



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Channel Islands National Marine Sanctuary
113 Harbor Way
Santa Barbara, CA 93109

April 4, 2003

Dr. Donald McIsaac
Executive Director
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, OR 97220-1384

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PFMC

Subject: NOAA's Channel Islands National Marine Sanctuary Environmental Review Process to Consider Marine Reserves

Dear Dr. McIsaac and Pacific Fishery Management Council Members:

As you are aware, on October 23, 2002, the California Fish and Game Commission approved the establishment of a network of marine protected areas within State waters of the Channel Islands National Marine Sanctuary (Sanctuary). Their decision was the culmination of more than three years of public process sponsored by the California Department of Fish and Game and the Sanctuary to consider a network of marine reserves throughout the entire Sanctuary. The Sanctuary is initiating an environmental review process to consider establishing a network of marine reserves to complement the State's action in the Sanctuary. This letter and attachment describes the environmental review process, a proposed timeline and a framework for coordinating with the Pacific Fishery Management Council (PFMC) and broader public.

Relationship between the Sanctuary and the PFMC

The Sanctuary looks forward to a constructive and cooperative working relationship with the PFMC in dealing with this important matter in federal waters of the Sanctuary.

During the environmental review process, the Sanctuary will be responsible for producing the appropriate environmental review and other documents to comply fully with the National Environmental Policy Act (NEPA), the National Marine Sanctuaries Act (NMSA), the Administrative Procedure Act, and all other applicable legal requirements. Additionally, the Sanctuary will detail the specific goals and objectives of the proposed action and any marine reserve design proposals and supporting scientific and socioeconomic analysis.

While the Sanctuary has legal responsibility for the work outlined above, the Sanctuary and PFMC will work closely in a spirit of partnership during the preparation and analysis of alternatives created under NEPA. This close working relationship will involve consulting and cooperating fully with each other in matters regarding the conservation and management of natural resources of mutual concern and geographic authority. Cooperation may take the form of participation in and presentations to the various committees, advisory panels, and working groups of each of the parties, and exchange of documents, viewpoints, recommendations, advice, and other relevant information. This consultation and cooperation should take place before

regulatory changes affecting either of the parties are implemented, and will be in addition to the Sanctuary's involvement with the State of California, Sanctuary Advisory Council and the broader public.

Throughout the planning process, the PFMC will have the opportunity to contribute to scoping, identifying, developing and analyzing alternatives, and recommending alternatives. The PFMC's familiarity with and review of this process and supporting information to date should contribute to an efficient process. We believe the process can move forward efficiently and effectively given the information generated, received and analyzed by the California Department of Fish and Game and the Sanctuary during the Channel Islands Marine Reserves Process and the State's rulemaking process.

Proposed Activities and Timeline

A proposed list of activities and timeline is attached. This schedule for the environmental review process provides for the cooperative relationship described above. The successful completion of this endeavor depends in large measure upon the substantive contribution and collaboration of the PFMC, State of California, Sanctuary Advisory Council and the broader public. As detailed in the attached timeline, the Sanctuary will issue a Notice of Intent in the *Federal Register* and host scoping meetings over the course of the next few months.

Preparation of Draft Fishing Regulations / Modification of the Designation Document

Section 304(a)(5) of the NMSA states:

Fishing regulations

The Secretary shall provide the appropriate Regional Fishery Management Council with the opportunity to prepare draft regulations for fishing within the Exclusive Economic Zone as the Council may deem necessary to implement the proposed designation. Draft regulations prepared by the Council, or a Council determination that regulations are not necessary pursuant to this paragraph, shall be accepted and issued as proposed regulations by the Secretary unless the Secretary finds that the Council's action fails to fulfill the purposes and policies of this chapter and the goals and objectives of the proposed designation. In preparing the draft regulations, a Regional Fishery Management Council shall use as guidance the national standards of section 301(a) of the Magnuson-Stevens Act (16 U.S.C. 1851) to the extent that the standards are consistent and compatible with the goals and objectives of the proposed designation. The Secretary shall prepare the fishing regulations, if the Council declines to make a determination with respect to the need for regulations, makes a determination which is rejected by the Secretary, or fails to prepare the draft regulations in a timely manner. Any amendments to the fishing regulations shall be drafted, approved, and issued in the same manner as the original regulations. The Secretary shall also cooperate with other appropriate fishery management authorities with rights or responsibilities within a proposed sanctuary at the earliest practicable stage in drafting any sanctuary fishing regulations.

Fishing regulations promulgated under the NMSA are contingent upon the particular sanctuary's designation document allowing fishing to be regulated by that sanctuary. The Sanctuary's

current designation document does not provide it with fishing regulatory authority. Therefore, a proposal to create marine reserves under Sanctuary authority would be accompanied by a proposal to modify the designation document to provide the Sanctuary with authority over fishing that is sufficient to implement the marine reserve proposal. In developing any marine reserve regulations, we will provide the PFMC the opportunity to prepare draft NMSA fishing regulations for the EEZ portion of the Sanctuary.

In developing the timeline and approach, we have worked closely with PFMC staff in order to give the PFMC the opportunity to be involved throughout the environmental review process. We look forward to working closely with PFMC on this matter of mutual concern.

Sincerely,



Chris Mobley
Sanctuary Manager

Enc.

Cc:

Rod McInnis, NOAA Fisheries
Robert Hight, Dept. of Fish and Game
Robert Treanor, Fish and Game Commission
Matthew Cahn, Sanctuary Advisory Council
Steve Kokkinakis, NOAA NEPA Coordinator

**NOAA Channel Islands National Marine Sanctuary
Environmental Review Process to Consider Marine Reserves**

Proposed Activities and Timeline

March 2003

- ◆ Sanctuary prepares Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS)
- ◆ Brief Pacific Fishery Management Council (PFMC) on Sanctuary initiation of Environmental Review Process (completed)
- ◆ Brief Sanctuary Advisory Council (SAC) on Sanctuary initiation of Environmental Review Process (completed)

April 2003

- ◆ Sanctuary releases Notice of Intent to prepare DEIS in Federal Register
- ◆ Sanctuary submits letter to PFMC describing Environmental Review Process for discussion at April PFMC meeting

May/June 2003

- ◆ Sanctuary hosts Scoping Meetings - contemporaneously at SAC May meeting and PFMC June meeting, additional scoping likely in Ventura County
- ◆ Sanctuary sends consultation letters to PFMC, NOAA Fisheries, State of Calif. and other entities regarding a potential change to the terms of designation¹ of the Sanctuary (*60 day response period*)
- ◆ Sanctuary notifies PFMC of opportunity to prepare draft National Marine Sanctuaries Act (NMSA) fishing regulations for the Exclusive Economic Zone portion of the Sanctuary - (*NMSA regulations allow for 120 days for PFMC response; seek PFMC resolution by the Nov. Council meeting (approx. five months)*)

June – November 2003

- ◆ Sanctuary, in cooperation with PFMC, State of Calif. and SAC, develops DEIS, appropriate proposed regulatory changes and related proposed change to the terms of designation
- ◆ PFMC considers preparing draft NMSA fishing regulations and if it chooses prepares draft regulations

¹ The terms of designation of a Sanctuary include its geographic area, the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or esthetic value, and the types of activities that are subject to regulation to protect those characteristics.

December 2003 / Early 2004

- ◆ Sanctuary releases to the public and Congress the DEIS, proposed regulations and related proposed change to the terms of designation
- ◆ Conduct public review of the DEIS, and proposed regulations and related proposed changes to the terms of designation. This will include an opportunity for public comment of at least 45 days and must include at least one public hearing if the rulemaking necessitates a change in a term of designation

Spring/Summer 2004

- ◆ Sanctuary prepares responses to comments

Summer 2004

- ◆ Sanctuary drafts Final EIS, and if necessary for chosen action, drafts final regulations and revises terms of designation

Fall/Winter 2004

- ◆ Sanctuary releases the Final EIS by publishing a notice of availability in the Federal Register and by providing copies to interested parties. After a 30-day "cooling off" period, the final regulations appear in the Federal Register and the Sanctuary sends the final regulations and revised terms of designation to Congress and to the governor's office, if State waters are involved. The final regulations will take effect after the close of a review period of 45 days of continuous session of Congress. If State waters are involved, and the governor certifies that the change in terms of designation (and therefore the final regulations or portions thereof) is unacceptable, the affected final regulations will not take effect in State waters.