

PACIFIC FISHERY MANAGEMENT COUNCIL

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April 17, 2001

Mr. Matt Pickett
Channel Islands National Marine Sanctuary
113 Harbor Way, Suite 150
Santa Barbara, CA 93109

Ms. Patty Wolf
California Department of Fish and Game
4665 Lampson Avenue, Suite C
Los Alamitos, CA 90720

Dear Mr. Pickett and Ms. Wolf:

Thank you for the excellent presentation describing the process for considering marine reserves in the Channel Islands National Marine Sanctuary (CINMS) area. The Council is very interested in being kept informed about the progress of this effort and the role that the Council may play in achieving shared objectives.

The Council identified questions in three areas to aid in reaching the proper decision. First, Council advisory bodies posed several questions pertinent to thorough deliberations on this matter. Second, concerns were raised about a clear statement of what action the Council is being asked to take, and the necessary documentation to achieve a final decision. Third, the Council requests information about legal authorities.

Council advisory bodies posed a number of relevant questions for your group. Your response will be an important part of the Council process for considering proposals for marine reserves in the CINMS. The questions are contained in the enclosed reports. In particular, the questions posed by the Scientific and Statistical Committee members regarding fundamental scientific evidence and assumptions are considered very important.

If a marine reserve proposal is presented to the Council, the decision process will be substantially expedited if documents provided meet National Environmental Policy Act, Executive Order 12866, Endangered Species Act and other legal requirements that apply to Council management actions. These requirements include, but are not limited to, a clear description of what is being proposed, the purpose(s) of the proposal, the alternatives considered, the anticipated short-term and long-term impacts of the proposal, and the rationale for the action proposed when all the impacts are considered.

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Finally, there are a few questions that need to be answered which apply to the implementation of any reserve proposals that would involve the waters under Council jurisdiction. As we understand it, the CINMS operates under three levels of authority: the National Marine Sanctuaries Act, the general regulations governing sanctuaries, and the Designation Document for the sanctuary itself. During Council consideration of this matter at the March meeting, one perspective presented maintained that the CINMS, under the terms of the designating document of the CINMS, does not have the authority to promulgate fishery regulations in the exclusive economic zone within the sanctuary boundary without the concurrence of the Council; another perspective maintained that the general sanctuary regulations might provide such authority. This may affect the manner in which regulations would ultimately be promulgated. The Council requests that the marine sanctuary staff provide the designation document for the CINMS along with your interpretation of the applicable authorities.

We look forward to working with you in future consultations on these significant issues. Please coordinate your response with Mr. Jim Seger on the Council staff.

Sincerely,

D. O. McIsaac, Ph.D.
Executive Director

JLS:rdh

Enclosure

c: Council Members
Ms. Jennifer Bloeser
Mr. Mark Cedergreen
Dr. John Coon
Mr. Brian Culver
Mr. Jim Glock
Dr. Jim Hastie
Mr. Rod Moore
Ms. Michele Robinson
Mr. Jim Seger
Ms. Cindy Thompson
Mr. John Ugoretz
Mr. Dan Waldeck

GROUND FISH ADVISORY SUBPANEL STATEMENT ON GROUND FISH STRATEGIC PLAN IMPLEMENTATION

The Groundfish Advisory Subpanel (GAP) discussed the issues identified under the Exhibit F.2 Situation Summary and makes the following comments.

Marine Reserves

The GAP reviewed the material submitted by the Channel Islands National Marine Sanctuary (CINMS) staff, heard reports from GAP members who had fished in the CINMS area, and received a briefing from the CINMS staff.

The National Marine Sanctuaries Act specifically provides that regulation of fishing within marine sanctuaries is the responsibility of the Council and any applicable state (in this case, California). Thus, it is important the Council play an active role in examining proposals for marine reserves such as are contemplated by CINMS. The Council has already spent considerable time and energy developing its own strategy for marine reserves. Given these facts, the GAP believes the Sanctuary must coordinate its plans with the Council, and not simply inform the Council what it wants to do.

While marine reserves may play a role in conserving fish stocks, they obviously can have significant economic impacts on commercial and recreational fishermen, processors, support industries and businesses, and local communities. The GAP believes a detailed economic impact statement is needed before any marine reserves are established. Further, given the potential economic losses associated with establishment of marine reserves, several GAP members raised the question of who pays to mitigate those losses? Fishermen and processors are already paying the cost of rebuilding through reduced groundfish harvest. Will they also be required to pay for the theoretical benefits that might (or might not) accrue from establishment of marine reserves? The GAP believes any working group established to look at marine reserves should be fully representative of all interests.

If a marine reserve is to be established, how will it be monitored to ensure it is doing what it is supposed to do? Who will supply the funding? What sort of monitoring will occur? How will the reserve be enforced, and how will enforcement costs be covered?

The GAP notes the Implementation Development Team on Marine Reserves established under the Council's Ad Hoc Groundfish Strategic Plan Implementation Oversight Committee made several recommendations which could be useful here. The GAP believes a process should be followed wherein the scientific criteria for marine reserves be developed by an independent scientific committee, but the actual delineation of the reserves within those criteria be done by users who are familiar with the area and the resources it contains.

Open Access Permits

The GAP has commented in the past that establishment of an open access permit system will entail considerable costs to the Council in terms of time and workload. The GAP notes that the individual states are addressing near shore open access fisheries under state management policies, and believes the state processes should be completed before the Council takes additional action on a permitting system. However, because the groundfish fishery is subject to a fishery management plan, the GAP believes the Council should be involved in the state processes and have final authority over state plans that affect the groundfish fishery.

Buyback

The GAP received a presentation from Mr. Pete Leipzig of Fishermen's Marketing Association (FMA) regarding the FMA questionnaire on buyback. The GAP urges the Council to continue forward with a buyback plan to facilitate capacity reduction. The GAP endorses the concept of all users paying the cost of buyback proportionate to the benefits they will receive.

Enforcement

The GAP recognizes the concerns expressed by the Enforcement Consultants in regard to considering enforcement costs in management measures and urges the Council to recognize these costs when deciding on management actions.

HABITAT STEERING GROUP COMMENTS
ON THE CHANNEL ISLANDS MARINE SANCTUARY PROGRAM

The Habitat Steering Group (HSG) received a presentation from staff of the Channel Islands National Marine Sanctuary and others on the current process for development of marine reserves within the Sanctuary. The HSG recommends that the Council become actively involved in the Channel Islands process to ensure that marine reserves proposed for federal waters meet the Council's goals and objectives. The HSG recognizes the need for coordination between the process that the Council has developed and the emerging Channel Islands process and recommends that the Marine Reserve Development Team serve as the coordinating body.

The final product of this Channel Islands process, proposed to be available for review some time in early summer, should be evaluated by the Council through all appropriate advisory bodies (e.g., HSG, Groundfish Advisory Subpanel, Salmon Advisory Subpanel). Further, we believe that the Council should identify criteria to evaluate marine reserves proposed outside of its process. The HSG felt that these criteria should include evaluation of a proposed reserve for its contribution to rebuilding overfished species and therefore recommend that the Channel Islands proposal include habitat of ecological importance to overfished rockfish. The HSG notes the useful analysis and modeling tools that have resulted from the Channel Islands process. This information could prove beneficial to the Council as the Council continues to move through its own process on marine reserves.

PFMC
04/03/01

SALMON ADVISORY SUBPANEL COMMENTS ON
GROUNDFISH STRATEGIC PLAN IMPLEMENTATION

The Salmon Advisory Subpanel (SAS) is becoming increasingly concerned about the potential implementation of marine reserves on the Pacific Coast, and the effects of those reserves on salmon fisheries. The SAS has consistently testified that the current salmon regulatory process is sufficient, on an annual basis, to manage our diverse salmon resource. We have asked that these protected areas not apply to commercial or recreational salmon fishing.

It is becoming abundantly clear to us that the scientific/environmental community is committed to, and strongly promoting, "no-take" marine reserves, as compared to Marine Protected Areas (MPAs) which allow certain levels and types of fishing activity. No-take means no fishing for anything whatsoever. On page 2 of a letter from the "National Center for Ecological Analysis and Synthesis" (NCEAS) there is a strong definition of marine reserves. They are exclusively no-take areas. This letter was signed by 161 scientists. This leaves no doubt in our minds that what has been adopted by the Council as "one tool in the tool bag" under the Council's strategic plan for managing groundfish is viewed by (significant) others as a coastwide network of large "no-take" areas. That will affect all fisheries, including many that the Council does not presently manage. That should concern us all.

It is our view that:

1. The Council must be the lead agency in the establishment of any type of marine protected area on the Pacific Coast. Over ninety percent of those affected will be fishermen and those living in fishing communities.
2. Marine protected areas should be established only for the protection of specific species, and as an aid to their rebuilding, and should not constrain fisheries that have little or no impact on stocks of concern.
3. Finally, we ask that you continue to include us in the process as you work your way through the Phase 2 consideration of marine reserves.

PFMC
04/04/01

SCIENTIFIC AND STATISTICAL COMMITTEE REPORT ON MARINE RESERVES

The Scientific and Statistical Committee (SSC) heard a presentation of the process to establish marine reserves in the Channel Islands National Marine Sanctuary (CINMS). The process described seems to be well designed, with guidance from scientists who are experts in their fields. Recommendations are scheduled to be forwarded to the Sanctuary Advisory Committee in May, the Channel Islands National Marine Sanctuary and California Department of Fish and Game in June, and agencies including the Council, National Oceanic and Atmospheric Administration, and the California Fish and Game Commission in the Fall of 2001.

The Council is currently exploring the possibility of establishing marine reserves. Reserves established under the Channel Islands Marine Reserves Process (CIMRP) are likely to be the first substantial reserves to be incorporated under Council management.

Much of the SSC discussion focused on the role of the Council in this process. Given the advanced state of design, negotiation, and consensus building in the marine reserves process it would be difficult for the SSC or the Council to provide much substantive input for the immediate proposal. The CIMRP presentors indicated their interest in coordinating marine reserve proposals with existing management systems that have been implemented by the Council. There is a critical need to evaluate the interaction of closed areas with existing controls. The SSC can review the products of the science and socio-economics panels to verify that their work represents sound science, keeping in mind that the science and economics of marine reserve design is a young field with much uncertainty. The Council must be present during future stages of reserve design to ensure effective integration of reserve design with fishery management.

The Council, upon determining that it supports the recommendations coming out of the process, can work to modify fishery management plans (FMPs) and other Council documents and procedures to enable implementation of the plan. Accomplishing these tasks may take one or two years and constitute a significant work load for the Council.

Following are brief notes on some observations and concerns.

- The Council has jurisdiction only over species with FMPs. Protection for other species will need to come from other authorities.
- Management of the reserves will likely require amendments to all of the Council's FMPs (Coastal Pelagic Species, Groundfish, Salmon). It will take time once reserves are designed to modify FMPs and regulations to accommodate reserves. This also provides opportunity for baseline monitoring of reserves.
- The CIMRP science panel recommended a reserve size of 30-50% of the area in their jurisdiction. They indicated that regulations prohibiting catch would be required in the reserve and that effort outside the reserve would require additional controls. The SSC requests documentation regarding the basis for the recommendations for reserve size, siting and effort control.
- Two of the goals of the process are to (1) maintain fisheries benefits and (2) maintain long-term socio-economic viability while minimizing short-term losses. The SSC requests documentation of the cost-benefit analysis relative to these goals.
- Enforcement requirements depend on the areas designated. The CIMRP science panel recommends a network of reserves ranging in size from 10 to 100 square kilometers. This recommendation will need to be reconciled with enforcement considerations: enforcement may or may not be easier with fewer, larger reserve areas.
- Performance criteria based on appropriate monitoring programs have to be identified to maximize information gain from the reserve system and to evaluate its effectiveness. The presenters acknowledged that this has not yet been done, and solicited suggestions.