

Exhibit E.1
Attachment 4
September 2003



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE

Monterey Bay National Marine Sanctuary
299 Foam Street
Monterey, California 93940

June 25, 2003

RECEIVED

JUN 30 2003

PFMC

Tom Canale
120 Allegro Dr.
Santa Cruz, 95060

SUBJECT: Special Marine Protected Area Workgroup

Dear Mr. Canale: *TOM*

This letter responds to your May 29, 2003 letter regarding the initial planning conducted by the Special Marine Protected Area¹ Workgroup (Workgroup) of the Sanctuary Advisory Council (SAC) for the Monterey Bay National Marine Sanctuary (MBNMS or Sanctuary). This multi-stakeholder workgroup, formed as part of the Joint Management Plan Review process, completed its recommendations for the SAC last month, following four meetings. The recommendations in this initial effort outline a proposed action plan for continued evaluation of the issue of marine protected areas. This evaluation is to be conducted with ongoing involvement from Workgroup members, including the multiple participants from the fishing community, harbors, environmental organizations, scientists, agencies, and various user groups. The National Oceanic and Atmospheric Administration places great value in community-based processes that involve diverse interests on important resource management issues.

As you know, the National Marine Sanctuary Program (NMSP) has several areas of focus including: protecting and where appropriate restoring and enhancing biological communities and habitats; enhancing public awareness, understanding and wise and sustainable use of the marine environment and the historical resources of the Sanctuary System; and supporting and coordinating scientific research on, and long-term monitoring of, the resources of the Sanctuaries. Fish are an integral part of the ecosystem, and play important roles as predator and prey for a wide range of species. The NMSP does not focus on management of fish stocks either individually or as a whole, but rather considers the health of the ecosystem, and thus may, in that context, consider addressing fishing activities that may have an adverse impact on Sanctuary resources and ecosystems. We acknowledge that addressing these activities could have an impact on fishing activities. However, NOAA is focused on making this a process that is complementary to fisheries management. To this end, we coordinate our planning and decision-making with the state, NOAA's National Marine Fisheries Service and the appropriate Regional Fishery Management Council. We also recognize that fishing is an integral part of the economic

¹ For the purposes of this workgroup, "special marine protected area" means an area or zone of the MBNMS whereby fishing and other extractive activities would not be allowed for purposes of ecosystem protection. This working term includes varying levels of closure, from full "no harvest", to allowing take of selected species.

and cultural history of a region, and work with local communities also to strive to find solutions that can protect a sanctuary's ecosystem while sustaining a region's critical recreational and commercial fisheries. This general approach to fishing related issues applies to the MBNMS's assessment of special MPAs.

Your letter raises a concern that the Special MPA Workgroup did not develop a problem statement establishing a need for MPAs that would justify NMSP action. As you know, the proposed action plan does not recommend that the Sanctuary take action to establish special MPAs at this time, nor does it outline any potential sites. It does recommend ongoing collaboration with the California Department of Fish and Game in their development of MPAs in State waters, and outlines a complementary process to evaluate the need for and potential development of MPAs in the MBNMS in Federal waters, in collaboration with the Pacific Fishery Management Council and NOAA Fisheries.

The original charge to the Workgroup from the SAC and MBNMS staff was to develop a framework for how best to evaluate special MPAs within the MBNMS in the context of ecosystem protection. Its charge did not include resolving whether there should be MPAs in Federal waters of the MBNMS and if so, where they should be located. Thus, the Workgroup's initial efforts were focused on developing an outline of future work necessary before such a decision would be made. This proposed action plan includes specific future steps that address many of the concerns listed in your letter, including an evaluation of a range of habitats and ecosystem functions in the Sanctuary and identification of the existing and potential threats they face. Also included are several steps to refine the objectives of special MPAs for particular habitats and ecosystem functions. At the Workgroup's request, this evaluation is to be conducted with an array of scientific partners and with ongoing involvement of the Workgroup, as described in the plan. Furthermore, this evaluation will also be coordinated with the Pacific Fishery Management Council and staff from NOAA Fisheries. As you know, both Council staff and NOAA Fisheries staff participated on the Workgroup.

In response to your group's previous request, MBNMS presented at a Workgroup meeting a list of problems occurring in the Sanctuary region that we believe warrant an evaluation and consideration of the utility of special MPAs within the Sanctuary. These include:

- declining biodiversity
- disruption of predator-prey relationships
- habitat damage
- lack of adequate buffers for ecological catastrophes
- lack of locations where scientists can study fully intact ecosystems.

The Workgroup did not attempt to evaluate or reach agreement on these problems in the limited time available. Rather, as noted above, future steps were identified to conduct this evaluation, in collaboration with the broader scientific community and workgroup members.

As regards your request that the MBNMS develop a detailed “problem statement” as to why we need special MPAs, you have in the past asked that we not take a unilateral position on the matter, and instead work with affected parties such as fishermen and harbor masters to conduct an evaluation of ecosystem problems. The path we have taken to date on this issue, and prefer to take in the future, honors that request and capitalizes on collaborations with you and many other stakeholders and scientists in defining the problem and working through solutions.

The proposed action plan also includes recommendations regarding future evaluation of many other issues raised in your letter, including consideration of special MPAs vis a vis other types of management measures, consideration of phasing of the introduction of MPAs should they be warranted, and the development of adequate monitoring and evaluation tools if special MPAs are implemented. As indicated in the proposed action plan, much future work remains to be done to address these and other issues before any decision about special MPAs will be made. This work is to be conducted with ongoing involvement of the fishing community and the many other stakeholders represented on the Workgroup.

I appreciate your detailed review of certain subsections of the 1992 Environmental Impact Statement (EIS) for MBNMS designation related to fishing activities. As we have previously discussed, the response to comments in the appendices to the EIS contains more extensive language on the question of MBNMS’s role in fishing issues, including how it may move forward in the future, if necessary, to protect the ecosystem with regulations affecting fishing. Be assured that we would not take such action without extensive collaboration and discussions with fisheries agencies and representatives of the fishing community such as yourselves.

I would like to address the concerns raised in your letter about use of the term consensus in our decision-making process. The NMSP does typically ask workgroups around the country to strive to reach consensus on the recommendations the workgroups make to individual sanctuary advisory councils. However, in asking these diverse interests to seek consensus, we also realize that divergent views may preclude the groups’ members from totally agreeing on a particular matter. Thus, our decision-making process focuses on consensus first, yet does not allow an issue to be vetoed by a minority or single individual. It seems we share with you a strong interest in making group decisions by consensus, but diverge in what to do when consensus cannot be reached. In the case of the MBNMS management plan review workgroups, the SAC will be the body to evaluate the different positions and make recommendations to the Sanctuary Superintendent. This description of the decision-making process, relying heavily and foremost on consensus, was clearly explained to and accepted by the SAC and each workgroup early in the JMPR process. Throughout the Special MPA Workgroup meetings, members were asked to develop and agree on language in the proposed action plan that all members could accept, and this occurred as numerous modifications were made to the evolving draft. At the final meeting, complete agreement (i.e., consensus) was reached on language outlining future work in each of the sections of the proposed action plan before moving on to the next section. Your letter also raises a concern that if agreement is not reached in a workgroup, then decision-making may be elevated to a higher level. This is exactly what we intend. As these workgroups were convened to make

recommendations to the SAC, who would in turn make recommendations to Sanctuary Superintendent, the next level of decision-making lies with the SAC.

I appreciate the positive direction of your letter regarding solutions, in particular the acknowledgement that MPAs can help the Sanctuary meet conservation goals. Given that the goal of this Workgroup is, ultimately, to help determine if special MPAs are an effective and preferred tool to enhance and ensure ecosystem protection within the MBNMS, your interest in continuing our collaborative partnership is important. Most of the eleven points you identify at the end of your letter mirror the strategies and activities identified by the Workgroup in the proposed action plan. There may be disagreement on the emphasis and order of some of the mutual points, but we are very close in our shared recognition of necessary steps to move forward. As we have committed in the past, the MBNMS is considering the need for this tool in collaboration with the fishing community and federal and state fishery managers, as well as the other stakeholders who have an interest in this matter. This was our commitment in 1992, and we appreciate your willingness to shoulder some of the load in this community-based partnership.

Regarding your request that we distribute your May 29, 2003 letter to those in a decision-making role on the proposed action plan, as a matter of course we will be sending that letter and this response to the Sanctuary Advisory Council, and to those copied on your original letter. Because the March 6, 2003² letter was internal workgroup correspondence (like many other correspondences in many other workgroups) and contains very similar issues as your May 29, 2003 letter, we are not copying that to SAC members.

Thank you for your comments and taking the time to share your concerns on this issue. We greatly appreciate the constructive time all of you spent as Workgroup members to develop the proposed action plan, and we look forward to your continued involvement in the process.

Sincerely,



William J. Douros
Sanctuary Superintendent

This same letter was addressed individually to all of those who signed the May 29, 2003 letter:

Tom Canale
David Crabbe
Don Dodson

Howard Egan
Peter Grenell
Mike Ricketts

Steve Scheiblaue

² Your May 29th letter referred to a February 27, 2003 letter. We do not have a copy of a letter from you dated February 27th, rather we assume you meant your March 6, 2003 letter on similar topics.

cc:

The Honorable Sam Farr, US Representative, 17th District

Members of the MBNMS SAC

Robert Hight, Director, CA Dept. of Fish and Game

Dr. Donald McIsaac, Ex. Director, Pacific Fisheries Management Council

Admiral Conrad Lautenbacher, Undersecretary for Oceans and Commerce

Dr. Richard Spinrad, Assistant Administrator, National Ocean Service

William Hogarth, Asst. Administrator, National Marine Fisheries Service

Dan Basta, Director, National Marine Sanctuary Program