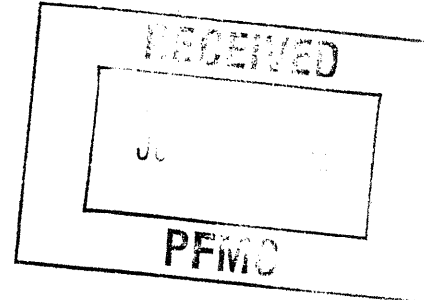




U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE

MAY 24 2004



Mr. Donald K. Hansen
Chair
Pacific Regional Fishery Management Council
Dana Wharf Sportfishing
34675 Golden Lantern
Dana Point, California 92629

Dear Mr. Hansen:

I want to thank you once again for having me at the Fishery Management Council Chairs and Executive Directors meeting. It was a privilege to be there with you. I found this not only productive but educational as well. Most important to me was being able to network with Council members and staffs, and continue to share the National Marine Sanctuary Program (NMSP) story.

There were three items that stood out from a number of our excellent discussions to which I wanted to respond. The first was a discussion of the 120-day period (as specified by NMSP regulations at CFR §922.22) during which Fishery Management Councils (FMCs) must respond (if they choose to respond) during a formal coordination process as specified by Section 304(a)(5) of the National Marine Sanctuaries Act (NMSA). Under this section, FMCs are provided the opportunity to draft fishing regulations for a sanctuary. As I understand it, the concern is that the 120-day period is an inadequate amount of time to undertake such a task.

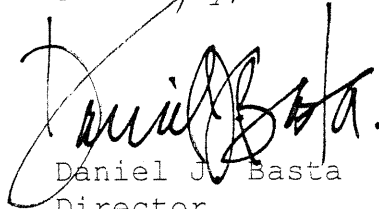
In past practice, we have found that the 120-day limit is sometimes exceeded, in situations where the NMSP and the specific FMC were actively cooperating on preparing draft regulations. We are currently investigating this limitation as part of a general review of program regulations that we have recently initiated; however, we believe that some reasonable time limit is necessary to define language contained in Section 304(a)(5) directing the draft regulations should be prepared in a "timely manner." The current time limit ensures that the process keeps moving along, while allowing a reasonable time for the 304(a)(5) process to be completed.

The second item was a discussion of the role of FMCs on Sanctuary Advisory Councils as either voting or non-voting members. It is the general policy of the NMSP to provide extensive latitude to Sanctuary Managers in determining the composition of their Advisory Councils, including whether or not certain seats should be included and whether those government or FMC seats are either voting or non-voting. Several of the older Advisory Councils (including that for the Hawaiian Islands Humpback Whale National Marine Sanctuary) have government and FMC seats as voting members; most of the newer Advisory Councils (including the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve) also include government seats, but normally as non-voting members. This pattern has arisen for the following reasons: (1) numerous government agencies are normally represented by someone who is not in a position to vote and prefer to do agency-to-agency business through more traditional government channels; and (2) since newer Advisory Councils are subject to a fifteen-member limit (by the NMSA), which we have interpreted to be fifteen voting seats, having governmental seats as non-voting allows the sanctuary to maximize the number of non-governmental seats while still having the agency partners at the table. Since the older Advisory Councils are accustomed to operating in a certain fashion and since we continue to provide much discretion to each Sanctuary Manager, there has not been an across the board effort (either on the part of the individual sanctuaries or the NMSP as a whole) into turn their voting government seats to nonvoting seats. However, as we prepare for the reauthorization of the NMSA, we are considering various options that may address the fifteen-member limit while still allowing us to keep the Advisory Councils to a reasonable size.

The third item is coordination between the FMCs and the NMSP. As I indicated at the meeting, I believe that the most effective way for the FMCs and the NMSP to integrate their goals and purposes is with early and frequent coordination between our staffs. It is important that the NMSP begins to work with the FMCs early, often, and continuously in the development of Fishery Management Plans that may impact important sanctuary resources so that NMSP concerns can be integrated into the Fishery Management Plans. Likewise, the FMCs need to be involved early in the management plan review process so that their views can be considered as management approaches and regulations are developed by the NMSP.

In closing, let me repeat what I said at the meeting in Hawaii: I am firmly committed to improving our working relationship with NOAA Fisheries and with the FMCs. Such an effort will continue to take time and have its ups and downs, but if we can persevere, we will find a common ground. I look forward to continuing that effort.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel J. Basta". The signature is stylized with a large initial "D" and a prominent "B".

Daniel J. Basta
Director

National Marine Sanctuary Program

cc: Donald McIsaac, Pacific FMC Executive Director
Rod McInnis, Acting SE Regional Administrator, NMFS
Rebecca Lent, Deputy Assistant Administrator, NMFS

