August 26, 2009

David Ortmann, Chair
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101
Portland OR 97220-1384

Dear Chairman Ortmann:

When the Council takes action in September on agenda item C.2 (Monterey Bay National Marine Sanctuary (MBNMS) MPA Planning), the Alliance of Communities for Sustainable Fisheries asks that you consider including the following:

1. Recommend to the MBNMS that it reconsider its statement of an “Unmet Need” for additional or changed Marine Protected Areas within the Federal Waters of the Sanctuary, given more recent information that has been brought forward regarding the overall sound management of fisheries and overall health of the California Current large marine ecosystem (see Worm, Hilborn, et al; Science; 7/31/09).

2. Recommend that the MBNMS re-examine the need for marine protected areas in the context of an Integrated Ecosystem Assessment and encourage the Sanctuary to consider MPAs as one tool among many that may address any ecosystem needs that emerge from that assessment.

3. Refer the two Public Opinion Polls provided by our organization to the Scientific and Statistical Committee for a methodology review and assessment as to their relevance in this MPA discussion.

4. Request all agencies involved in the Integrated Ecosystem Assessment to give greater transparency to the assessment process through open public meetings.

Background
The Alliance of Communities for Sustainable Fisheries (ACSF), is a regional organization representing fishing communities from Port San Luis to Half Moon Bay, California. This is also roughly the region of the Monterey Bay National Marine Sanctuary. One of our main projects has been to represent the collective commercial and recreational fishing interests in this region in such processes as the Monterey Bay National Marine Sanctuary’s Management Plan Review and subsequent Marine Protected Area working group. A letter signed by fifteen recreational and commercial fishing organizations who fish in the waters of the Monterey Bay National Marine Sanctuary is attached for your review. This letter indicates very strong support for the ACSF’s leadership role in working constructively with the MBNMS on the MPA effort.

There is a long relationship between the Sanctuary and the fishing community. When Sanctuary designation was first considered, an agreement was struck between NOAA and the regional fishing community. In exchange for the fishermen’s support of the new Sanctuary, the Sanctuary would not create regulations that affect the fishermen. This agreement is well summarized in Congressman Sam Farr’s letter to the Sanctuary dated January 31, 2002: “In the process of building support for the designation of the Sanctuary, a clear commitment was made to the
fishing community that the Sanctuary would not impose any regulations directed at fishing activities or fishing vessels.” Congressman Farr’s letter also states, and the ACSF agrees, that the Sanctuary does have a role in communicating and coordinating management measures with the Pacific Council, the National Marine Fisheries Service (NMFS), and the fishing community in a constructive manner. The fishing community feels that it has kept up its end of that bargain. Attached is a letter from the late Dave Danbom (a former PFMC member), which describes this agreement.

No scientific analysis has occurred that would inform a “need MPAs” conclusion. The Sanctuary’s interest in, and effort to create additional Marine Protected Areas during the last eight years, has not lead to the sort of communication we envisioned. This process culminated in the Sanctuary issuing two letters, one on February 15, 2008 and the second on April 15, 2008, asserting that the Sanctuary has an “unmet need” for MPAs within the federal waters of the MBNMS. The Sanctuary also purported to have conducted “scientific analysis” on this question of unmet needs in making their determination. Despite ACSF’s direct participation in all aspects of Sanctuary MPA discussions, we were not aware of any scientific analysis that occurred. In fact, a major complaint that the ACSF members brought to the Sanctuary about its process was “When are we going to have some science?”

Inquiries to the Sanctuary for its scientific analysis failed to produce anything, resulting in a Freedom of Information Act request made by the ACSF to the Sanctuary Program for this analysis and other related information. This FOIA request was made in early October, 2008. Approximately ten months later the ACSF received the first batch of information on the Sanctuary’s MPA decision. It is still evident, at least from the information obtained thus far, that no scientific analysis occurred when the Sanctuary made its MPA determination. The Sanctuary has not produced evidence that the Sanctuary resources are in ill health, that the ecosystem is not functioning as it should, that over-fishing is continuing, how the many MPAs that already exist within the Sanctuary satisfy MBNMS “needs”, or that fishing activities are any threat to the healthy functioning of the resources. Nor has the Sanctuary answered the fundamental question, “How much protection is enough?” Because of this, the ACSF concludes the Sanctuary cannot possibly know that it has an unmet need for additional spatial protections in the Sanctuary.

The assertion that the Sanctuary has an “unmet need” for MPAs means that the Sanctuary has determined that there will be additional MPAs or MPAs with different rules and configurations, quite possibly more restrictive.

Since the Sanctuary has not demonstrated any scientific analysis to substantiate the “unmet need” claim, the ACSF feels strongly that the MBNMS needs to reconsider that statement. If they do not, then there is the possibility that the Sanctuary’s “unmet need” statement will be the premise, or building block, from which additional MPAs spring. Therefore, MPAs could be built on a weak, or non-existent, foundation.

Importantly, it also appears that this is not the understanding that the PFMC had about how this process would go, based on prior testimony from the Sanctuary. In PFMC Executive Director Don McIsaac’s letter to the MBNMS Superintendent Paul Michel, dated July 29, 2008, Dr. McIsaac states:

However, the Council was encouraged by your verbal testimony at the April Council Meeting during which you characterized the Sanctuary determination as a general decision to consider MPAs as a management tool, and with regard to specific MPA proposals, to evaluate the existing and proposed management measures and MPAs within the Sanctuary in coordination with the Council to ascertain if any modifications are necessary to meet the Sanctuary’s
goals and objectives… The Council is supportive of a collaborative review of the need for additional MPAs within the Sanctuary… Any determination of the need for additional MPAs should only be made following a comprehensive analysis of a sufficiently wide range of alternatives” (underlining done by ACSF)

It seems that the PFMC also believes that the “need” question should still be open.

**Changing course to an Integrated Ecosystem Assessment.**
The MBNMS has announced its hope that it will participate in an Integrated Ecosystem Assessment process lead by NMFS. The ACSF is heartened by this turn of events, and hopes that this assessment will be a balanced, science-driven process that will determine whether additional protections are needed. Since we assume that this process will be driven by the data and analysis, we believe that the PFMC should support recommendations 1 and 2 provided above. The ACSF also requests that the staff level IEA meetings that relate to the MBNMS MPA issue be open to at least public observation (recommendation #4 above).

**Refer public opinion polls to the Scientific and Statistical Committee**
Time has been provided by the PFMC to hear the summary results of several public opinion polls which have been commissioned by the ACSF and conducted by Responsive Management Inc., of Virginia. We believe the results of a recently released national public opinion poll on the management of ocean resources, and a second poll of Monterey Bay area residents opinion’s on the management of the MBNMS, are directly relevant to the MBNMS’s Marine Protected Area process. These polls are meant to inform the decision makers as to the public’s opinions and core values on certain key items. These polls have been provided to the Council, and the ACSF requests that they be referred to the Scientific and Statistical Committee for comment on both the validity of methodology, and their relevance to the MBNMS MPA issue. The polls can be viewed in entirety at [www.alliancefisheries.com](http://www.alliancefisheries.com)

**In conclusion**
The ACSF is committed to constructively participating in the Integrated Ecosystem Assessment should this process come to realization. On behalf of the ACSF, and the approximately 900 fishing families that it represents, thank you for your consideration of these requests.

Sincerely,

Kathy Fosmark
Co-Chair, ACSF

Frank Emerson
Co-Chair, ACSF

Attachments

C: Representative Sam Farr
   Paul Michel, Superintendent, Monterey Bay National Marine Sanctuary

Supporting Associations & Organizations
   Ventura County Commercial Fishermen’s Association
   Port San Luis Commercial Fishermen’s Association
   Morro Bay Commercial Fishermen’s Association
   Monterey Commercial Fishermen’s Association
   Fishermen’s Association of Moss Landing
   Fishermen’s Marketing Association
   Santa Cruz Commercial Fishermen’s Marketing Association
Half Moon Bay Fishermen's Marketing Association
Western Fishboat Owners Association
West Coast Seafood Processors Association
Federation of Independent Seafood Harvesters
Golden Gate Fishermen's Association
California Fisheries Coalition
California Wetfish Producers Association
Recreational Fishing Alliance
Carmel River Steelhead Association
Pacific Coast Federation of Fishermen's Association
Port San Luis Harbor District
City of Morro Bay Harbor
City of Monterey Harbor
Moss Landing Harbor District
Santa Cruz Port District
Pillar Pt. Harbor, San Mateo County Harbor District
October 1, 2008

Paul Michel, Superintendent
Monterey Bay National Marine Sanctuary
299 Foam Street
Monterey, CA 93940

Dear Superintendent Michel:

We, the undersigned are either the Presidents, Executive Directors, or regional representatives of our commercial or recreational fishing associations. Collectively, we represent all sectors of fishing activity within the federal waters of the Monterey Bay National Marine Sanctuary and nearly every organization. As we are the leaders of these organizations and associations, we believe that the Monterey Bay National Marine Sanctuary should look to us for designated representatives of the fishing community for the Monterey Sanctuary’s marine protected area process. We do not believe that the MBNMS should appoint any recreational or commercial fishing representative to the future MPA Work Group who is not clearly supported by us.

Further, you should be aware that we organized in 2000, creating the regional organization, the Alliance of Communities for Sustainable Fisheries. In fact, the ACSF was organized specifically to provide a unified voice of the fishing community for the California Marine Life Protection Act implementation process, and for the Monterey Bay National Marine Sanctuary management plan review, which we knew was bound to include a marine protected area process. We will, in the near future, provide you with the types of fisheries, other expertises, and specific names of representatives who we feel must be included in the Monterey Bay Sanctuary’s MPA process. We also believe that our recommendations for the composition of the science team to be used in the MPA process should be given considerable weight for us to feel that the best available science is being used to evaluate the need for, and/or locations and rules for, any future MPAs.

This letter is not being signed, but should you wish to confirm its support by any of us, please feel free to contact us with the information provided below.

Sincerely,

Tom Capen, President
Port San Luis Commercial Fishermen’s Association
TomCapen@yahoo.com

Mike Ricketts, President
Monterey Commercial Fishermen’s Association
seahawk85@comcast.net

Jeremiah O’Brien, President
Commercial Fishing Association of Morro Bay
tjobrien@sbcglobal.net

Howard Egan, Monterey Bay Area Representative
Recreational Fishing Alliance
howa@howa.net
Kathy Fosmark, President
Moss Landing Commercial Fishermen’s Association
Kfosmark@aol.com

Roger Thomas, President
Golden Gate Fishermen’s Association
suedupvis@aol.com

Duncan McLean, President
Pillar Point Commercial Fishermen’s Association
b-faye@pacbell.net

Rod Moore, Executive Director
West Coast Seafood Processors Association
Seafood@intraonline

Dave Bitts, President
Pacific Coast Federation of Fishermen’s Associations
Dbitts@suddenlink.net

Vern Goehring, Manager
California Fisheries Coalition
Vern@cal.net

Frank Emerson, Director
Carmel River Steelhead Association
frankemerson@redshift.com

Mike Stiller, President
Santa Cruz Commercial Fishermen’s Marketing Association
EMSTILLER@aol.com

Diane Pleshner-Steel, Executive Director
California Wetfish Producers Association
dplesch@earthlink.net

Pete Leipzig, Executive Director
Fishermen’s Marketing Association
pete@trawl.org

Wayne Heikkila, Executive Director
Western Fishboat Owners Association
wfoa@charter.net

Supporting Associations & Organizations
  Pacific Coast Federation of Fishermen’s Association
  Ventura County Commercial Fishermen’s Association
  Port San Luis Commercial Fishermen’s Association
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  Recreational Fishing Alliance
  Carmel River Steelhead Association
  Port San Luis Harbor District
  City of Morro Bay Harbor
  City of Monterey Harbor
  Moss Landing Harbor District
  Santa Cruz Port District
  Pillar Pt. Harbor, San Mateo County Harbor District

cc: Representative Sam Farr, Congressional District #17
    Don McIsaac, Executive Director PFMC
Statement of Dave Danbom on the potential for the Monterey Bay National Marine Sanctuary to regulate fishing

Dave Danbom is a retired Monterey Bay fisherman who led local fishermen in their original negotiations with NOAA representatives during the establishment of the MBNMS. His statement summarizes the perceptions, attitudes, and beliefs about the potential for MPAs in the Sanctuary:

Concerns from the fishing industry about a Federal program that would call the Central Coast a “Sanctuary”, leading to possible new regulations of fishing by this agency, mobilized fishermen to work against and defeat Sanctuary designation in the mid 1980’s. Then a proposal for a Monterey Sanctuary surfaced again in the early 90’s. At this time, as a leader in local and state fisheries, and a member of the Pacific Fishery Management Council (holding the obligatory seat for the State of California) I was asked by our Congressional Representative to assist him in bringing the commercial and recreational fishermen together in support of the proposed Sanctuary. Early on, fishermen were clearly promised that the new Sanctuary would not regulate fishermen or fishing activities. If the Sanctuary had any concerns, they would work with us for a mutually acceptable solution. This promise was made both by elected officials, and also NOAA representatives. It was unequivocal: we wouldn’t have to worry about this new agency. We would get benefits, like the ban on oil development, a water quality program, and enhanced and collaborative research with us for better knowledge on fish populations. These are all things fishermen value. Fishermen had had a positive working relationship with Gulf of the Farallones National Marine Sanctuary Manager Ed Uber. With the promise in place, we anticipated that we would have that kind of relationship with the new Sanctuary. Now, the reality is frustrating and disappointing. Fishermen perceive the Sanctuary as working to find ways to break this promise, especially over the MPA issue. Fishermen were deeply angered to see the MBNMS go on record as wanting a State MPA network that was even more extreme than what the State wanted, and which had zero support from the fishing community. Because of my deep involvement in bringing the fishing industry, elected officials and NOAA together in reaching the agreement that led to the creation of the MBNMS, I feel personally responsible for any adverse consequences now facing the fishing industry. If this Sanctuary breaks its promise made to fishermen by changing the Designation Document to regulate fishing, I will go to my grave regretting my support of the new Sanctuary, and regret my role in getting other fishermen to go along. (Dave Danbom, personal communication, October 2007)
August 22, 2008

Paul Michel, Superintendent
Monterey Bay National Marine Sanctuary
299 Foam Street
Monterey, CA 93940

Dear Paul:

A point of confusion still exists over what is meant by the statement, "The Office of National Marine Sanctuaries has decided to move forward with a process to propose MPAs in the Sanctuary." My question, which I raised in part at the August 15th Sanctuary Advisory Council (SAC) meeting, is based on my hearing your interpretation of this statement at the Pacific Fishery Council meetings, the Sanctuary Advisory Council meetings, and the Monterey City Council meeting. Your statements, however, seem to differ from the February and April Sanctuary letters, and from what I heard from Sanctuary Staffperson Mike Eng at the August 15th SAC meeting. There is enough of a question that I am putting this in writing, and hope you’ll provide a written response.

At the August 15th SAC Meeting, I asked if the need-for-additional- MPAs question was still an open question, i.e., the need for MPAs had not been established. You responded that it was a settled question, but then went on to explain that that statement did not mean that any additional, or even reconfigured, MPAs were required. This is generally consistent with what you have said to the Monterey City Council and to the Pacific Fishery Management Council. The understanding of the Pacific Council, based on your testimony, is reflected in the statement to you in its letter of July 29, 2008, wherein PFMC Executive Director Don McIsaac states:

“However, the Council was encouraged by your verbal testimony at the April Council Meeting during which you characterized the Sanctuary determination as a general decision to consider MPAs as a management tool, and with regard to specific MPA proposals, to evaluate the existing and proposed management measures and MPAs within the Sanctuary in coordination with the Council to ascertain if any modifications are necessary to meet the Sanctuary’s goals and objectives... The Council is supportive of a collaborative review of the need for additional MPAs within the Sanctuary... Any determination of the need for additional MPAs should only be made following a comprehensive analysis of a sufficiently wide range of alternatives”
(underlining is mine)

It seems that the PFMC believes that the "need" question is still open.

When I hear your statements, and then also review the concurrence of those statements by the Pacific Council, I am encouraged that the MPA review process might be a general review of MPAs as one of many management tools available to the Sanctuary to meet its goals, and that the MPA process will
consist of an evaluative process of measuring the effectiveness of all existing management measures, identifying needs, and choosing the right tool to address those needs. Alternatively, I suppose that the MBNMS could decide that even if there are some needs identified during this process, the Sanctuary might not need to act on those.

However, at the August 15, 2008 SAC meeting, Sanctuary Resource Protection Specialist Mike Eng made a clear statement that the Sanctuary Program had determined that “there is an unmet need for MPAs within the Sanctuary.” This statement, I believe, is consistent with both the February 15th and April 15th letters from you and the Office of National Marine Sanctuaries. When I read those two letters, my overwhelming impression is that the Sanctuary has determined that it needs additional MPAs or MPAs with different rules, beyond what are already in place under the authority of other state and federal agencies. Why else would your letter say that the Sanctuary “has decided to propose MPAs in the Sanctuary”? When discussing existing spatial management, your letter also states “However, while the existing spatial management measures in state and federal waters of the Sanctuary provide valuable protections from fishing impacts in certain habitats (sic) Those habitats further offshore are either not adequately represented in existing MPAs, or not fully protected by the gear based restrictions associated with EFH or the temporary RCAs.” The MPA workgroup process, in this scenario wherein the MBNMS asserts that what exists is not adequate, would be one of starting from a conclusion that there will be more or different MPAs, and the Work Group would only provide input as to the locations of new or reconfigured MPAs, and input about the rules associated with MPAs.

For the stakeholders and the science team to understand their tasks, four questions need to be clearly resolved. Is the MBNMS/ONMS asserting that:
1. there is a need for areas where the natural ecosystem components are maintained and/or restored that is not met by the variety of current management measures that exist?
2. there is a need for research areas to differentiate between natural variation versus human impacts to ecological processes and components that is not met by the variety of current management measures that exist?
3. there is a need to preserve some unique and rare areas in their natural state for the benefit of future generations that is not met by the variety of current management measures that exist?
4. MPAs are the only tool being considered to meet these needs that are not met by the variety of current management measures that exist?

I think you can appreciate that these questions need to be fully resolved or the MPA workgroup and process will be confounded at every step.

Thank you in advance for addressing this critical question.

Sincerely,

Steve Scheiblauer

Stephen B. Scheiblauer
Harbormaster

C: City Manager
Public Facilities Director
Sanctuary Advisory Council
Don McIsaac, PFMC
September 8, 2008

Stephen B. Scheiblauer
Harbormaster - City of Monterey
Monterey, CA 93940

Dear Steve:

Thank you for your letter of August 22, 2008, requesting clarification of the Monterey Bay National Marine Sanctuary (MBNMS) decision on the need for marine protected areas (MPAs) in federal waters. I welcome the opportunity to provide clarity on this issue.

As you know, in February 2008, the MBNMS and Office of National Marine Sanctuaries (ONMS) concluded that there is a need for MPAs in the federal waters of the sanctuary. The need decision proposes MPAs to address broad ecosystem objectives as per the sanctuary's mission of ecosystem-based management that is derived from the National Marine Sanctuaries Act (NMSA). In April 2008, further explanation of the decision was provided (aka the "decision rationale document"). The need decision was made after six years of analysis with input from the public, an MPA Working Group, the MBNMS Advisory Council, partner agencies, and NOAA management. This decision did not include proposals for location, size, or number of future MPAs. Such specific proposals will be developed after careful consultation with all interested parties and stakeholders.

I realize that for many, the "need" decision is interpreted as meaning the ONMS has made a final decision on a network of future MPAs. However, such an interpretation is premature until a planning process is completed and any proposal(s) analyzed under the National Environment and Policy Act (NEPA). Moreover, depending upon the outcome of the planning process, it is also premature to speculate the authority under which any future action would be implemented (Magnuson-Stevenson Act or NMSA). The need decision was made with the intent that a serious planning process would ensue and that MPAs in federal waters are likely. Any new MPAs may be augmentations of existing management measures, including existing closures, or wholly new areas. The purpose of the planning process is to develop such specifics.

I apologize if there has been any confusion about the intent of the decision. This is a complicated issue, and one that obviously attracts attention to every written and spoken word. I have tried to be clear about the path forward, as well as reflect the good advice I have received from the MBNMS Advisory Council, the Pacific Fishery Management Council (PFMC), NOAA Fisheries, and the public. In explaining the proposed process forward, I have stated that the MPA planning process will include an evaluation of
existing management measures to determine how well these are meeting the sanctuary objectives of preservation, restoration, and research per the decision rationale. Any future NEPA review of proposed MPAs in federal waters of the MBNMS will include evaluation of a “no action alternative.” I have also stated that evaluation criteria still need to be developed for future MPAs so we can determine how well they would meet the need rationale. These statements alone or taken out of context could be misinterpreted as backing away from the need decision.

Your request for clarification was put into the context of whether or not current management measures suffice in meeting the needs of the MBNMS. While existing measures are important parts of the current resource protection regime within the sanctuary, they were not designed to address the MBNMS’s mission of ecosystem protection and preservation in deeper water habitats. For example, fishery management measures, such as Essential Fish Habitat (EFH) and Rockfish Conservation Areas (RCAs) are focused on sustainable fishery objectives, such as rebuilding target species to fishable levels. The ONMS’s resource protection mandate is broader than this, as has been pointed out in the April 2008 decision rationale document.

You also asked if MPAs are the only tool being considered to meet the MBNMS needs. The selection of MPAs as a management tool to protect specific sites within the sanctuary is consistent with other zoning strategies that have been used in the MBNMS for the past 16 years, such as restriction zones for motorized personal watercraft and dredge spoil discharge, and prohibition zones for motorized flight and white shark attraction. The MPA planning process will focus on MPAs as a management tool to meet the three goals outlined in our April 2008 decision rationale.

The MBNMS has been working with the MBNMS Advisory Council, PFMC, and NOAA Fisheries to gain input on how best to proceed with the MPA planning process. We are encouraged by the feedback we have received from these groups and we look forward to a renewed MPA working group and planning process in the near future. I appreciate your engagement on this issue, as you have a wealth of knowledge and experience with the MBNMS and the maritime community on the central coast. I hope you will join with me to make this the best effort possible, one that is based on the common belief that fishing is an integral part of the sanctuary’s culture and the economic vitality of the region, and that a healthy ecosystem can provide for healthy fisheries.

Sincerely,

Paul Michel
Superintendent

cc: City Manager, Monterey
Public Facilities Director, Monterey
MBNMS Sanctuary Advisory Council
Don McIsaac, PFMC