

House Subcommittee on Fisheries, Wildlife and Oceans on the Reauthorization of the
National Marine Sanctuary Act
November 3, 2007
Kohn Hall, University of California at Santa Barbara
Testimony by Jim Martin
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Thank you, Chairwoman Bordallo, Congresswoman Capps, and members of the Committee for the opportunity to provide you with our testimony on the reauthorization of the National Marine Sanctuary Act.

For the record, my name is Jim Martin and I am speaking to you today on behalf of the Recreational Fishing Alliance. The Recreational Fishing Alliance (RFA) is a national 501(c)(4) non-profit grassroots political action organization whose mission is to safeguard the rights of salt water anglers, protect marine, boat, and tackle industry jobs, and insure the long-term sustainability of our nation's marine fisheries.

As a Groundfish Advisor to the Pacific Fishery Management Council since 2004, I have had the opportunity to meet with and discuss many issues with the staff of the National Marine Sanctuary system. I respect their dedication to the protection of the habitat upon which our marine fisheries depend. The National Marine Sanctuaries have done much to address non-source point water pollution. Recent surveys show that Californians are far more concerned about water quality and the negative impacts of polluted run-off on ocean health than they are about the impacts by recreational anglers and divers.

At the same time, we have seen National Marine Sanctuaries program officials proposing to close off public fishing access to large areas of the Pacific Ocean, and to create fishing regulations within Sanctuary boundaries.

RFA members are serving and have served on the Sanctuary Advisory Councils on the west coast, and I've spoken to them about their concerns with the public stakeholder process and sanctuary regulations.

Paramount among our concerns is the apparent conflict between regional fishery management and sanctuary goals and objectives. Examples of fishing regulations proposed by the National Marine Sanctuaries on the west coast include:

1. Ban on krill harvest when no such fishery existed. Most recreational and commercial fishermen supported the krill-harvest ban because of the importance of this forage species. Even so, the National Marine Sanctuaries imposed an unnecessary series of meetings on the PFMC to close a fishery that did not exist.
2. Expansion of sanctuary to include Davidson Seamount, with prohibitions on fishing at certain depths. Again, no fishing occurred at those depths in the first place.
3. No bottom-contact gear on the Cordell Banks. This provision was already under consideration as a part of MSA's Essential Fish Habitat provisions.

4. Direct involvement of Sanctuary staff in proposing large marine reserves in central California within the Marine Life Protection Act process.
5. Channel Islands marine reserves in federal waters. This could have easily been accomplished, using the best available science, under the Magnuson-Stevens Act, without changing the designation document of the CINMS.

In each case, state and federal fishery management had the authority to promulgate regulations to achieve these goals. Nonetheless, the National Marine Sanctuaries program made these decisions, even though they lacked the fisheries science expertise, and most importantly, a science-based, open and transparent public stakeholder process. Fishing communities supported many if not all of these regulatory changes, but found the conflict and confusion between the two federal statutes created more problems than were solved.

In general, we need much more public involvement on Sanctuary regulations and Sanctuary managers need to be more accountable to the public. It took us many years to get recreational fishing representatives on the Sanctuary Advisory Councils, even though recreational saltwater anglers are the most numerous visitors to the National Marine Sanctuaries. We still need more recreational fishing representation on Sanctuary Advisory Councils.

The National Marine Sanctuary Act ("NMSA") should be amended to make the development of regulations under NMSA more transparent and open to the public. We recommend a minimum number of recreational fishing representatives be appointed to the Sanctuary Advisory Councils, with representatives from a broad range of perspectives and experiences. Representation on these Councils could be proportionate to the user-group activity within each Sanctuary.

Our central concern is the lack of clarity for regulatory authority between MSA and NMSA. Under Section 304(a)(5) of the NMSA, 16 U.S.C. 1434(a)(5), regional fishery management councils are "provided the opportunity" to prepare draft regulations for fishing. In practice, Sanctuary staff propose a change in their designation document, pending approval of one person, the NOAA Administrator, unless the regional fishery management council agrees within 120 days. Most management decisions at the council-level take anywhere from six months to a year or more, because the public has numerous opportunities to submit comment, meet and speak about the decision.

The Recreational Fishing Alliance supports an amendment to NMSA's 304(a)(5) process. We support the proposed language contained in the eight Regional Councils' letter to the Resources Committee dated May 15, 2006 (see attachment, page 5-6). Under the proposed language, the Sanctuaries can apply for fishing regulations to the Councils under MSA directly. We believe this will increase transparency and improve the science-based stakeholder driven public process upon which sanctuary and fishery management decisions should be made.

Last year, Congress amended the Magnuson Stevens Act to govern the creation of any new marine protected area (a type of fishing regulation that limits or bans fishing in areas including areas within Sanctuary boundaries). Congress required that any new marine protected area adhere to the following standards: the proposals must be based on the best scientific information available; include quantifiable benchmarks to assess the conservation benefit of the closure; establish a timetable for review of regulations and

monitoring their success in meeting the stated goals and objectives; and an assessment of the benefits and impacts of the closure.

None of these standards were in place during the creation of the Channel Islands reserves. We urge you to ensure that both MSA and NMSA govern the proposal of new marine protected areas in a manner consistent with the new requirements under the MSA. If marine protected area decisions continue to be made under the NMSA in a manner which is inconsistent with the new language in the MSA, it will further exacerbate the conflict between the two laws.

The reauthorization of Magnuson-Stevens made some progress in clarifying the respective roles and responsibilities of the Sanctuaries and the regional fishery management councils. We urge you to complete the job and adopt the language proposed by all eight regional fishery management councils to amend Section 304(a)5 of the National Marine Sanctuary Act. Until this issue is resolved, sanctuary decisions will continue to be mired in conflicting laws and regulations, pitting interest groups and government officials against each other, rather than bringing them together to improve the conservation and management of our marine resources.

Thanks for your consideration. I would be happy to answer any questions you may have at this time.

Background material for the record:

From "California Residents' Opinions On, and Attitudes Toward, Coastal Fisheries And Their Management" - A Public Opinion Survey Conducted for the Alliance of Communities for Sustainable Fisheries by Responsive Management (March 2007)
(Full survey available at www.cafisheriescoalition.org.)

CONCERNS REGARDING RECREATIONAL FISHING IN CALIFORNIA

The survey asked Californians to rate the importance of recreational fishing to California's economy, and they think it is somewhat important: just barely a majority (52%) rated it above the midpoint, and 69% rated it at the midpoint or higher. However, a quarter (25%) rated it less than the midpoint in importance.

A substantial percentage of California residents (15%) consider themselves to be recreational saltwater anglers.

Recreational fishing is not perceived as a great threat to California's marine waters, habitat, and fisheries: only 5% rate it as a high threat, while 66% say it is a low threat or not a threat at all. Furthermore, 76% disagree that people who recreationally fish in California are harming the ocean's fisheries (only 16% agree). On the other hand, the opportunity to be able to recreationally fish is perceived as important (even if the respondent does not personally fish himself or herself): an overwhelming majority (88%) rate ensuring that the opportunity exists at the midpoint or higher in the rating scale, and 29% rate it 10.

Disagreement (59%) far exceeds agreement (32%) for a complete ban of fishing, both commercial and recreational, if scientific evidence shows that fish populations are

declining. However, agreement is higher if recreational fishing is allowed while commercial fishing is still banned, if scientific evidence shows that fish populations are declining: 50% agree and 40% disagree.

An overwhelming majority of Californians (84%) agree that the State of California and local governments should work to keep charter boat opportunities available to the public, given that charter boat businesses provide opportunities to people who otherwise would not be able to boat because they cannot afford a boat of their own.