring, MD. 130 pp.

While current sanctuary regulations do not prevent oil and gas activities within the current Sanctuary, BOEM has long designated "no-activity zones" around topographic features in the GOM, including these existing and proposed banks, which have effectively prohibited oil and gas operations around these features since 1974.

According to a recent report by NOAA on the fish and benthic communities of the FGBNMS², there are 13 production platforms within a four-mile radius of the existing Sanctuary. It is unknown how many platforms exist near the 12 additional banks. The report states that despite extensive coral loss seen in other coral ecosystems in this hemisphere, coral in the FGBNMS has not changed significantly in the last 30 years. This provides evidence that the oil and natural gas industry has coexisted very well within this thriving reef system in one of the most active offshore oil and gas regions in the world. The Associations encourage NOAA to recognize this long-term coexistence and the effectiveness of the existing regulatory framework. We are very concerned about the possibility of decreased access to the acreage that could potentially become part of the expanded FGBNMS if NOAA fails to take the long-term coexistence into consideration. The Associations recommend that oil and natural gas activities be permitted in any sanctuary expansion as per the current sanctuary regulations. In addition, we request that the DEIS thoroughly evaluate the economic impacts of restricting oil and gas leasing activities in the newly expanded sanctuary and we request clarification about regulatory requirements of the four oil and gas production platforms within the boundaries of the proposed expansion.

Furthermore, the 2012 Sanctuary Expansion Action Plan states:

"It is assumed that since this is an expansion of an existing sanctuary, any new areas will be subject to the regulations that are applicable to FGBNMS (Appendix II). However, site-specific regulations may be necessary for some or all of the new areas and will be considered and evaluated in the designation process."

Any proposed site-specific regulations should be thoroughly evaluated in the draft EIS. As shown in the 20 plus years of monitoring at FGBNMS by BOEM and NOAA, the current sanctuary regulations have been protective of the Sanctuary while at the same time permitting oil and gas activities to occur. The Associations do not believe that additional regulations are necessary.

In addition, other OCS activities include geophysical operations – specifically, seismic. Modern seismic technology is similar to ultrasound technology – a non-invasive mapping technique built upon the simple properties of sound waves. Seismic surveys are temporary and transitory and the least intrusive and most cost-effective means to understanding where recoverable oil and gas resources likely exist in the GOM. Seismic data acquisition is either via towed streamer or autonomous nodes laid on the ocean sea floor. Seismic contractors successfully conduct their operations in an environmentally

² Clark, R., J.C. Taylor, C.A. Buckel, and L.M. Kracker (eds). 2014. Fish and Benthic Communities of the Flower Garden Banks National Marine Sanctuary: Science to Support Sanctuary Management. NOAA Technical Memorandum NOS NCCOS 179. Silver Spring, MD. 317 pp.

safe manner – adhering to current offset requirements stated in BOEM G&G permits. The Associations request that NOAA consider whether expanding the FGBNMS into these new areas will impact the ability to acquire needed seismic data or not.

The draft EIS should assess current Environmental Protection Agency (EPA) regulations which consider a National Marine Sanctuary (NMS) to be an “area of biological concern” whereby discharge is not allowed. Although EPA currently provides exceptions to this rule as long as the structure was installed prior to the designation of the NMS and the structure is located outside the no-activity zone designated by BOEM, the exception would only be applicable to the existing structures located within the FGBNMS or those existing structures that would potentially be drawn into the new sanctuary boundaries. Though this may provide some relief for existing structures that could be included in the proposed expansion, the exception would not apply to any new infrastructure placed within the new boundary of the sanctuary. The DEIS needs to address whether and how oil and gas activities, including discharge and other activities, have impacted the banks, and then it should consider additional restrictions only where scientific evidence and cost/benefit analyses justify additional mitigation measures. Other issues that should be addressed in the DEIS include:

- Whether, and to what extent, there are still concerns about unregulated activities, such as recreational diving and anchoring, and what has been done since 2007 when these were recognized as problems in the FGFBMP;
- A clear statement of measurable objectives surrounding the intended outcome regarding the inclusion of each of these areas in the expansion, along with a plan to allow for adaptive management of human activities in order to refine approaches to meet these objectives;
- The scientific basis for establishing the expanded areas and an analysis of how effective other requirements have been on regulated and unregulated activities such as BOEM's Topographic Features Stipulations, EPA's Area of Biological Concern, National Marine Fishery Service essential fish habitat (EFH) and coral Habitat Area of Particular Concern (HAPC), and other designations such as the International Maritime Organization's Area to be Avoided (ATBA);
- A description of the status of mapping efforts that have been completed on these banks and how that might affect final boundary considerations or future revisions;
- Whether the expansion offers added protection beyond current mitigation efforts and the process for minimizing duplication of regulatory efforts;
- Since it is widely believed that enforcement resources have been lacking within the existing Sanctuary, an assessment of the resources needed to properly protect, research, and educate under the proposed expansion plans;
- A description of the criteria (including known threats) that were used by the advisory council to rank the proposed banks, and whether that ranking is still valid and effectively addresses current understanding; and,
- An assessment of financial costs associated with any new restriction or mitigation measure placed on the oil and gas industry.

The Associations recommend that NOAA only proceed with including areas in the proposed expansion that clearly have special national significance, consistent with the intent of the National Marine Sanctuaries Act and demonstrated by analyses of scientific and other evidence. Wherever possible in proposed subsequent management measures, we encourage accommodation of and continued partnerships with the oil and gas industry. We appreciate the opportunity to provide comments on the proposed FGBNMS expansion. Should you wish to discuss further or have questions, please contact Evan Zimmerman at evan@offshoreoperators.com or at 713.766.6677.

Sincerely,



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