

GROUND FISH ADVISORY SUBPANEL REPORT ON
FISHERY REGULATIONS WITHIN CHANNEL ISLANDS NATIONAL MARINE
SANCTUARY

The Groundfish Advisory Subpanel (GAP) has commented before and continues to strongly recommend that the Magnuson-Stevens Fishery Management and Conservation Act (MSA) be the law that regulates fishing activity. This is critical because the Sanctuary managers do not have the authority, resources, or public process including scientific review to make adequate decisions involving fishing activities.

The Channel Islands National Marine Sanctuary (CINMS) was not created to regulate fishing and fishing was not listed as an activity subject to CINMS regulation in the beginning. If fishing had been included among the activities to be regulated by the CINMS from the start, the creation of the CINMS would never have been supported by fishing communities. The GAP strongly supports the original intent of the CINMS designation document (see attached).

The GAP opposes any change to the Sanctuaries designation documents that would regulate fisheries.

The Council should continue its action to implement the proposed marine protected areas (MPA) at the Channel Islands through any necessary amendments to fishery management plans (FMP) for species under federal management. We find the objection that fishing may occur from outside fleets operating in Sanctuary waters to be implausible.

The GAP recognizes the need for research reserves and is particularly interested in the California Wetfish Producers Association proposal for studies on squid populations inside and outside the reserves. There has been much scientific debate about deep-water reserves and the possible linkages between bottom dwelling communities and pelagic and surface communities. These relationships are little understood and the establishment of the reserves and conservation areas at the CINMS can further this area of study. The closed areas can also be used as a "static control" to monitor the effect of fishing on communities throughout the water column. Research on larval surveys and juvenile pelagics can also occur in these areas. The GAP supports a "sunset date" for a review of these research efforts, and urges the Council to make use of adaptive management to make use of the information gained by these studies to modify the proposed marine protected areas in the CINMS.

The Council has already taken significant action to implement the CINMS reserves by closing the federal portions to bottom contact gear as a part of its Essential Fish Habitat amendment to the groundfish management plan. We urge the Council to take speedy action to amend other relevant FMPs to include the proposed regulations and achieve the goals and objectives of the Sanctuaries plan under the MSA.

Enclosure 3

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Final Designation Document

Designation of the Channel Islands National Marine Sanctuary

Preamble

Under the authority of the Marine Protection, Research and Sanctuaries Act of 1972. Pub. L. 92-532 (the Act) the waters surrounding the northern Channel Islands and Santa Barbara Island are hereby designated a Marine Sanctuary for the purpose of preserving and protecting this unique and fragile ecological community.

Article 1. Effect of Designation

Within the area designated as the Channel Islands National Marine Sanctuary (the Sanctuary), described in Article 2, the Act authorizes the promulgation of such regulations as are reasonable and necessary to protect the values of the Sanctuary. Article 4 of this Designation lists those activities which may require regulation but the listing of any activity does not by itself prohibit or restrict it.

Article 2. Description of the Area

The Sanctuary consists of an area of the waters off the coast of California, of approximately 1252.5 square nautical miles (nm), adjacent to the northern Channel Islands and Santa Barbara Island seaward to a distance of 6 nm. The precise boundaries are defined by regulation.

Article 3. Characteristics of the Area That Give it Particular Value

The Sanctuary is located in an area of upwelling and in a transition zone between the cold waters of the California Current and the warmer Southern California Countercurrent. Consequently, the Sanctuary contains an exceptionally rich and diverse biota, including 30 species of marine mammals and several endangered species of marine mammals and sea birds. The Sanctuary will provide recreational experiences and scientific research opportunities and generally will have special value as an ecological, recreational, and esthetic resource.

Article 4. Scope of Regulation

Section 1. Activities Subject to Regulation. In order to protect the distinctive values of the Sanctuary, the following activities may be regulated within the Sanctuary to the extent necessary to ensure the protection and preservation of its marine features and the ecological, recreational, and esthetic value of the area:

- a. Hydrocarbon operations
- b. Discharging or depositing any substance
- c. Dredging or alteration of, or construction on, the seabed
- d. Navigation of vessels except fishing vessels or vessels traveling within a Vessel Traffic Separation Scheme or Port Access Route designated by the Coast Guard outside of 1 nm from any island
- e. Disturbing marine mammals or birds by overflights below 1000 feet
- f. Removing or otherwise deliberately harming cultural or historical resources

Section 2. *Consistency with International Law.* The regulations governing the activities listed in Section 1 of this article apply to foreign flag vessels and persons not citizens of the United States only to the extent consistent with recognized principles of international law including treaties and international agreements to which the United States is signatory.

Section 3. *Emergency Regulations.* Where essential to prevent immediate, serious and irreversible damage to the ecosystem of the area, activities other than those listed in Section 1 may be regulated within the limits of the Act on an emergency basis for an interim period not to exceed 120 days, during which an appropriate amendment of this article would be proposed in accordance with the procedures specified in Article 6.

Article 5. Relation to Other Regulatory Programs

Section 1. *Fishing.* The regulation of fishing is not authorized under Article 4. However, fishing vessels may be regulated with respect to discharges in accordance with Article 4, Section 1, paragraph (b) and aircraft conducting kelp bed surveys below 1000 feet can be regulated in accordance with Article 4, Section 1, paragraph (e). All regulatory programs pertaining to fishing, including particularly regulations promulgated under the California Fish and Game Code and Fishery Management Plans promulgated under the Fishery and Conservation Act of 1976, 16 USC 1801 et seq., shall remain in effect. All permits, licenses and other authorizations issues pursuant thereto shall be valid within the Sanctuary unless authorizing any activity prohibited by any regulation implementing Article 4. Fishing as used in this article and in Article 4 includes kelp harvesting.

Section 2. *Defense Activities.* The regulation of those activities listed in Article 4 shall not prohibit any activity conducted by the Department of Defense that is essential for national defense or because of emergency. Such activities shall be consistent with the regulations to the maximum extent practicable.

Section 3. *Other Programs.* All applicable regulatory programs shall remain in effect and all permits, licenses and other authorizations issued pursuant thereto shall be valid within the Sanctuary unless authorizing any activity prohibited by any regulation implementing Article 4. The Sanctuary regulations set forth any necessary certification procedures.

Article 6. Alterations to this Designation

This designation can be altered only in accordance with the same procedures by which it has been made, including public hearings, consultation with interested Federal and State agencies and the Pacific Fishery Management Council, and approval by the President of the United States.

[End of Designation Document]

Only those articles listed in Article 4 are subject to regulation in the Sanctuary. Before any additional activities may be regulated, the Designation must be amended through the entire designation procedure including public hearings and approval by the President.

Dated: September 28, 1980.

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