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March 30, 2007

Vice Admiral Conrad C. Lautenbacher, Jr., U.S. Navy
(Ret.)
Undersecretary of Commerce for
Oceans and Atmosphere and
NOAA Administrator
14th Street & Constitution Avenue, NW
Washington, DC 20230

Dear Admiral Lautenbacher:

On behalf of the California Marine Affairs and Navigation Conference (CMANC) we submit to you several concepts which we feel would substantially improve the National Marine Sanctuary Act (Act) to benefit all Americans. These recommendations are the result of over 20 years of experience with the National Marine Sanctuary Program (Program) in California. While CMANC represents, primarily, the concerns of public agencies and multiple maritime interests many of these concerns are also shared by more than just the maritime industry. Our comments are aimed at making the Program successful in accomplishing its conservation and multiple use objectives.

The areas of the National Marine Sanctuary Act that should be constructively amended include:

1. The goals of the Act are overly broad, leaving too much up to staff interpretation. The need for credible science for sanctuary regulations (or permit conditions) should be explicitly stated. A definition of "resource protection" needs to be created which defines it in terms of sustainability (i.e., the Program's actions to protect resources would be to take scientifically justified steps to assure the long term sustainable use of resources). Language that creates more of a balance between the sanctuary's mandate of "resource protection" and that of allowing and creating "multiple use opportunities" is also needed. The Act should explicitly challenge the Program to embrace adaptive management for all its programs.
2. The Act should have a new section that clearly identifies the role of the Program in the federal/state/local permit process for harbor dredging and dredged material placement. Considering the multiplicity of permitting/responsible agencies which already exist, including U.S. EPA, U.S. Army Corps of Engineers, U.S. Fish and Wildlife, NOAA Fisheries, and State agencies with federally authorized responsibilities, in California these include the California Coastal Commission, and the California Regional Water Control Boards, the Act should explicitly make it clear that the Program does not have permit or authorization authority over those other regulatory agencies.

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The Program's role should be that of coordinating with those agencies. Further, either through an amendment to the Act or to the Monterey Bay National Marine Sanctuary's Management Plan and designation documents, the prohibition against new dredging operations or dredge disposal sites should be amended to allow for this as needed by ports and harbors within Sanctuaries.

3. Regarding the Sanctuary Advisory Councils (SAC), the existing Act already specifically exempts these councils from FACA; however, this should also be clarified, that these councils can either be organized independent of NOAA and the Program, yet be entitled to submit official "advice" to the Program; or, empowered to set their own agendas, write whomever they please, including members of Congress, and create a system for identification of the correct representation on each SAC, including a method to pick constituent representatives that is independent of Sanctuary Management.

4. There exists a lack of clarity in Federal Law as to which law, the National Marine Sanctuary Act or the Magnuson Stevens Sustainable Fishery Conservation Act, will be the overarching law that governs fishing within the National Marine Sanctuaries. We believe that the Program has the right to represent the goals of the Act to regional fishery councils. However any regulatory proposals must be subject to the science standards of the Magnuson Stevens Sustainable Fishery Conservation Act. In other words, subject to review by the Council's Science and Statistical Committees (SSC). With the very recent re-authorization of the Magnuson Stevens Act, Congress unanimously (in both houses) endorsed the idea that Fishery Council actions should be based on the best science. It is therefore incumbent that the Sanctuary Program be held to the same standard. Likewise the Sanctuary Program would not be able to adopt a fishing regulation unless there is science basis for it as supported by a Regional Council's SSC.

We hope that the Administration's version of a reauthorized National Marine Sanctuary Act will include these key concepts, which, in our experience will go a long way towards fostering widespread community support and stewardship of the Sanctuaries.

Respectfully,

James M. Haussener

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Executive Director