

PACIFIC FISHERY MANAGEMENT COUNCIL

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November 23, 2005

Mr. Daniel J. Basta, Director
National Ocean Service
National Marine Sanctuary Program, N/ORM-6
1305 East-West Highway
Silver Spring, MD 20910-3281

Re: Formal Response Regarding Fishing Regulations in Federal Waters of the Channel Islands
National Marine Sanctuary

Dear Mr. Basta:

Thank you for the opportunity to prepare draft fishing regulations for the federal waters portion of the Channel Islands National Marine Sanctuary (CINMS) under 304 (a)(5) of the National Marine Sanctuaries Act (NMSA). The Pacific Fishery Management Council (Council) and its advisory bodies spent considerable time reviewing your letter and supporting materials, dated May 25, 2005, in a two-meeting process encompassing the September 19-23, 2005 and October 31-November 4, 2005 Council meetings. On Wednesday, November 2, 2005, the Council passed a motion regarding recommended NMSA fishing regulations at CINMS and took final action to identify, describe, and mitigate fishing impacts to groundfish essential fish habitat (EFH) under Amendment 19 to the Pacific Coast Groundfish Fishery Management Plan, including area protection in federal waters of the CINMS. The Council tasked me with conveying Council recommendations regarding draft fishing regulations under NMSA section 304(a)(5) relative to the CINMS.

The Council remains supportive of the goals and objectives of the CINMS but proposes no fishing regulations be promulgated under the authority of the NMSA. Rather, the Council will recommend that fishing regulations required for the potential establishment of marine protected areas in federal waters of the CINMS be implemented through the existing authorities of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the states of California, Oregon, and Washington. A portion of that task has been accomplished, under the authority of groundfish EFH protection, as described later in this letter. The Council intends to proceed expeditiously to develop all remaining fishing regulations necessary to create proposed no-take marine protected areas as well as limited-take marine conservation areas within the CINMS, in accordance with the goals and objectives stated by the CINMS, under the combination of other Council fishery management authorities and accompanying state regulations.

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

"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."

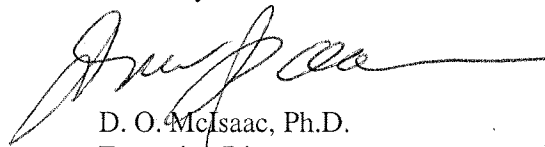
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The formal Council response action on this matter is as described in the prior paragraph. The Council proposal is for this formal response to be placed in the National Environmental Policy Act analytical documents to be used for public review and eventual decision making by the Secretary of Commerce. If, for any reason, the formal Council response action cannot be included in the public review and decision making documents, we would appreciate notice of such finding.

As mentioned above, the Council has taken an important first step in this endeavor through final approval of Amendment 19 the Pacific Coast Groundfish Fishery Management Plan to protect groundfish EFH. The Council originally proposed extending no-take state marine reserves into federal waters within the CINMS to mitigate fishing impacts to groundfish EFH. In a letter dated October 19, 2005, Undersecretary of Commerce for Oceans and Atmosphere Vice Admiral Conrad C. Lautenbacher advised the Council that there was insufficient evidence to implement closures affecting the water column in the CINMS on the rationale of protecting groundfish EFH. In response, the Council changed its recommendation under Amendment 19 to close the proposed mitigation areas in the CINMS to only bottom contact gear. To complete the regulatory package necessary for the creation of no-take marine reserves and limited-take marine conservation areas, the Council intends to address fishing activity in the water column under the aggregate of various other Council fishery management plan authorities and complimentary State laws. A progress report is scheduled for the March 2006 Council meeting in Seattle, Washington.

Finally, I would like to express the Council's appreciation for the time and effort contributions to the Council process by various staff of the National Ocean Service, National Marine Sanctuary Program, and CINMS, both at the recent November Council meeting and prior to that point. The Council looks forward to working with CINMS staff to achieve the goals and objectives of CINMS through the Council process and MSA and state authorities. If you or your staff have any questions regarding this letter, please contact me or Mr. Mike Burner, the lead Staff Officer on this matter at 503-820-2280.

Sincerely,



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

MDB:ckc

c: Council Members
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Dr. William Hogarth
Mr. Jim Balsiger
Mr. Christopher Mobley
Mr. Sean Hastings
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Mr. Mike Burner
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