

OVERVIEW OF EFFORTS TO CONSIDER MARINE RESERVES ON THE WEST COAST

This overview focuses on efforts to consider marine reserves in open ocean areas off the West Coast of the United States. The document draws liberally on information and language found on the websites associated with the efforts covered in this summary. Information was also obtained through brief interviews with sanctuary managers at each of the West Coast national marine sanctuaries and the National Oceanic and Atmospheric Administration (NOAA) Center for Marine Protected Area (MPA) Science. The inventory of West Coast efforts was cross checked and expanded based on an informal list provided by the NOAA Center for MPA Science. There are a number of ongoing efforts to develop marine reserves in the Strait of Juan de Fuca and Puget Sound that are specifically excluded from this summary.

International

North American Free Trade Agreement (NAFTA) Commission on Environmental Cooperation (CEC)—www.cec.org

The CEC was created in 1994 by the environmental side agreement to the NAFTA. The CEC has an interest in facilitating the design and establishment of a globally representative system of MPAs in North America. To that end it has established a North American MPA Steering Committee. This committee has chosen to focus on the Pacific Coast of North America (Baja California to the Bering Sea), because of ecosystem linkages between the off-shore areas of the three participating nations. The "CEC 2001-2002 Work Program Outline" includes two closely linked initiatives related to marine reserves:

- o Mapping Marine and Estuarine Ecosystems of North America

This project entails development of a classification system for marine areas, a Geographic Information System (GIS)-based map of major meso-scale marine and coastal ecological regions, a marine "gap-analysis" and identification of priorities for coastal and marine conservation. The mapping project and gap analysis will be carried out in 2002.

- o North American Protected Areas Network

This project is intended to enhance marine conservation by "creating functional linkages and information exchange among existing MPAs." This project is closely linked with the mapping project and gap analysis.

Lead personnel and trinational, multi-sectoral working groups are being (have been) established for these projects. The following agencies and organizations play a leadership role: Canadian Parks and Wilderness Society, Department of Fisheries and Oceans (Canada), NOAA, *Secretaría de Medio Ambiente, Recursos Naturales y Pesca (Semarnap)*, *Instituto de Ecología de Xalapa*, The Nature Conservancy, and World Wildlife Fund (Canada and Mexico). The World Commission on Protected Areas (WCPA) North America of the IUCN (World Conservation Union) also plays a key partnership role. There have been some discussions on coordination of the North American marine sector of WCPA with the CEC-MPA initiative. In the future these organizations expect to increasingly involve local communities, indigenous groups, and the private sector.

The North American Fund for Environmental Cooperation (NAFEC) was set up under the CEC in 1995, with an annual budget of \$2 million, to provide funds to groups for work with communities. In the past year, a total of thirty-two groups from all three countries have received money to carry out community work. The 2001 grants were limited to \$25,000 each.

World Commission on Protected Areas (WCPA)—[www.wcpa.iucn.org and international.nos.noaa.gov]

The WCPA is a global network of protected areas specialists. The IUCN serves as the secretariat for the WCPA. Funding is provided by UNESCO (The World Heritage Center), the Dutch Government, the Italian Government, and the U.S. State Department. WCPA has a Marine North America Regional Working Group. A May 2000 meeting of the group was led by two NOAA/National Ocean Service (NOS) representatives.

Federal (U.S.)

MPA Centers (Department of Commerce and Department of Interior)—[mpa.org]

Presidential Executive Order (EO) 13158 directs the federal government to work with public and private partners to strengthen and expand the national system of MPAs. A key component of the national MPA initiative is the establishment of a Marine Protected Areas Center (MPA Center) by NOAA (Department of Commerce). The MPA Center, in cooperation with the Department of the Interior, will coordinate the implementation of the Executive Order by developing "a framework for a national system of MPAs, and [providing] Federal, State, territorial, tribal, and local governments with the information, technologies, and strategies to support the system."

The National MPA Center is located in Washington, D.C. The central coordinating function for implementing EO 13158 is being initially supported by two regional centers of excellence that focus on distinct aspects of the design and management of MPAs.

The NOAA Center for MPA Science, Santa Cruz, California
The Center for MPA Training and Technical Assistance, Charleston, North Carolina

The NOAA Center for MPA Science will be convening a meeting July 31-August 1 to bring all parties working on West Coast marine reserves together to identify who is doing what and when, identify information gaps and how they might be filled, and explore development of a joint strategy for the consideration of a rational system of no-take marine reserves.

EO 13158 also directs that a marine advisory committee be established to provide expert advice and recommendations to the Secretaries of Commerce and the Interior on the development of a national system of marine protected areas. The committee has been appointed and will meet at least twice annually (mpa.gov/mpabusiness/fac.html).

The current administration has reaffirmed its commitment to implementation of EO 13158.

NOAA

National Ocean Service (NOS)—[www.nos.noaa.gov]

The NOS science office may be undertaking a significant effort to support an integrated assessment of marine reserves on the West Coast. The main thrust of the effort may be supported through research grants. The Presidential Budget Request Fiscal Year 2002 includes a \$3 million increase for NOS activities related to MPAs and a \$4 million increase for the National Marine Sanctuaries Program.

National Marine Sanctuaries—[www.nos.noaa.gov/programs/ocrm and www.sanctuaries.nos.noaa.gov]

The National Marine Sanctuary Program is administered under the National Ocean Service Office of Ocean and Coastal Resource Management. There are five National Marine Sanctuaries on the West Coast. All are due to review and update their sanctuary management plans (SMP). The four marine sanctuaries in California are in the process of reviewing their SMPs. The review of the Olympic Coast National Marine Sanctuary SMP will follow shortly thereafter. Marine reserves are, or will likely be, a consideration in the review of SMPs. While, each sanctuary may take a different approach to consideration of the need for

marine reserves, it is likely that each sanctuary's Sanctuary Advisory Council will play a major role in the process.

Channel Islands National Marine Sanctuary (CINMS)—The California Department of Fish and Game (CDFG) and the Channel Island National Marine Sanctuary (CINMS) have been facilitating a community-based process for the consideration of marine reserves within the CINMS boundaries. A Marine Reserves Working Group (MRWG), representing the full range of affected communities, was established to attempt to develop a consensus option for marine reserves. As of June 2001, a consensus had not been reached, and a facilitator report has been forwarded to the CINMS SAC. This process has been separate from, but complementary to, the CINMS review of its SMP. The CINMS is scheduled to complete review of its SMP this fall.

Monterey Bay National Marine Sanctuary (MBNMS)—The MBNMS will also be updating their SMP. In the mean time, a group of community leaders have formed the "Alliance of Communities for Sustainable Fisheries." This group has approached the MBNMS to open a dialogue on marine reserve issues, and a working group has been convened that includes commercial harvesters, processors, sportfishers, divers, conservationists, scientists, and staff from the MBNMS. The working group's focus is to prepare for and be ready to respond to marine reserve proposals coming out of the California Marine Life Protection Act process, the Pacific Fishery Management Council process, and the review of the MBNMS SMP. The group is meeting on a monthly basis and is led by a facilitator paid by an outside party.

Farallon Islands and Cordell Bank National Marine Sanctuary (FINMS and CBNMS)—The FINMS and CBNMS are in the process of taking public comment on needed updates to their SMPs. Marine reserves will be addressed as they are brought forward as an issue during the public comment process.

Olympic Coast National Marine Sanctuary (OCNMS)—The OCNMS is currently considering marine reserves for its intertidal regions. The sanctuary intends to evaluate offshore reserves after completing consideration of the intertidal reserves. The OCNMS process is being carried out with close involvement of other federal agencies (Olympic National Park and NMFS), the state (Washington Department of Fish and Wildlife, Department of Natural Resources, and Department of Ecology), and the coastal tribes interested in participating. Any recommendations for marine reserves will likely be incorporated into the upcoming OCNMS review of its SMP scheduled for 2003.

National Marine Fisheries Service (NMFS)

The NMFS Southwest Fisheries Science Center (Santa Cruz Lab and Pacific Fisheries Environmental Lab) has initiated and led the efforts to evaluate MPAs as a supplemental tool for groundfish management on the West Coast. In 1998, the Center sponsored and convened the first workshop on marine harvest refugia to conserve and manage rockfishes on the West Coast (for full report see http://www.pfeg.noaa.gov/events/workshops/refugia/refugia_index.html). Scientists from the SWFSC actively conduct research in West Coast marine reserves on issues related to reserve effectiveness, socioeconomics, monitoring, habitats, biodiversity, etc. The NOAA Center for MPA Science is housed at the Southwest Fisheries Science Center in Santa Cruz, California. Through this MPA Center, personnel from NMFS and NOS collaborate on many topics related to MPA science. A number of the scientists at NMFS Southwest and Northwest science centers participate on various federal, state, regional and local committees and panels, providing advice on the design and implementation of marine reserves on the West Coast. Additionally, personnel from the NMFS Southwest and Northwest regional offices participate on policy groups involved in the consideration of marine reserves.

Pacific Fishery Management Council—[\[www.pcouncil.org\]](http://www.pcouncil.org)

The Pacific Council is one of eight regional fishery management councils established under the Magnuson Fishery Conservation and Management Act of 1976 and the Sustainable Fisheries Act of 1996 (now called the Magnuson-Stevens Fishery Conservation and Management Act). Under the Magnuson-Stevens Act, the Pacific Council has authority over the fisheries in the Pacific Ocean seaward of Washington, Oregon, and California. The Pacific Council has developed fishery management plans for salmon, groundfish, and coastal

pelagic species in the U.S. Exclusive Economic Zone (EEZ) off the coasts of Washington, Oregon, and California, and recommends Pacific halibut harvest regulations to the International Pacific Halibut Commission.

Thus far, groundfish have been the main concern driving the Council's consideration of marine reserves. As part of its Phase I process, the Council produced a technical analysis ("Marine Reserves to Supplement Management of the West Coast Groundfish Resources, Phase I Technical Analysis"). The consideration of marine reserves is being addressed in a two phase process. Phase I was led by an ad hoc committee comprised of industry, environmentalists, and agency representatives. When the Council finished its Phase I consideration of marine reserves, it determined that marine reserves may be a useful tool for the management of groundfish species and decided to proceed with consideration of Phase II, design and siting issues.

A marine reserve development team developed a budget for the Phase II process. The Council proposed process for Phase II of its consideration of a coastwide network of marine reserves would require an average of \$1.6 million per year for three years. The proposal includes a heavy emphasis on constituency consultation and local involvement in both the development of the data that would be used to develop and analyze marine reserve alternatives and the evaluation of alternative configurations of marine reserves. At its June 2001 meeting, the Council will be considering steps it can take in the absence of the needed funds.

State

California: Marine Life Protection Act (MLPA) –[\[www.dfg.ca.gov/mrd/mlpa\]](http://www.dfg.ca.gov/mrd/mlpa)

Assembly Bill 993 (Shelley), the MLPA, requires that the California Department of Fish and Game (CDFG) develop a plan for establishing networks of marine protected areas in California waters to protect habitats and preserve ecosystem integrity, among other things. The purpose of the MLPA is to improve the array of MPAs existing in California waters through the adoption of a Marine Life Protection Program and a comprehensive master plan. In accordance with the requirements of the Fish and Game Code, a Master Plan Team (Team) was convened to advise and assist in the preparation of the master plan.

The MLPA states that "marine life reserves" (defined as no-take areas) are essential elements of an MPA system. The mandate for the master plan requires that recommendations be made for a preferred alternative network of MPAs with "an improved marine life reserve component." The MLPA further states that "it is necessary to modify the existing collection of MPAs to ensure that they are designed and managed according to clear, conservation-based goals and guidelines that take full advantage of the multiple benefits that can be derived from the establishment of marine life reserves."

The Team interpreted the objectives of the MLPA to relate to a habitat-based approach in designing networks of MPAs. Lack of comprehensive biological data, particularly regarding stock assessments for harvested species, and the need to evaluate multiple aspects of the resources necessitates this type of approach. For areas and fisheries where appropriate information was available, GIS resource mapping support provided by the CDFG assisted the Team with analysis and generation of initial draft concepts of maps and text, and also served as a proxy for habitat determination. The maps and text, which describe one alternative set of MPA networks, will serve as a basis for extensive public outreach beginning in July 2001, and will be revised after public comments are received.

The Draft Master Plan is to be submitted to the California Fish and Game Commission by January 1, 2002 and a final plan by April 1, 2002. The Commission is scheduled to adopt the final plan by July 1, 2002.

Oregon: Ocean Policy Advisory Council (OPAC) –[\[www.lcd.state.or.us/coast/offshore.html\]](http://www.lcd.state.or.us/coast/offshore.html)

The state level effort to consider marine reserves is being lead by OPAC. OPAC was created to give coordinated policy advice to the Governor, state agencies, and others. There are 23 members, chaired by the Governor's appointee, and includes the directors of seven state agencies and 16 other members, who

are appointed by the Governor. The Department of Land Conservation and Development provides staff support to the OPAC, which meets quarterly.

OPAC has no authority to directly regulate ocean activities or manage resources or to enforce its plans or policies. However, once its plans and policies are approved by the Land Conservation and Development Commission as a part of Oregon's Coastal Management Program, the various state agencies are required to carry them out or act consistently with them.

OPAC is on a 16-month timeline for development of a report to the governor on marine protected areas and has appointed a working group to assist in developing the report. The group, comprised of members of OPAC, met in May 2001 and began to scope relevant issues. While recognizing that state authority extends only to three miles, the group will be evaluating the need for marine protected areas and reserves across the whole of the continental margin, providing advice on needs in both state and federal waters. A scientific advisory committee will be established to assist the working group in the development of its report. The working group intends to meet with fishermen, interest groups, and the public during its process.

Washington

The State of Washington is actively pursuing the development of marine reserves in its internal marine waters and is working with the OCNMS to consider marine reserves for the northern Washington coast. There are no efforts underway to consider marine reserves for open ocean areas off Washington west or south of the OCNMS

Nongovernmental Organizations (NGOs)

There are numerous NGOs that have developed efforts to support the consideration of marine reserves.

Canadian Parks and Wilderness Society (CPAWS)—[\[www.cpawsbc.org/mbaja.html\]](http://www.cpawsbc.org/mbaja.html)

The British Columbia chapter of CPAWS has launched a marine conservation program called the Baja California to Bering Sea Marine Conservation Initiative (B2B). This cooperative, tri-national initiative is intended to establish a network of marine protected areas in conjunction with other conservation strategies, from Baja California (Mexico) to the Bering Sea (Alaska). The B2B Initiative, in close coordination with the CEC, WCPA, and other organizations and coalitions, is working towards an inclusive approach to marine conservation that leverages resources and activities without duplicating efforts. The mission of the B2B Initiative is to help conserve and restore the region's unique biodiversity and productivity through a linked network of MPAs and migratory corridors. Based on sound marine conservation science, the B2B Initiative intends to help strengthen existing MPAs, foster the creation of new ones, and link these with related marine conservation initiatives in Canada, Mexico, and the United States. Through collaboration, this initiative hopes to build local capacity and develop new ways to approach marine conservation. The B2B Initiative intends to use public information efforts to create support needed to achieve its mission.

Communication Partnership for Science and the Sea (COMPASS)—[\[www.compassonline.org\]](http://www.compassonline.org)

In the summer of 2000, COMPASS hosted its first symposium on science and development of marine protected areas and marine reserves along the West Coast. During that meeting, COMPASS established a West Coast Marine Reserves Coordinating Committee (WCMRCC). The 17 individuals that comprise the WCMRCC intend to work together on an ongoing basis to prioritize and coordinate activities surrounding West Coast marine reserves. The COMPASS report on its meeting states that "This committee will be critical to maintaining the momentum generated during the COMPASS meeting and ensuring that strategies and action plans generated by the participants are brought to fruition. As this process develops, COMPASS will continue to be a catalyst that advances these and other marine conservation activities." The WCMRCC intended role is to support sound science and fair public participation in the consideration of marine reserves as a tool for improving the conservation of marine ecosystems along the West Coast of the U.S. The WCMRCC hopes to facilitate the coordination of ongoing activities related to MPAs and marine reserves, the exchange of information among interested parties; the identification of needs and opportunities related

to marine reserves; and cooperation communication and collaboration among those working on the process for considering marine reserves.

National Center for Ecological Analysis and Synthesis (NCEAS)–[\[www.nceas.ucsb.edu\]](http://www.nceas.ucsb.edu)

At the NCEAS, scientists conduct collaborative research on major fundamental and applied problems in ecology. Base funding for NCEAS is provided by the National Science Foundation, the State of California, and UCSB. NCEAS is located in Santa Barbara near the UCSB campus. NCEAS sponsored a working group to focus on 1) synthesizing existing empirical data on marine reserve efficacy, and 2) developing new theory on reserve design and function. Sea Grant also funded this project. The project is generating numerous papers for publication and some results of this project have been presented to the Council.

Pacific Marine Conservation Council (PMCC)–[\[www.pmcc.org\]](http://www.pmcc.org)

In January of 2002, the PMCC along with other co-sponsors will be hosting a Fishermen's Forum on the issue of stakeholder participation in West Coast marine reserve efforts. This two-day, facilitated workshop for industry and other constituents is intended to facilitate informed and effective participation by fishermen in the processes for considering marine reserves. It will include presentations from individuals with background and experience on marine reserves (pros and cons) including managers, fishermen, scientists, economists and others. This Forum will be conducted in an unbiased, neutral way for the primary purpose of gathering ideas and designing mechanisms, through recommendations from the Forum's industry participants, for fishing community involvement in the issue of marine reserves. A second step in this process may be hosting individual town-hall meetings in the fishing communities themselves.

Partnership for Interdisciplinary Studies of Coastal Oceans (PISCO)–[\[www.piscoweb.org\]](http://www.piscoweb.org)

Funded by The David and Lucille Packard Foundation, PISCO is a research consortium involving several dozen marine scientists from four universities along the U.S. West Coast: Oregon State University; Stanford University; University of California, Santa Cruz; and University of California, Santa Barbara. According to their website, "PISCO scientists at these universities collaborate on integrated studies of the nearshore ecosystems of the West Coast. By conducting . . . large-scale studies over many years and at many sites, PISCO is developing a comprehensive understanding of how coastal marine ecosystems function." Two of the PISCO goals are to establish the scientific basis for the effective design, monitoring and evaluation of marine reserves and other conservation measures, and to begin to integrate this knowledge into the public and policy arenas.

Ocean Wilderness Network (OWN)

OWN's mission, is to secure a network of MPAs off the West Coast of the United States. OWN is a coalition of national, regional, and local nongovernmental organizations sharing this mission. OWN is funded by the Packard Foundation. Activities include design and implementation of a communications strategy; grassroots constituency-building; MPA policy development and advocacy; support of member organizations with information and materials; fundraising; and coordination of member group activities.

PFMC
06/08/01

GROUND FISH ADVISORY SUBPANEL REPORT ON
REVIEW OF WEST COAST MARINE RESERVES EFFORTS

The Groundfish Advisory Subpanel (GAP) received a presentation from Council staff on the various efforts being conducted relative to marine reserves and marine protected areas on the West Coast.

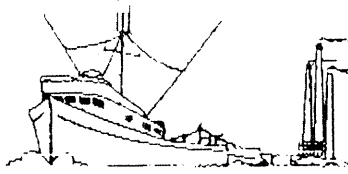
Because this topic is only a Council discussion item and overlaps with agenda item C.9 (Strategic Plan Implementation), the GAP will reserve most of its recommendations for that agenda item. However, one issue should be noted in particular: there is apparently very little coordination among all of the efforts and authorities when it comes to considering marine reserves. The laundry list of agencies, nongovernmental organizations, and international organizations presented in the staff paper is ample evidence of this problem. These efforts must be both focused and coordinated if a logical marine reserves program is to be established.

The GAP believes the Council is the most logical body to provide the coordination, given that most reserve proposals involve Council-managed fisheries and many include federal waters outside the jurisdiction of individual states. As noted earlier, the GAP will provide a specific recommendation on this point under agenda item C.9.

The GAP also notes that this lack of coordination is recognized by NOAA, and NOAA intends to conduct a meeting in late July to start resolving the problem. It is imperative the Council and appropriate Council advisory bodies be invited to this meeting. Even if no funds are available for advisory body travel, the invitation should be extended to them, and appropriate members can find their own funding.

Finally, in all discussions of marine reserves, accurate and sufficient economic information must be made available to detail the costs and benefits of establishing marine reserves.

PFMC
06/12/01



MAY 20 2001

Exhibit E.1.c
Public Comment
PO Box 44 June 2001
Moss Landing, CA 95039

Fishermen's Association of Moss Landing

May 29, 2001

Pacific Fisheries Management Council
2130 SW Fifth Avenue, Suite 224
Portland, Oregon 97201-4934

Dear Council Members:

RE: Marine Protected Areas

The Fishermen's Association of Moss Landing, made up of over one-hundred commercial fishermen wish to comment on potential implementation of Marine Reserves, Ocean Parks, and Marine Protected Areas within the Pacific Coast EEZ. Fishermen view closed network areas as a serious concern. The science/environment community committed to "no-take" Marine Reserves could be committed to measuring affects on fisheries from regulatory measures "first" to see if they are working before promoting anything new. The Pacific Ocean is a diverse climate-changing ecosystem and questions remain on the proposed spill over effect to secure a proven benefit to fisheries. There is a growing concern regarding social impacts from MPAs that further restrict commercial fishing.

Develop the art of science to improve knowledge within a culture of the human race, without compromise of individual liberties whereby the public can benefit. This concept is based on the Declaration of Independence, that "all Men ... are endowed by their creator with certain unalienable Rights." The Declaration states, "to secure these Rights, Governments are instituted among Men..." Government's role is not to redistribute the nation's wealth, provide cradle to grave security, nor regulate the activities of citizens; its only function is to "secure" the rights of the people.

1. Through the Council process on MPAs, is the responsibility of socioeconomic guidelines protecting small business from new regulation and closures and economic impacts affecting fishing families. American fishermen are a shadow of our former self.
2. Certification under the (1980) Regulatory Flexibility Act, amended (1996) Small Business Regulatory Enforcement Act, together with the (1993) Executive Order #12866, (Regulatory Planning Review) requires economic impact assessments. Overarching mandates ruled arbitrary or when analytical rigor was held up for scrutiny by courts was found in violation.¹

¹ Oral testimony of SBA before the House of Representatives, Committee on Resources, Subcommittee on Fisheries Conservation and Wildlife and Oceans, Oversight Hearing on the Regulatory Flexibility Act, April 29, 1999.

Midwater Trawlers Cooperative v. Department of Commerce, May 1997, No. C96-1808R (W.D. Wash.). Appealed 9th Circuit, April 1999 (Lexis 5953)
North Carolina Fisheries Association and Georges Seafood Inc. v. Daley, (16F. Supp 2d 647) 1997, US Dist, Lexis 19470 (E.D. Va. 1997); Following Remand, (27 F. Supp. 2d 650) E.D. Va. 1998. & Southern Offshore Fishing Association (et al.) v. Daley, (995 F. Supp. 1411) February 1998 US Dist. Lexis 3478 M.D. Fla. 1998.

.....
Fishermen feed the world!

May 29, 2001

Page 2

3. According to National Marine Fisheries Service guidelines, an economic impact is **significant** under the RFA, if at least 20% of the businesses within an effected fishery lose 5% of their annual gross revenue, or 2% or more of the effected parties are driven out of business. ² Especially any arbitrary or unfair impacts resulting in an industry bought to ruin.
4. Therefore, the Department of Commerce magistrates must consider economic impacts. Fisheries management decisions cannot be merely on a basis of scientific merit, but also on the rigor and timelessness of underlying social science. Fishermen can loose income from this decision making process as they have with regulations.
5. Economic analysis is not limited to MPAs. Endangered Species Act, Marine Mammal Protection Act, Magnuson Etc, etc. Act fall under provisions of the Regulatory Flexibility Act. NOAA activities such as National Estuarine Research Reserves and Marine Sanctuaries and the Coastal Zone Management also fall under this category. ³
6. Therefore, there is the burden as a management infrastructure, NOAA/NMFS must increase economists before a planning process. Social and economic interests are not subordinate to the overarching mandates for stewardship and fishermen cannot be responsible for MPAs.
7. Trust and understanding are concerns from fishing dependent communities. There are clear requirements to examine less burdensome regulatory options, including no regulation, a framework for better solutions to any decision making process.
8. A current Senate investigation of significant examples of accountability both under RFA and National Standard 8, of the Magnuson-Stevens Act are underway. ⁴
9. The Small Business Regulatory Fairness Act of (1996) enacted into law March 29 1996 has essential aspects of the legislation. (Overview) **Regulatory Compliance simplification:** Federal agencies are required to develop comprehensive guidelines and a well defined process to respond to small business inquiries on actions that are required to take or comply with rules established by agencies. **Equal Access to Justice Amendments:** Small businesses are given expanded authority to go to court, to be awarded attorney's fees and costs when an agency has been found to be excessive in it's enforcement of federal regulations. ⁵

Establishing an MPA raises serious concern placing more constraints on fishermen, guided by agency framework, may increase jeopardy with the creation of "no-take zones. A large unanswered question exists within the scientific community as to the effectiveness of MPAs (complete no-take zones) on pelagic fish (such as salmon, albacore, squid and swordfish) may be minimal. We believe, proceeding with great caution and only with a proven success or failure method established. Site that MPAs which are proposed, for species effectiveness/impacts and fishing effectiveness/impacts with emphasis on short-term impacts and significant long-term socio-economic impacts on the fishing Community with a mechanism to abandon them in lack of certainty.

Sincerely,



Kathy Fosmark
Vice-president

² Stewardship and Analysis: Preserving Nature and Communities. Report to Commerce, (Page 18).
NMI'S Guidelines for Regulatory Analysis of Fishery Management Actions (Revised April 15th 1998)

³ Marine Protection Research and Sanctuaries Act (Sec. 312).

⁴ Stewardship and Analysis: Preserving Nature and Communities, (Page 19).

⁵ <http://www.sba.gov/regfair/overview.html>

REVIEW OF WEST COAST MARINE RESERVES EFFORTS

Situation: On the West Coast, a number of efforts have been initiated pertaining to the development of marine reserves. As the Council embarks on Phase II of its consideration of marine reserves (the development of specific marine reserve options), its activities will need to be coordinated with efforts undertaken by other entities with various jurisdictions. This coordination will be necessary whether the Council takes a lead role in the siting of marine reserves or implements fishery regulations in federal waters to establish marine reserves initiated at state or local levels.

Under this agenda item, staff will review current efforts to develop marine reserves on the West Coast. Discussion and guidance on Council involvement in the marine reserve process will occur under implementation of the groundfish strategic plan (Agendum C.9).

Council Action: Discussion.

Reference Materials:

- ✓ 1. Status of Efforts to Consider Marine Reserves on the West Coast (Supplemental Exhibit E.1.a, Agendum Overview). *Received 6-11-01*

PFMC
05/23/01

2. *Exhibit E.1.b, Supplemental GAP Report.*
3. *Exhibit E.1.c, Public Comment.*

HABITAT STEERING GROUP COMMENTS ON
MARINE RESERVES IN THE CHANNEL ISLANDS MARINE SANCTUARY

The Habitat Steering Group (HSG) received a report from the Channel Islands National Marine Sanctuary staff discussing progress on the Channel Islands marine reserve process. The HSG recommends that the Council remain actively involved in the Channel Islands process to ensure that Council goals and objectives are met.

The HSG further recommends:

1. The Council and appropriate advisory bodies review the recommendations of the Channel Islands National Marine Sanctuary Advisory Council (to be released June 19, 2001) and any related decisions by the California Fish and Game Commission. These could be presented to the Council and advisory bodies by Channel Islands and California Department of Fish and Game staff at the September 2001 Council meeting.
2. The potential contribution of the proposed Channel Islands reserves be evaluated and incorporated into future rebuilding plans.
3. The Channel Islands Marine Reserve Working Group developed several tools and analyses that could be useful in other marine reserve processes. This valuable work should be reviewed by the Council and appropriate Council advisory groups.

PFMC
06/12/01

GROUND FISH ADVISORY SUBPANEL REPORT ON
MARINE RESERVES IN THE CHANNEL ISLAND NATIONAL MARINE SANCTUARY

The Groundfish Advisory Subpanel (GAP) held a lengthy discussion with representatives of the Channel Islands National Marine Sanctuary regarding progress - or lack thereof - in establishing a marine reserve within the Sanctuary boundaries.

The GAP was pleased an extensive stakeholder process was developed and used - up to a point - in identifying potential marine reserve sites. However, the GAP believes - based on the information provided - that the Sanctuary abandoned the consensus process too quickly.

The GAP notes that general agreement had been reached on specific locations within the Sanctuary where marine reserves (defined by the Sanctuary staff as "no take areas") could be established. However, when the size of those areas met with disagreement, the consensus process was apparently discarded, and efforts are now being made to use a top-down approach.

The GAP believes a go-slow approach involving smaller areas where consensus had been reached would have resulted in a model system useful for looking at marine reserves throughout the West Coast. Evidently, this more reasoned style did not meet the goals of certain participants in the process, nor - evidently - the Sanctuary staff. As a result, a potential showcase is now a pile of scrap.

While the Sanctuary is free to continue its efforts within state waters, roughly half of the Sanctuary lies in federal waters and affects fisheries where the Council has jurisdiction. The GAP believes it is time for the Sanctuary to consider Council needs and priorities and not simply its own agenda. On several occasions during discussions with the GAP, Sanctuary staff characterized marine reserves as involving more than fisheries management. While this may be true, as a practical matter it is the effect of a reserve on fisheries, their management, and most especially those dependent on the fisheries which - if not handled properly - causes the most harm. Further, it is these issues that are under the jurisdiction of the Council. The GAP suggests the Council recommend to the Sanctuary staff that they go back and try again, perhaps with a little more practical recognition of the importance of user groups.

PFGC
06/12/01

SCIENTIFIC AND STATISTICAL COMMITTEE REPORT ON MARINE RESERVES IN THE CHANNEL ISLAND NATIONAL MARINE SANCTUARY

The Scientific and Statistical Committee (SSC) was briefed by Mr. Sean Hastings and Dr. Satie Airame from the Channel Island National Marine Sanctuary (CINMS) about ongoing efforts to create a network of marine reserves within the Sanctuary's boundaries. The SSC first considered the contents of the Facilitator's Report (Exhibit E.2, Supplemental Attachment 3), which has been provided to the Sanctuary Advisory Committee (SAC) in lieu of a consensus recommendation by the Marine Reserves Working Group (MRWG). The Facilitator's Report highlighted a number of areas of substantial agreement among members of the MRWG (e.g., a general statement of the problem, issues of concern, goals and objectives, and implementation recommendations). However, the MRWG was unable to reach consensus on a number of important issues, including 1) the size of reserves, 2) the location of reserves, 3) the use of "limited take" areas, 4) the phasing in of reserves, and 5) the importance of fisheries management outside of reserves. The divergence in opinion within the MRWG, with respect to reserve size, led to a range of alternatives between a 12%-24% area set aside. Because the MRWG could not reach a unanimous consensus, the SAC is now charged with forwarding a recommendation to the Sanctuary manager for action.

The SSC was impressed with the depth of thought that has gone into the process thus far. In particular, the formalized effort to balance the various stakeholders' concerns should provide robust solutions to differences among user groups. It is clear that a thorough consideration of issues has been completed, particularly with regard to the development and reconciliation of siting criteria. The SSC believes the process, as it has evolved, could prove useful in future efforts to establish marine reserves elsewhere, including areas under Council authority. However, the infrastructure required to undertake a similar process is substantial and would require a significant allocation of scarce Council resources.

In response to the Council's and SSC's request for more information following the April meeting (see Exhibit E.2, Attachment 1), Mr. Hastings and Dr. Airame provided the SSC with many of the scientific papers that were considered by the Sanctuary Science Panel in reaching its determination that a 30%-50% area set aside was required to meet fishery management objectives within the CINMS. However, the conclusions one might draw from that body of literature are largely predicated on loose or negligible controls on fishing effort outside of reserve boundaries, a situation unlike that on the West Coast of the United States. In fact, an evaluation of the costs and benefits of effort versus area controls on fishing is lacking in the documentation provided thus far. This is a key issue since the Council has recently imposed highly restrictive controls on fishing effort in the groundfish fishery and, as a consequence, the necessity of 30%-50% area set asides for the purpose of managing groundfish species is not obvious. At the request of the SSC, Dr. Airame agreed to provide further documentation on how the Sanctuary Science Panel arrived at its conclusions regarding reserve size. For its part, the SSC expressed a willingness to establish an *ad hoc* committee at the direction of the Council, specifically to evaluate the justification for large marine reserves to achieve fisheries management objectives for Council fishery management plan species.

The SSC has also received a draft report on the socioeconomic effects of alternative reserve options and has requested that it receive the final report, once it is completed. The SSC socioeconomic subcommittee will review that report, once it is received.

It is very important that further dialogue continue between representatives of the CINMS and members of the Council family. The extensive groundwork that has already been laid could provide the framework for future efforts by the Council to establish marine protected areas of its own. Although the amount of reserve area under consideration by the Sanctuary is relatively small, the action is precedent setting and a thorough consideration of issues is warranted.

157 727

Comments on proposals for marine reserves in CINMS.
May 14, 2001

MAY 22 2001

Ray Hilborn
Professor, School of Aquatic and Fisheries Sciences
University of Washington, Seattle, WA 98195

Preface:

The following are my comments on materials sent me regarding the proposed reserve design in the CINMS. I am doing this because of an interest in seeing good science applied to marine reserve design, and have received no compensation for my work. My belief prior to undertaking this work is that marine reserves are an important tool in conservation and fisheries management, but are only one of many possible tools and need to be considered as part of an integrated management system. Further I will confine my comments solely to the impact of marine reserves as no-take areas, and not consider issues of habitat loss etc.

I have spent much of my career as a critic of the concept of salmon hatcheries as a way to enhance salmon production. While the technology seems attractive and indeed was for a time almost universally accepted as the panacea to salmon management, I believe that as scientists we must remain skeptical until the data show that the latest panacea actually works. In the case of salmon hatcheries the data has shown they have not delivered nearly the benefits promised.

I believe we must be equally skeptical of marine reserves. They are enormously popular at present, indeed about 5 years ago I chaired a session on marine reserves at the Society of Conservation Biology meetings in Victoria and it was clear that the room was full of people who believed they are a good idea, and were grasping for some data to show it.

I have been intensively involved in fisheries management for 30 years, working primarily in Canada, the west coast of the U.S. New Zealand, Australia and the western Pacific. I currently serve on working groups or scientific committees for salmon in several parts of Alaska, hoki, southern blue whiting, ling and orange roughy in New Zealand, sablefish in Canada, sablefish and short spine thornyheads in the west coast, and southern bluefin tuna. I have had experience with numerous other species including lobsters and abalone in New Zealand and Australia, crabs in Alaska, hake in Namibia, several other species in New Zealand, a range of groundfish in western Canada, monkfish and striped bass in the eastern U.S.

I have had only a few days to examine the material sent me so I cannot claim an exhaustive knowledge of it. The material includes a paper by Airame and 5 other authors (Applying ecological criteria ...) notes from the science advisory panel meeting of August 25, 2000, a paper by Warner, Swearer and Caselle in Bull Mar. Sci, Science Advisory panel recommendations, several papers by J. Roughgarden, notes from a science advisory panel presentation date 26 September 2000, questions for the science advisory panel dated 17 January 2001, notes from the Science advisory panel presentation dated 26, September 2000, and a document titled "locating potential reserves in the Channel Islands", dated 26, September 2000.

The need for objectives

There are two commonly touted benefits for marine reserves, (1) conservation and (2) management of exploitative fisheries. The conservation issue is essentially a no-brainer – it is almost universally excepted that exploitation reduces population sizes. A greater percentage of area set aside as no-take provides for a larger standing stock of populations. No-take areas, so long as their size is large relative to the movement of the species, will lead to increased abundance within the reserve. If our objective is to have more natural areas, as in national parks, then society should decide how much to set aside. This is a social choice, with little room for scientific input, and as a scientist I cannot say how much area should be set aside. This is unlike the traditional theory on terrestrial reserves where the key issue is how much habitat to set aside to allow for population viability. A good case can be made for setting aside some proportion of representative habitats as reserves for reasons of seeing natural populations. If you want these no-take areas to be effective then they have to be big enough to encompass movement of the species. Thus, society could decide to set aside the entire area of the Channel Islands as a reserve, but this decision would not be scientifically based.

However, the second objective, enhancing fisheries management is much trickier. Marine reserves are simply one of many possible methods of fisheries management. Before one can begin to determine what areas to set aside in marine reserves, you need a clear statement of the conservation and harvesting objectives.

Will marine reserves enhance yields

The sometimes explicit and more frequently implicit assumption is that the sustainable yields from the Channel Islands will be enhanced by marine reserves. It is on this ground that I think the science contained in the reports sent me is the most flawed. At the extreme, when marine reserves are large relative to the movement of species (both adult and larval movement), the reserve removes from sustainable harvesting the proportion of the stock in the reserve. At the other extreme, when the reserve is very small relative to species movement, the reserve has no impact on yield, it certainly does not enhance it. The literature is very clear on this point, reserves will decrease, rather than increase sustainable yields compared to the traditional tools of fisheries management such as size limits, effort and landing limitations (Polacheck 1990 and Hastings and Botsford 1999). At best they can provide the same yields as traditional management methods when properly applied. The cases these authors found where yields were enhanced by reserves were cases of overfishing outside the reserves.

So long as the fishery is well managed outside the reserve, there is no benefit from reserves to the sustainable harvesting and indeed the loss in yield for sedentary species will be roughly in proportion to the area set aside. The potential of marine reserves to enhance yields occur when the size of reserve is appropriate to protect spawning biomass yet let dispersal (usually of early stages) spill out of the reserve, if and only if the exploitation rate is excessive outside the reserve.

The majority of the evidence from existing marine reserves shows that if you reduce harvest you end up with more and large fish. This simply shows that the reserves are large enough relative to the movement of the fish to have an impact, but provides absolutely no evidence that these reserves enhance sustainable yield.

The theoretical papers have shown that the only time that marine reserves can enhance sustainable yields (rather than reduce them) is when the fisheries management system outside of reserves has failed. I find it interesting that this topic, and indeed the entire relationship between the proposed marine reserves and other fisheries management actions is hardly given any mention in the Airame et al. paper. This paper does mention that several species of rockfish have been listed as overexploited, but no analysis is presented as to how a marine reserve system would interact with the existing fisheries management system. I have seen no analysis of the effort levels or size limits. You cannot possibly determine how much yield will be lost to the existing commercial fishermen until you analyze the interaction between the marine reserves and the existing fisheries regulations – something I have not seen in any of the documentation. Further, to determine if the “spill over” effect will ameliorate the potential loss in yield we would need to know a lot more about the dispersal distances of juveniles.

I understand that someone from the CIMNS made a presentation to the Scientific and Statistics Committee of the PMFMC. The written response from the SSC suggested that insufficient documentation was presented on how the reserve size was determined, and how the proposed reserve design would (1) maintain fisheries benefits and (2) maintain long term socio-economic viability.

These are essentially my two points. Nothing in the documentation I have seen provides any evidence that the proposed marine reserves will benefit the fishermen. It would appear that the proposals are all based on the conservation objective with a general lack of analysis of the fisheries management objectives. If this is the case it should be clearly stated. Please don't try to convince the fishermen who make a living in this area that the reserve system will be good for them without providing a lot more substantial documentation.

I believe this is precisely the comment that was obtained from the scientists on the SSC of the PMFC.

Has the fishery management system failed?

It is clear from the documentation that I have seen that there is a general acceptance that the fisheries management system has failed, and marine reserves are needed because the existing system doesn't work. Yet I have seen absolutely nothing in the documentation to support this except the mention that several rockfish species are now listed as overfished. This topic was discussed in the meeting notes from 25 August, 2000, where clearly the nature of regulations outside the reserve were critical, but I have not been able to find any documentation of integration of the reserve size with fisheries management activities. I do not know enough about the status of species found in the proposed area to comment in detail at this point but I would note that PMFC has established rebuilding plans for the species listed as overfished. I would also note that

according to NMFS statistics, nation wide we are losing only 14% of potential sustainable yield due to overfishing, this is a far cry from the perception that our fisheries are devastated and drastic measures are needed. While I agree that our fisheries have numerous economic and social problems associated with overcapitalization and open access, loss of yield due to overfishing is not the most pressing concern.

Need for a monitoring plan

Everyone recognizes that we know very little about the impact of planned reserves on populations and yields. Part of any plan should be monitoring to enable us to evaluate the costs and benefits of the reserve to potential yield. This should be further developed in the plan.

Some specific comments on the documents received:

The Science Advisory Panel Recommendations. This brief document appears to be a summary of science conclusions. It has numerous scientific errors and flaws. Specifically:

On page 1 the document asserts that "commercial fishermen benefit from larval export ...". Larval export merely reduces the loss to commercial fishermen from access to the whole population. So long as the stocks outside the reserve are well managed, larval export will simply make the losses less, not provide net benefits.

On page 2 Section entitled "For Fisheries Management".

Here is where the science gets really dodgy. Mace and Sissenwine did **not** say that populations below 5-70% of carrying capacity are not sustainable, whoever interpreted this from their paper seriously mis-understands modern population dynamics. Many populations have been sustained at very low fractions of their unfished population sizes. For instance, many lobster populations have been fished at a small fraction (1-5%) of their unfished sizes for decades in a sustainable fashion. Many other fish populations have been sustainably harvested at 5-30% of virgin population size. Almost all of the text in this section seems to assume that the fishery is so poorly managed outside reserves that there is no remaining breeding stock. One of the figures from a Roughgarden paper shows probability of stock collapse at 100% below 50% of virgin biomass. Suffice it to say that this figure is counter to the experience of everyone I have shown it to familiar with real fisheries. No equations or documentation were provided. I suggest that the Science Panel report should be reviewed by a panel familiar with fisheries management.

Section page 2 "entitled population dynamics models"

Data from hundreds of populations of harvested fish have now been analyzed and it is clear that MSY is achieved most commonly at 15-40% of virgin population size. The 50% figure quoted in this section is 50 year old science and based on no data at all. This section repeats the error that populations need to be 60% or 75% of their virgin size to be sustained. Next the text in the section suggests that setting aside 30%-50% of the area as reserves will result in an equivalent reduction in fishing effort. This is totally wrong, in general fishermen will simply move somewhere else (outside the reserve and indeed often on the edge) and there will be little if any

reduction in effort, merely increased cost for the fishermen. Alternatively the fishermen may have to cease fishing completely because the fishery is no longer economic.

Page 3 "What do other scientists recommend"

This paper contains a list of "recommendations" from published papers. Of the papers in this list I am familiar with, this table is a serious distortion of the results because of the assumption about other fisheries management activities. The usual assumption is that there is no effective fisheries management system outside the reserves.

Subject: Fwd: Channel Isles proposed closure

Date: Mon, 09 Apr 2001 13:44:21 -0700

From: "PFMC Comments" <pfmc.comments@noaa.gov>

To: james.seger@noaa.gov

Subject: Channel Isles proposed closure

Date: Sun, 1 Apr 2001 20:09:20 -0700

From: "Glenn Thacher" <hookupiron@home.com>

To: <pfmc.comments@noaa.gov>

Enough is enough. If we as a society give so much, why do you need to take so much.

If you as an organization are supposed to be caregivers of our environment, why must you be takers of our resources. Please don't take away by closure the areas you propose at the Channel Isles.(that would include now and later)

All the environmentalist want is to deny access to fishermen so they can have an exclusive right to the area for what ever they want.

Sometime in the rest of my lifetime I hope to see some form of cooperation that isn't mean spirited and denies people the pursuit of their form of enjoyment.

Hoping you will see the middle in this propose taking process.

Thank you,

Glenn Thacher

Five other persons submitted the same comments.

Subject: Fwd: (no subject)

Date: Wed, 09 May 2001 09:32:27 -0700

From: "PFMC Comments" <pfmc.comments@noaa.gov>

To: james.seger@noaa.gov

Subject: (no subject)

Date: Tue, 8 May 2001 22:59:45 EDT

From: <MCSFSH@aol.com>

To: dan.basta@noaa.gov, matt.pickett@noaa.gov, scott.b.gudes@noaa.gov, nmscomments@noaa.gov, svalenzuela@dfg.ca.gov, jugoretz@dfg2.ca.gov, gale_norton@ios.doi.gov, mpainfo@ios.doi.gov, mpainfo@noaa.gov, senator@feinstein.senate.gov, senator@boxer.senate.gov, president@whitehouse.gov, Assemblymember.Wayne@assembly.ca.gov, susan.davis@mail.house.gov, michael.murray@noaa.gov, anne.walton@noaa.gov, rtreanor@dfg.ca.gov, jduffy@dfg.ca.gov, rhight@dfg.ca.gov, pwolf@dfg.ca.gov, graydavis@governor.ca.gov, sean.hastings@noaa.gov, pfmc.comments@noaa.gov, Rebecca.Lent@noaa.gov, devans@doc.gov

Dear Sir or Madam:

I have recently become aware that the Channel Islands National Marine Sanctuary is currently in the process of determining which 30% to 50% of our local islands to designate as NO-TAKE ZONES.

I OPPOSE THE IMPLEMENTATION OF NO-TAKE ZONES FOR RECREATIONAL PURPOSES.

- 1) No-Take Zones should be utilized as a last resort in conservation, not as a first resort.
- 2) Recreational fishing has minimal impact when compared to commercial fishing.
- 3) The decision to implement No-Take Zones are based on recommendation from one study, performed by non-partial "scientists". Our Channel Islands should be controlled by science, not politics.
- 4) I believe that recreational fishing impact can better be controlled on a per-species basis, as needed.

Open access for recreational purposes is a concept embraced on virtually all federal lands and waters including wildlife refuges, national parks, wilderness areas, and the exclusive economic zone. This extensive record clearly demonstrates that access can be maintained for recreational purposes under appropriate science-based regulatory schemes that include seasons, size limits, bag limits and other regulations. Such management practices have proven themselves to be highly effective in maintaining healthy fisheries.

Only in those cases where recreational fishing has demonstrable adverse effects should a specific, well-defined area be closed. Restricting public admission to our coastal waters should not be our first course of action, but rather our last.

I ask that you help in maintaining our Channel Islands as an area of open recreation for generations to come.

Sincerely,

Marty Steelman
mcsfsh@aol.com

PACIFIC FISHERY MANAGEMENT COUNCIL

2130 SW Fifth Avenue, Suite 224
Portland, Oregon 97201

Telephone: (503) 326-6352
Fax: (503) 326-6831
www.pcouncil.org

CHAIRMAN
Jim Lone

EXECUTIVE DIRECTOR
Donald O. McIsaac

April 17, 2001

Mr. Matt Pickett
Channel Islands National Marine Sanctuary
113 Harbor Way, Suite 150
Santa Barbara, CA 93109

Ms. Patty Wolf
California Department of Fish and Game
4665 Lampson Avenue, Suite C
Los Alamitos, CA 90720

Dear Mr. Pickett and Ms. Wolf:

Thank you for the excellent presentation describing the process for considering marine reserves in the Channel Islands National Marine Sanctuary (CINMS) area. The Council is very interested in being kept informed about the progress of this effort and the role that the Council may play in achieving shared objectives.

The Council identified questions in three areas to aid in reaching the proper decision. First, Council advisory bodies posed several questions pertinent to thorough deliberations on this matter. Second, concerns were raised about a clear statement of what action the Council is being asked to take, and the necessary documentation to achieve a final decision. Third, the Council requests information about legal authorities.

Council advisory bodies posed a number of relevant questions for your group. Your response will be an important part of the Council process for considering proposals for marine reserves in the CINMS. The questions are contained in the enclosed reports. In particular, the questions posed by the Scientific and Statistical Committee members regarding fundamental scientific evidence and assumptions are considered very important.

If a marine reserve proposal is presented to the Council, the decision process will be substantially expedited if documents provided meet National Environmental Policy Act, Executive Order 12866, Endangered Species Act and other legal requirements that apply to Council management actions. These requirements include, but are not limited to, a clear description of what is being proposed, the purpose(s) of the proposal, the alternatives considered, the anticipated short-term and long-term impacts of the proposal, and the rationale for the action proposed when all the impacts are considered.

Mr. Pickett and Ms. Wolf
April 17, 2001
Page 2

Finally, there are a few questions that need to be answered which apply to the implementation of any reserve proposals that would involve the waters under Council jurisdiction. As we understand it, the CINMS operates under three levels of authority: the National Marine Sanctuaries Act, the general regulations governing sanctuaries, and the Designation Document for the sanctuary itself. During Council consideration of this matter at the March meeting, one perspective presented maintained that the CINMS, under the terms of the designating document of the CINMS, does not have the authority to promulgate fishery regulations in the exclusive economic zone within the sanctuary boundary without the concurrence of the Council; another perspective maintained that the general sanctuary regulations might provide such authority. This may affect the manner in which regulations would ultimately be promulgated. The Council requests that the marine sanctuary staff provide the designation document for the CINMS along with your interpretation of the applicable authorities.

We look forward to working with you in future consultations on these significant issues. Please coordinate your response with Mr. Jim Seger on the Council staff.

Sincerely,

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

JLS:rdh

Enclosure

c: Council Members
Ms. Jennifer Bloeser
Mr. Mark Cedergreen
Dr. John Coon
Mr. Brian Culver
Mr. Jim Glock
Dr. Jim Hastie
Mr. Rod Moore
Ms. Michele Robinson
Mr. Jim Seger
Ms. Cindy Thompson
Mr. John Ugoretz
Mr. Dan Waldeck

GROUND FISH ADVISORY SUBPANEL STATEMENT ON GROUND FISH STRATEGIC PLAN IMPLEMENTATION

The Groundfish Advisory Subpanel (GAP) discussed the issues identified under the Exhibit F.2 Situation Summary and makes the following comments.

Marine Reserves

The GAP reviewed the material submitted by the Channel Islands National Marine Sanctuary (CINMS) staff, heard reports from GAP members who had fished in the CINMS area, and received a briefing from the CINMS staff.

The National Marine Sanctuaries Act specifically provides that regulation of fishing within marine sanctuaries is the responsibility of the Council and any applicable state (in this case, California). Thus, it is important the Council play an active role in examining proposals for marine reserves such as are contemplated by CINMS. The Council has already spent considerable time and energy developing its own strategy for marine reserves. Given these facts, the GAP believes the Sanctuary must coordinate its plans with the Council, and not simply inform the Council what it wants to do.

While marine reserves may play a role in conserving fish stocks, they obviously can have significant economic impacts on commercial and recreational fishermen, processors, support industries and businesses, and local communities. The GAP believes a detailed economic impact statement is needed before any marine reserves are established. Further, given the potential economic losses associated with establishment of marine reserves, several GAP members raised the question of who pays to mitigate those losses? Fishermen and processors are already paying the cost of rebuilding through reduced groundfish harvest. Will they also be required to pay for the theoretical benefits that might (or might not) accrue from establishment of marine reserves? The GAP believes any working group established to look at marine reserves should be fully representative of all interests.

If a marine reserve is to be established, how will it be monitored to ensure it is doing what it is supposed to do? Who will supply the funding? What sort of monitoring will occur? How will the reserve be enforced, and how will enforcement costs be covered?

The GAP notes the Implementation Development Team on Marine Reserves established under the Council's Ad Hoc Groundfish Strategic Plan Implementation Oversight Committee made several recommendations which could be useful here. The GAP believes a process should be followed wherein the scientific criteria for marine reserves be developed by an independent scientific committee, but the actual delineation of the reserves within those criteria be done by users who are familiar with the area and the resources it contains.

Open Access Permits

The GAP has commented in the past that establishment of an open access permit system will entail considerable costs to the Council in terms of time and workload. The GAP notes that the individual states are addressing near shore open access fisheries under state management policies, and believes the state processes should be completed before the Council takes additional action on a permitting system. However, because the groundfish fishery is subject to a fishery management plan, the GAP believes the Council should be involved in the state processes and have final authority over state plans that affect the groundfish fishery.

Buyback

The GAP received a presentation from Mr. Pete Leipzig of Fishermen's Marketing Association (FMA) regarding the FMA questionnaire on buyback. The GAP urges the Council to continue forward with a buyback plan to facilitate capacity reduction. The GAP endorses the concept of all users paying the cost of buyback proportionate to the benefits they will receive.

Enforcement

The GAP recognizes the concerns expressed by the Enforcement Consultants in regard to considering enforcement costs in management measures and urges the Council to recognize these costs when deciding on management actions.

HABITAT STEERING GROUP COMMENTS
ON THE CHANNEL ISLANDS MARINE SANCTUARY PROGRAM

The Habitat Steering Group (HSG) received a presentation from staff of the Channel Islands National Marine Sanctuary and others on the current process for development of marine reserves within the Sanctuary. The HSG recommends that the Council become actively involved in the Channel Islands process to ensure that marine reserves proposed for federal waters meet the Council's goals and objectives. The HSG recognizes the need for coordination between the process that the Council has developed and the emerging Channel Islands process and recommends that the Marine Reserve Development Team serve as the coordinating body.

The final product of this Channel Islands process, proposed to be available for review some time in early summer, should be evaluated by the Council through all appropriate advisory bodies (e.g., HSG, Groundfish Advisory Subpanel, Salmon Advisory Subpanel). Further, we believe that the Council should identify criteria to evaluate marine reserves proposed outside of its process. The HSG felt that these criteria should include evaluation of a proposed reserve for its contribution to rebuilding overfished species and therefore recommend that the Channel Islands proposal include habitat of ecological importance to overfished rockfish. The HSG notes the useful analysis and modeling tools that have resulted from the Channel Islands process. This information could prove beneficial to the Council as the Council continues to move through its own process on marine reserves.

PFCM
04/03/01

SALMON ADVISORY SUBPANEL COMMENTS ON
GROUNDFISH STRATEGIC PLAN IMPLEMENTATION

The Salmon Advisory Subpanel (SAS) is becoming increasingly concerned about the potential implementation of marine reserves on the Pacific Coast, and the effects of those reserves on salmon fisheries. The SAS has consistently testified that the current salmon regulatory process is sufficient, on an annual basis, to manage our diverse salmon resource. We have asked that these protected areas not apply to commercial or recreational salmon fishing.

It is becoming abundantly clear to us that the scientific/environmental community is committed to, and strongly promoting, "no-take" marine reserves, as compared to Marine Protected Areas (MPAs) which allow certain levels and types of fishing activity. No-take means no fishing for anything whatsoever. On page 2 of a letter from the "National Center for Ecological Analysis and Synthesis" (NCEAS) there is a strong definition of marine reserves. They are exclusively no-take areas. This letter was signed by 161 scientists. This leaves no doubt in our minds that what has been adopted by the Council as "one tool in the tool bag" under the Council's strategic plan for managing groundfish is viewed by (significant) others as a coastwide network of large "no-take" areas. That will affect all fisheries, including many that the Council does not presently manage. That should concern us all.

It is our view that:

1. The Council must be the lead agency in the establishment of any type of marine protected area on the Pacific Coast. Over ninety percent of those affected will be fishermen and those living in fishing communities.
2. Marine protected areas should be established only for the protection of specific species, and as an aid to their rebuilding, and should not constrain fisheries that have little or no impact on stocks of concern.
3. Finally, we ask that you continue to include us in the process as you work your way through the Phase 2 consideration of marine reserves.

PFGC
04/04/01

SCIENTIFIC AND STATISTICAL COMMITTEE REPORT ON MARINE RESERVES

The Scientific and Statistical Committee (SSC) heard a presentation of the process to establish marine reserves in the Channel Islands National Marine Sanctuary (CINMS). The process described seems to be well designed, with guidance from scientists who are experts in their fields. Recommendations are scheduled to be forwarded to the Sanctuary Advisory Committee in May, the Channel Islands National Marine Sanctuary and California Department of Fish and Game in June, and agencies including the Council, National Oceanic and Atmospheric Administration, and the California Fish and Game Commission in the Fall of 2001.

The Council is currently exploring the possibility of establishing marine reserves. Reserves established under the Channel Islands Marine Reserves Process (CIMRP) are likely to be the first substantial reserves to be incorporated under Council management.

Much of the SSC discussion focused on the role of the Council in this process. Given the advanced state of design, negotiation, and consensus building in the marine reserves process it would be difficult for the SSC or the Council to provide much substantive input for the immediate proposal. The CIMRP presentors indicated their interest in coordinating marine reserve proposals with existing management systems that have been implemented by the Council. There is a critical need to evaluate the interaction of closed areas with existing controls. The SSC can review the products of the science and socio-economics panels to verify that their work represents sound science, keeping in mind that the science and economics of marine reserve design is a young field with much uncertainty. The Council must be present during future stages of reserve design to ensure effective integration of reserve design with fishery management.

The Council, upon determining that it supports the recommendations coming out of the process, can work to modify fishery management plans (FMPs) and other Council documents and procedures to enable implementation of the plan. Accomplishing these tasks may take one or two years and constitute a significant work load for the Council.

Following are brief notes on some observations and concerns.

- The Council has jurisdiction only over species with FMPs. Protection for other species will need to come from other authorities.
- Management of the reserves will likely require amendments to all of the Council's FMPs (Coastal Pelagic Species, Groundfish, Salmon). It will take time once reserves are designed to modify FMPs and regulations to accommodate reserves. This also provides opportunity for baseline monitoring of reserves.
- The CIMRP science panel recommended a reserve size of 30-50% of the area in their jurisdiction. They indicated that regulations prohibiting catch would be required in the reserve and that effort outside the reserve would require additional controls. The SSC requests documentation regarding the basis for the recommendations for reserve size, siting and effort control.
- Two of the goals of the process are to (1) maintain fisheries benefits and (2) maintain long-term socio-economic viability while minimizing short-term losses. The SSC requests documentation of the cost-benefit analysis relative to these goals.
- Enforcement requirements depend on the areas designated. The CIMRP science panel recommends a network of reserves ranging in size from 10 to 100 square kilometers. This recommendation will need to be reconciled with enforcement considerations: enforcement may or may not be easier with fewer, larger reserve areas.
- Performance criteria based on appropriate monitoring programs have to be identified to maximize information gain from the reserve system and to evaluate its effectiveness. The presenters acknowledged that this has not yet been done, and solicited suggestions.



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

May 16, 2001

Donald O. McIsaac, Ph.D.
Executive Director
Pacific Fisheries Management Council
2130 SW Fifth Avenue, Suite 224
Portland, Oregon 97201

MAY 22 2001

Dear Dr. McIsaac:

We welcomed the opportunity to provide a progress report on the joint State and Federal process considering marine reserves in the Channel Islands National Marine Sanctuary (Sanctuary). Enclosed you will find the additional technical information the Pacific Fishery Management Council (Council) and the Council advisory bodies requested. We are not asking for any Council action at this time.

Regarding your legal question, no, the Sanctuary program-wide regulations do not provide authority to promulgate fishing regulations for the Sanctuary. The Sanctuary Designation Document (the charter for the Sanctuary) does not currently provide such authority either. Accordingly, the Sanctuary Designation Document would have to be amended, were we to seek to promulgate fishing regulations.


There are two related processes to keep in mind regarding future integration of reserves into marine management in California. The first is the Channel Islands National Marine Sanctuary Management Plan revision, a process guided by the National Marine Sanctuaries Act and NEPA, that will result in a Draft Environmental Impact Statement, Management Plan and proposed regulations later this year. There will likely be regulatory changes that will require changes to the Sanctuary Designation Document. Secondly, the Department of Fish and Game is implementing the Marine Life Protection Act (MLPA), which will detail a comprehensive marine protected areas system for the State of California. The MLPA process plans to integrate the results of the Channel Islands Reserves Process.

We recognize the Council is also considering the role of marine reserves for particular fisheries. In the near future we will need to work together to determine the most efficient policy avenue to coordinate these various processes. The key to coordinating reserves with existing marine resource management will be our continued communication and collaboration. This coordination will require the involvement of all of our agencies from administration to enforcement to monitoring. We welcome your input and involvement with these coordination issues.

The Department of Fish and Game and I look forward to providing a brief status report at the June Council meeting, and would be happy to meet with the advisory bodies as well. If there is interest, we can demonstrate the GIS-based decision support tool and the habitat-based Sites v.1 model or any other technical aspects of the Channel Islands Reserves Process.

Specific Council questions related to the economic analysis may be directed to Bob Leeworthy, the project's lead NOAA economist, at (301) 713-3000 x138. Questions on the scientific recommendation may be directed to Satie Airame, the post-doctoral support for the Reserves Science Panel at (805) 966-7107. If there are general process related questions or additional information needs, please contact Sean Hastings, CINMS staff, at (805) 966-7107 or John Ugoretz, DFG staff, at (805) 568-1582.

Sincerely,


Matthew H. Pickett
Sanctuary Manager



May 16, 2001

Enclosures:

Designation Documents

65198-65206 / Federal Register / Vol. 45, No. 193 / Thursday, October 2, 1980 / Final Rule
19227-19228 / Federal Register / Vol. 46, No. 60 / Monday, March 30, 1981 / Notice of deferral of
effective date of final rules; request for comments
47770-47771 / Federal Register / Vol. 46, No. 189 / Wednesday, September 30, 1981 / Final Rule

16 U.S.C. 1431 et. seq. National Marine Sanctuaries Act

Socio-Economic Information

Data Distributions and Exclusion Zones – Commercial Fishing –Recreation (provided to Council Staff and
sub-panels, April 2001)
Ethnographic Data Survey - Channel Islands National Marine Sanctuary

Scientific Information

Marine Reserves Science Panel Recommendation and supporting materials
Species of Interest in the Channel Islands National Marine Sanctuary

Public Outreach and Comments

Summary of Public Comments to Date
Alolkoy, Spring 2001

Cc:

Daniel Basta, NOAA
Stephanie Campbell, NOAA
Margo Jackson, NOAA
Dianne Meester, Sanctuary Advisory Council
Vernon R. (Bob) Leeworthy, NOAA
Robert Hight, Department of Fish and Game
Robert Treanor, California Fish and Game Commission
LB Boydston, Department of Fish and Game

Port Huron, MI—St. Clair County Intl, VOR/DME—A, Amdt. 2
 Robbinsville, NJ—Trenton-Robbinsville, VOR Rwy 29, Amdt. 8
 Farmington, NM—Farmington Muni, VOR/DME Rwy 7, Amdt. 1
 Farmington, NM—Farmington Muni, VOR Rwy 25, Amdt. 3
 Devils Lake, ND—Devils Lake Muni, VOR Rwy 13, Amdt. 5
 Devils Lake, ND—Devils Lake Muni, VOR Rwy 31, Amdt. 2
 Borger, TX—Hutchinson County, VOR Rwy 17, Amdt. 4
 Borger, TX—Hutchinson County, VOR/DME Rwy 35, Original
 Melfa, VA—Accomack County, VOR/DME Rwy 2, Amdt. 2

*** Effective September 18, 1980

Elizabeth City, NC—Elizabeth City Coast Guard Air Base/Muni, VOR Rwy 1, Amdt. 6
 Elizabeth City, NC—Elizabeth City Coast Guard Air Base/Muni, VOR Rwy 19, Amdt. 5

*** Effective September 12, 1980

Oakland, CA—Metropolitan Oakland Intl, VOR/DME Rwy 27L, Amdt. 10

§ 97.25 [Amended]

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

*** Effective November 13, 1980

San Luis Obispo, CA—San Luis Obispo County, LOC Rwy 11, Amdt. 1
 Lake Charles, LA—Lake Charles Muni, LOC BC Rwy 33, Amdt. 11
 Lubbock, TX—Lubbock Intl, LOC BC Rwy 35L, Amdt. 9
 Lufkin, TX—Angelina County, LOC Rwy 7, Original
 Wichita Falls, TX—Sheppard AFB/Wichita Falls Muni, LOC BC Rwy 15R, Amdt. 9

*** Effective October 30, 1980

Watertown, SD—Watertown Muni, LOC/DME BC Rwy 17, Amdt. 3

§ 97.27 [Amended]

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

*** Effective November 27, 1980

Sheldon, IA—Sheldon Muni, NDB Rwy 33, Amdt. 3
 El Dorado, KS—El Dorado Muni, NDB Rwy 4, Original

*** Effective November 13, 1980

Lafayette, LA—Lafayette Regional, NDB Rwy 10, Original
 Lake Charles, LA—Lake Charles Muni, NDB Rwy 15, Amdt. 14
 Port Huron, MI—St. Clair County Intl, NDB Rwy 4, Amdt. 7
 St. Paul, MN—Lake Elmo, NDB-A, Amdt. 1
 Sedalia, MO—Sedalia Memorial, NDB Rwy 18, Amdt. 5
 Sedalia, MO—Sedalia Memorial, NDB Rwy 36, Amdt. 6
 Fremont, NE—Fremont Muni, NDB Rwy 13, Amdt. 3

Okmulgee, OK—Okmulgee Muni, NDB Rwy 17, Amdt. 1
 Giddings, TX—Giddings-Lee County, NDB Rwy 17, Original
 Lufkin, TX—Angelina County, NDB Rwy 7, Original
 Melfa, VA—Accomack County, NDB Rwy 2, Amdt. 3

*** Effective October 30, 1980

Mount Pocono, PA—Mount Pocono, NDB-A, Amdt. 6, cancelled
 Watertown, SD—Watertown Muni, NDB Rwy 35, Amdt. 3
 Pennington Gap, VA—Lee County, NDB-A, Original

*** Effective September 23, 1980

Greenville, AL—Greenville Muni, NDB Rwy 32, Amdt. 3

*** Effective September 18, 1980

Elizabeth City, NC—Elizabeth City Coast Guard Air Base/Muni, NDB-A, Amdt. 6

*** Effective September 12, 1980

Oakland, CA—Metropolitan Oakland Intl, NDB Rwy 27R, Amdt. 1

§ 97.29 [Amended]

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

*** Effective November 13, 1980

Yuma, AZ—Yuma MCAS/Yuma Intl, ILS Rwy 21R, Amdt. 3
 Lake Charles, LA—Lake Charles Muni, ILS Rwy 15, Amdt. 14
 Baltimore, MD—Baltimore-Washington Intl, ILS Rwy 10, Amdt. 9
 Baltimore, MD—Baltimore-Washington Intl, ILS Rwy 15R, Amdt. 10
 Baltimore, MD—Baltimore-Washington Intl, ILS Rwy 28, Amdt. 4
 Baltimore, MD—Baltimore-Washington Intl, ILS Rwy 33L, Amdt. 2
 Okmulgee, OK—Okmulgee Muni, ILS Rwy 17, Amdt. 1
 Lubbock, TX—Lubbock Intl, ILS Rwy 17R, Amdt. 14

*** Effective October 30, 1980

Watertown, SD—Watertown Muni, ILS Rwy 35, Amdt. 5

*** Effective September 12, 1980

Oakland, CA—Metropolitan Oakland Intl, ILS Rwy 27R, Amdt. 29

§ 97.31 [Amended]

5. By amending § 97.31 RADAR SIAPs identified as follows:

*** Effective November 13, 1980

Baltimore, MD—Baltimore-Washington Intl, RADAR 1, Amdt. 8

§ 97.33 [Amended]

6. By amending § 97.33 RNAV SIAPs identified as follows:

*** Effective November 13, 1980

Yuma, AZ—Yuma MCAS/Yuma Intl, RNAV Rwy 21R, Amdt. 3

Baltimore, MD—Baltimore-Washington Intl, RNAV Rwy 22, Amdt. 4
 Port Huron, MI—St. Clair County Intl, RNAV Rwy 4, Amdt. 4
 Port Huron, MI—St. Clair County Intl, RNAV Rwy 22, Amdt. 4
 Marshall, TX—Harrison County, RNAV Rwy 33, Original

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C. on September 26, 1980.

John S. Kern,
 Acting Chief, Aircraft Programs Division.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

(FR Doc. 80-30727 Filed 10-1-80; 8:45 am)

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 935

The Channel Islands National Marine Sanctuary

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce

ACTION: Final rule.

SUMMARY: The Office of Coastal Zone Management within NOAA is issuing the Designation and final regulations for the Channel Islands National Marine Sanctuary off the coast of California (the Sanctuary). The Sanctuary was designated on September 22, 1980, after receiving Presidential approval on September 21, 1980. The Designation Document acts as a constitution for the Sanctuary establishing its boundaries, purposes and the activities subject to regulations. The regulations establish in accordance with the terms of the Designation the limitations and prohibitions on the activities regulated within the Sanctuary, the procedures for which persons may obtain permits for prohibited activities, and the penalties for committing prohibited activities.

DATE: The Designation and these implementing regulations are expected to become effective upon the expiration of a period of 60 calendar days of continuous session of Congress after their transmittal to Congress, concurrent with publication. This 60-day period is interrupted if Congress takes certain adjournments and the continuity of session is broken by an adjournment sine die. During the first 60 days after publication the Governor of California may certify that any terms of the Designation are unacceptable as they apply to State waters in which case the Designation and regulations shall be modified and may be withdrawn entirely. Therefore, the effective date can be determined by calling or writing the contact identified below. Also notification will be published in the Federal Register when the designation becomes effective.

FOR FURTHER INFORMATION CONTACT: Dallas Miner, Director, Sanctuary Programs Office, Office of Coastal Zone Management, 3300 Whitehaven Street, N.W. Washington, D.C. 20235, (202) 634-4236.

SUPPLEMENTARY INFORMATION: Title III of the Marine Protection Research and Sanctuaries Act of 1972, as amended, 16 USC 1431-1434 (the Act) authorizes the Secretary of Commerce, with Presidential approval, to designate ocean waters as far seaward as the outer edge of the Continental Shelf as marine sanctuaries to preserve or restore distinctive conservational, recreational, ecological, or aesthetic values. Section 302(f)(1) of the Act directs the Secretary to issue necessary and reasonable regulations to control activities permitted within a designated marine sanctuary. The authority of the Secretary to administer the provisions of the Act has been delegated to the Assistant Administrator for Coastal Zone Management within the National Oceanic and Atmospheric Administration, U.S. Department of Commerce (the Assistant Administrator).

On September 21, 1980, the Assistant Administrator received the President's approval to designate as a marine sanctuary an area of the waters off the coast of California, adjacent to the northern Channel Islands and Santa Barbara Island (the Islands), seaward to a distance of 8 nautical miles (nm). The area was so designated on September 22, 1980. However, since the Sanctuary includes waters within the seaward boundary of California, the Governor of California has 60 days in which to certify that any of the terms of the Designation are unacceptable to the

State in which case the terms certified will not become effective within State waters. In this event the regulations must be modified accordingly or the entire Designation may be withdrawn if it no longer meets the objectives of the Act, the regulations and the original Designation (see 15 CFR 922.26(e)). In addition the Act, as amended by Public Law 96-332, provides that the Designation becomes effective unless Congress disapproves it or any of its terms by a concurrent resolution adopted by both Houses "before the end of the first period of sixty calendar days of continuous session" after transmittal of the Designation to Congress (Section 302(b)(1) and 302(h)). This provision raises constitutional questions as noted by the President in his statement of August 29, 1980, signing Public Law 96-332 but will be treated as a "report-and-wait" provision in accordance with that statement. Consequently, the Designation and the regulations will not become effective until after the 60-day period described in Section 302(h). This period does not include those days on which either House is adjourned for more than 3 days to a day certain and is broken by an adjournment sine die. In view of Congress' schedule for the next few months, it is unlikely that this Designation and regulations will become effective before March 1981. Notification of the effective date will be published in the Federal Register at this time.

The Waters included in the Sanctuary, located in an area of upwelling and in a transition zone between the cold waters of the California Current and the warmer Southern California Countercurrent, support an exceptionally rich and varied biota, including one of the world's most diverse concentrations of marine mammals, several endangered species, and numerous seabirds. Although the area also sustains a variety of human uses, it is one of very few areas on the Southern California coast that has remained relatively unaltered. However, use of the Santa Barbara Channel is increasing and additional pressure is being placed on the resources from a number of activities. Accordingly, the primary purpose of managing the area and of these implementing regulations is to protect and to preserve the marine birds and mammals, their habitats and other natural resources from those activities which pose significant threats. Such activities include: discharges except for fish cleaning wastes and chumming materials, certain discharges incidental to vessel use of the area such as effluents from marine sanitation devices, engine exhaust and cooling

waters, biodegradable galley wastes, and deck wash down, and discharges incidental to allowed hydrocarbon operations [Sec. 935.7(a)(1)]; construction on or alteration of the seabed except for navigational aids or in connection with allowed hydrocarbon operations [Sec. 935.7(a)(2)]; the unnecessary operation of certain commercial vessel or aircraft in the vicinity of important habitats with 1 nm of the islands and at lower than 1000 feet in the case of aircraft [Sec. 935.7(a)(3) and (4)]. All prohibitions must be applied consistently with recognized principles of international law.

To reduce the possibility of damage to the resources by pollution, hydrocarbon exploration and exploitation under leases issued after the effective date of these regulations will be prohibited [Sec. 935.8(c)]. Hydrocarbon operations under existing leases may continue subject to all conditions imposed by other authorities, including in particular the U.S. Geological Survey in its operating orders, the Environmental Protection Agency (EPA) through permits issued under section 402 of the Clean Water Act, 33 U.S.C. 1432, (known as NPDES permits), and the California Coastal Commission through its consistency determinations [Sec. 935.8(a)].

In addition, operators must maintain adequate oil spill contingency equipment on site [Sec. 935.8(b)].

The regulation of fishing and kelp harvesting in the Sanctuary waters will remain the responsibility of the California Department of Fish and Game, the Pacific Regional Fishery Management Council, and the National Marine Fisheries Service pursuant to the Fishery Conservation and Management Act of 1976, 16 USC 1801 *et seq.* (see Article 5, Section 1 of the Designation Document) although fishing vessels are subject to the same discharge regulations as other vessels [Sec. 935.7(a)(1)].

On December 5, 1979, NOAA published proposed regulations for the Sanctuary in the Federal Register (44 FR 69970) and at the same time issued a Draft Environmental Impact Statement (DEIS) which described in detail the proposed regulatory regime and alternatives to it. After consideration of the comments, an FEIS was issued on June 6, 1980 which described a somewhat revised regulatory regime. Some additional comments were received on the FEIS but the regulations discussed in the FEIS and those published here are substantially identical. The significant comments on the proposed regulations and the regulatory elements of the impact

statement and NOAA's responses to them follow:

(1) A number of reviewers, including California Coastal Commission, the County of Supervisors of Santa Barbara County, and numerous public interest groups, felt that the entire Santa Barbara Channel from Point Arguello to Point Mugu and the waters extending 12 nm around the northern Channel Islands and Santa Barbara Island should be designated as a marine sanctuary and therefore subject to the proposed regulations. They argued that:

(a) The natural resources described in the DFIS are found throughout the Channel; indeed, some are most prevalent beyond the boundary proposed.

(b) Because of the circular nature of the water currents in the Channel, activities occurring in the Channel beyond the 6 nm boundary are likely to affect the waters near the Islands.

(c) Coordinated management of the resources and activities of the proposed sanctuary is realistically possible only on a Channel-wide basis.

Some commentators further argued that the marine sanctuary should institute a moratorium on leasing for oil and gas development throughout the entire area since an oil spill anywhere in the Channel could adversely impact the nearshore island waters and the other resources of value located throughout the Channel.

Response

Important biological and ecological resources do occur in the Channel beyond the proposed marine sanctuary and the larger marine area is ecologically interrelated and valuable. However, some of these resources are substantially dispersed, and areas beyond the proposed boundary are not generally characterized by intense concentrations of marine mammals and seabirds. In comparison, the use of the nearshore island waters by seabirds and marine mammals appears to be qualitatively different than their use of other waters of the Channel.

At the same time, development and use levels are higher beyond 6 nm from the Islands. Most of the current and past hydrocarbon development in the Channel is near the mainland. Tankers and freighters travel through the Channel in large numbers. Coastal development, both residential and industrial, results in the discharge of wastes into the Channel and dredging and construction. Other economically important projects, such as the construction of a liquid natural gas terminal at Point Conception, would be encompassed in a larger boundary.

While it is true that some incidents elsewhere in the Channel—a major oil spill, for example—could harm the natural resources of the sanctuary area, the risk of damage from such a spill must be weighed against the costs of the exclusion of oil and gas operations. The economic consequences of prohibiting future oil and gas development in the suggested larger area are substantial. The Santa Barbara Channel is an area of proven offshore oil reserves; the oil and gas industry ranks it as the third most promising area for oil and gas exploration off the U.S. coast. While no economically recoverable reserves have been discovered within 6 nm of the Islands to date, oil production in other portions of the Channel has been occurring since 1896. The oil spill contingency requirements, operating orders, lease stipulations and other restrictions imposed by the Department of the Interior and the California Coastal Commission provide some protection against oil pollution. While these precautions cannot completely forestall the possibility of an oil spill, the distance between most hydrocarbon activities in the Channel and the nearshore island waters, which the proposed sanctuary buffer guarantees, will provide time for cleanup activities before the oil can reach shore, and will also allow time for the spilled oil to weather and thus lose its most toxic parts before it reaches the nearshore island waters.

(2) A second group of commentators took a position opposite from those who wanted to expand the sanctuary, maintaining that no sanctuary should be designated, since existing regulatory authorities already provide enough protection for the natural resources. They felt a marine sanctuary would only add an unnecessary and expensive layer of Federal bureaucracy.

Response

The many Federal and State agencies which exercise authority in the Channel do provide a considerable degree of regulatory protection. However, the extraordinary diversity of natural resources concentrated in the waters around the northern Channel Islands and Santa Barbara Island deserve additional attention beyond that provided by the present institutional structure.

The marine sanctuary program, unlike other programs which have jurisdiction in the area of the proposed sanctuary, includes a mechanism to focus on this particular geographically defined marine area and to provide comprehensive management and planning to preserve the resources of the site. Other statutes

either focus on management of much smaller areas, single resources, or have resource protection only as an ancillary goal. Marine sanctuary planning and management also includes provision for research and monitoring of the condition of the resources to assure long-term protection and maximum safe use and enjoyment; other statutes do not provide in most cases the same geographically focused, comprehensive research and monitoring effort. An educational element of the program heightens public awareness of the value of the resources and thereby reduces the potential for harm; again, this aspect of the marine sanctuary program is unavailable under the present system.

Although certain uses of the area do not now seriously threaten resource quality, they could have more significant impact if and when activities increase. The current multitude of regulatory authorities, many of which have different objectives and jurisdictions, may not be able to respond to future activities on the basis of ecosystem issues. Furthermore, some agencies suffer from limited enforcement resources. Because these waters contain so many beneficial uses, the special planning and study possible in a marine sanctuary is necessary to ensure that they are used and preserved in the future as effectively as possible.

(3) The Department of the Interior and the Marine Mammal Commission, questioned excluding fishing as an activity subject to regulation. Representatives of the oil industry felt that it was discriminatory to exclude fishing from possible additional sanctuary regulation while regulating oil and gas activities.

Response

NOAA supports the view that duplicative regulations should be avoided wherever possible. After evaluation, NOAA concluded that the existing authorities specifically mandated to manage fishing, e.g. the California Department of Fish and Game within state waters and the Pacific Fisheries Management Council outside of state waters, should continue management. The interests of these agencies are parallel to the interests of NOAA in managing the Sanctuary, preserving the stocks and their habitats. Therefore, there is no reason to anticipate that the decisions of either agency will differ systematically from those NOAA might make and there is no necessity for NOAA assuming a regulatory role.

Clearly oil and gas activities pose a different type of threat than do fishing activities. Even if the specific operations

statement and NOAA's responses to them follow:

(1) A number of reviewers, including the California Coastal Commission, the Board of Supervisors of Santa Barbara County, and numerous public interest groups, felt that the entire Santa Barbara Channel from Point Arguello to Point Mugu and the waters extending 12 nm around the northern Channel Islands and Santa Barbara Island should be designated as a marine sanctuary and therefore subject to the proposed regulations. They argued that:

(a) The natural resources described in the DEIS are found throughout the Channel; indeed, some are most prevalent beyond the boundary proposed.

(b) Because of the circular nature of the water currents in the Channel, activities occurring in the Channel beyond the 6 nm boundary are likely to affect the waters near the Islands.

(c) Coordinated management of the resources and activities of the proposed sanctuary is realistically possible only on a Channel-wide basis.

Some commentators further argued that the marine sanctuary should institute a moratorium on leasing for oil and gas development throughout the entire area since an oil spill anywhere in the Channel could adversely impact the nearshore Island waters and the other resources of value located throughout the Channel.

Response

Important biological and ecological resources do occur in the Channel beyond the proposed marine sanctuary and the larger marine area is ecologically interrelated and valuable. However, some of these resources are substantially dispersed, and areas beyond the proposed boundary are not generally characterized by intense concentrations of marine mammals and seabirds. In comparison, the use of the nearshore Island waters by seabirds and marine mammals appears to be qualitatively different than their use of other waters of the Channel.

At the same time, development and use levels are higher beyond 6 nm from the Islands. Most of the current and past hydrocarbon development in the Channel is near the mainland. Tankers and freighters travel through the Channel in large numbers. Coastal development, both residential and industrial, results in the discharge of wastes into the Channel and dredging and construction. Other economically important projects, such as the construction of a liquid natural gas terminal at Point Conception, would be encompassed in a larger boundary.

While it is true that some incidents elsewhere in the Channel—a major oil spill, for example—could harm the natural resources of the sanctuary area, the risk of damage from such a spill must be weighed against the costs of the exclusion of oil and gas operations. The economic consequences of prohibiting future oil and gas development in the suggested larger area are substantial. The Santa Barbara Channel is an area of proven offshore oil reserves; the oil and gas industry ranks it as the third most promising area for oil and gas exploration off the U.S. coast. While no economically recoverable reserves have been discovered within 6 nm of the Islands to date, oil production in other portions of the Channel has been occurring since 1896. The oil spill contingency requirements, operating orders, lease stipulations and other restrictions imposed by the Department of the Interior and the California Coastal Commission provide some protection against oil pollution. While these precautions cannot completely forestall the possibility of an oil spill, the distance between most hydrocarbon activities in the Channel and the nearshore Island waters, which the proposed sanctuary buffer guarantees, will provide time for cleanup activities before the oil can reach shore, and will also allow time for the spilled oil to weather and thus lose its most toxic parts before it reaches the nearshore Island waters.

(2) A second group of commentators took a position opposite from those who wanted to expand the sanctuary, maintaining that no sanctuary should be designated, since existing regulatory authorities already provide enough protection for the natural resources. They felt a marine sanctuary would only add an unnecessary and expensive layer of Federal bureaucracy.

Response

The many Federal and State agencies which exercise authority in the Channel do provide a considerable degree of regulatory protection. However, the extraordinary diversity of natural resources concentrated in the waters around the northern Channel Islands and Santa Barbara Island deserve additional attention beyond that provided by the present institutional structure.

The marine sanctuary program, unlike other programs which have jurisdiction in the area of the proposed sanctuary, includes a mechanism to focus on this particular geographically defined marine area and to provide comprehensive management and planning to preserve the resources of the site. Other statutes

either focus on management of much smaller areas, single resources, or have resource protection only as an ancillary goal. Marine sanctuary planning and management also includes provision for research and monitoring of the condition of the resources to assure long-term protection and maximum safe use and enjoyment; other statutes do not provide in most cases the same geographically focused, comprehensive research and monitoring effort. An educational element of the program heightens public awareness of the value of the resources and thereby reduces the potential for harm; again, this aspect of the marine sanctuary program is unavailable under the present system.

Although certain uses of the area do not now seriously threaten resource quality, they could have more significant impact if and when activities increase. The current multitude of regulatory authorities, many of which have different objectives and jurisdictions, may not be able to respond to future activities on the basis of ecosystem issues. Furthermore, some agencies suffer from limited enforcement resources. Because these waters contain so many beneficial uses, the special planning and study possible in a marine sanctuary is necessary to ensure that they are used and preserved in the future as effectively as possible.

(3) The Department of the Interior and the Marine Mammal Commission, questioned excluding fishing as an activity subject to regulation. Representatives of the oil industry felt that it was discriminatory to exclude fishing from possible additional sanctuary regulation while regulating oil and gas activities.

Response

NOAA supports the view that duplicative regulations should be avoided wherever possible. After evaluation, NOAA concluded that the existing authorities specifically mandated to manage fishing, e.g. the California Department of Fish and Game within state waters and the Pacific Fisheries Management Council outside of state waters, should continue management. The interests of these agencies are parallel to the interests of NOAA in managing the Sanctuary, preserving the stocks and their habitats. Therefore, there is no reason to anticipate that the decisions of either agency will differ systematically from those NOAA might make and there is no necessity for NOAA assuming a regulatory role.

Clearly oil and gas activities pose a different type of threat than do fishing activities. Even if the specific operations

(e.g., erecting the necessary structures, depositing drill muds and cuttings) do not cause significant damage, there remains the possibility of a major spill resulting in serious damage and the potential for long-term adverse impacts from chronic pollution by hydrocarbons and drill muds and other disturbance of sensitive habitat. The decisions with respect to oil and gas relate primarily to the degree of risk one is willing to assume. Here it seems reasonable that, over the long-term, as the agency entrusted with the preservation of the Sanctuary, NOAA is likely to accept less risk than many other agencies involved with authority over these activities and thus should assert jurisdiction.

(4) Recreational boating associations and others commented that the regulation on vessel traffic was worded in a confusing manner and could be interpreted as prohibiting recreational and research vessels within 1 nm of the Islands. In addition, the Coast Guard pointed out that the prohibition of certain discharges in section 935.7(a)(1) could have the unintended affect of precluding recreational boating. Unless the language is clarified so that recreational boating is clearly allowed, many felt the sanctuary should not be designated.

Response

The proposed regulation on vessel traffic was somewhat confusing. NOAA never intended to prohibit recreational vessel traffic in the Sanctuary. The prohibition on certain commercial vessel traffic within one nautical mile of the Islands was aimed at tankers, freighters, barges, and OCS supply vessels. Section 935.7(a)(3) was reworded to clarify this intent. The prohibition on discharges also has been rewritten to ensure that recreational boating will not be precluded but that harmful practices will be restricted.

(5) The marine sanctuary should require vessels transiting the Santa Barbara channel to adhere to the Vessel Traffic Separation Scheme (VTSS) established by the U.S. Coast Guard.

Response

Most commercial vessel traffic already adheres to the Coast Guard's designated VTSS in the Channel. In addition, the Coast Guard is conducting a Port Access Route (PAR) study for the California coast, and the Santa Barbara Channel is under careful consideration as part of that study. Under the 1978 amendments to the Ports and Waterways Safety Act, the Coast Guard has the authority to make shipping lanes mandatory and will exercise that power

for the entire Santa Barbara Channel if the PAR study indicates that that is the best course of action. NOAA has commented on the Coast Guard's PAR study, and the Coast Guard must take the Channel Islands marine sanctuary into consideration in its decision, as well as the other complicated issues of use, location, and safety of navigation. Since the study is incomplete, it is premature and inadvisable for NOAA to take any action concerning the VTSS.

(6) Several commentors, including the State of California, said that the Sanctuary should prohibit the placement of structures, principally platforms for oil and gas production, in or near the Vessel Traffic Separation Scheme.

Response

The Sanctuary regulations prohibit hydrocarbon activities pursuant to any lease executed after the effective date of the regulations. As to any structure which might be erected pursuant to an existing lease, the Coast Guard is currently conducting a major review of this issue as part of its southern California PAR study. Should the Coast Guard conclude that a prohibition is warranted, it has the authority under the Ports and Waterways Safety Act amendments of 1978 to implement it. The California Coastal Commission presently considers the placement of structures in or within 500 m of a VTSS to be inconsistent with California Coastal Zone Management Program and, based on Coast Guard recommendations, permits granted by the Army Corps of Engineers to date prohibit them inside the sea lanes or within a quarter mile of the sea lane boundaries.

Given the current review of the situation by the Coast Guard, NOAA has determined not to propose Sanctuary regulations at this time. The alternative regulatory approach would be case-by-case review by the Sanctuary of each decision to locate a structure in a VTSS. Given the existence of at least two levels of case-by-case review where environmental concerns are taken into account, institution of another review during the interim appeared inappropriate.

(7) The State of California and one kelp harvester expressed concern that the regulations as proposed might limit or restrict kelp harvesting. Two environmental groups thought that NOAA should consider regulating this activity.

Response

In proposing the Sanctuary, NOAA did not consider kelp harvesting to be one of the activities that was necessary

or desirable to regulate. The activity occurs entirely within California waters and is carefully regulated by the State Department of Fish and Game, which has found no evidence of harm from the harvesting of this renewable resource. NOAA's intent has been clarified in Article 5, Section 1 of the Designation and Section 935.7(a)(3) of the regulations.

(8) The Coast Guard and some recreational boaters and commercial fishermen were concerned that Section 935.7(a)(2)(C) prohibiting altering "the seabed in any way" might be interpreted to preclude anchoring and bottom trawling. Exxon commented that anchoring should be "proposed as a regulated activity to protect coral."

Response

No regulation of anchoring is proposed. Because the coral at issue, *Allopora californica*, grows in scattered formations rather than in reefs, it is less likely to be damaged by anchoring than the coral in existing or proposed sanctuaries such as Key Largo and the Flower Gardens Banks. Should NOAA's monitoring programs indicate that there are concentrations of coral that require protection from anchoring, appropriate regulations can be proposed. Section 937.7(a)(2) has been rewritten to clarify that it does not prohibit anchoring and bottom trawling.

(9) The Coast Guard opposed "any action which might set the stage for future attempts by any other agency to regulate movement of shipping" and therefore advocated precluding such a possibility in the Designation Document except that NOAA could enact a narrow prohibition for commercial vessels within 1 nautical mile of the Islands, provided they were not within a VTSS or PAR designated by the Coast Guard.

Response

NOAA has rewritten the documents concerning the proposed sanctuary to eliminate any conflict with any VTSS or PAR designated by the Coast Guard, as long as the VTSS or PAR lies beyond one nm from the Islands. The Designation Document now specifically exempts navigation within a designated VTSS or PAR from any Sanctuary regulation (see Article 4, Section 1).

The regulations also make it clear that no additional regulation of vessel traffic outside of the 1 nm is proposed at this time. Although no specific need for additional regulation is foreseen, NOAA feels it should retain the option should the need arise.

(10) The Coast Guard, some recreational boaters, and commercial fishing interests were concerned that the

prohibitions on discharges as written might limit boating in the area in ways unanticipated by NOAA.

Response

Section 935.7(a)(1) has been rewritten to include specific exemptions for fish parts, cooling water, marine sanitation devices, engine exhaust, deck wash down, and other effluents incidental to routine vessel use.

(11) One commentator believed that the economic effects of prohibiting oil and gas operations under future leases would be sufficiently severe that NOAA should undertake a regulatory analysis to comply with the President's Executive Order No. 12044.

Response

At the time the notice of proposed rulemaking and draft environmental impact statement were published, it was evident that the economic impacts of the regulations would not be sufficient to require a regulatory analysis. Furthermore, both the costs and benefits of these regulations are somewhat speculative and not easily quantifiable so that the value of a regulatory analysis is marginal at best. Nevertheless, in response to the comment, NOAA contracted for an independent analysis which confirmed that the economic impacts were below all the thresholds for a regulatory analysis and were generally negligible.

The Sanctuary regulations are not expected to have an effect greater than \$30 million on the economy as a whole during any one year. Without a Sanctuary, peak oil and gas production would be reached in 1992 when the total effect of the prohibition would amount to \$29.96 million. The effects on industry and the relevant geographic region are expected to be \$1.5 and \$4.7 million respectively during the peak production year. Essentially no impact is expected on consumers, costs or prices, productivity, employment, supplies of goods and services or competition. These estimates are based on a generous estimate of the hydrocarbon reserves available within the Sanctuary—double the only available U.S. Geological Survey (USGS) estimate for a portion of the Sanctuary.

(12) Oil and gas industry representatives disagreed with NOAA's estimate of hydrocarbon resource potential in the proposed Sanctuary and urged that the regulation be abandoned due to the adverse social and economic impacts of restricting oil and gas production in this area.

Response

Although the extent of hydrocarbon resources in the area remains subject to dispute, several facts indicate that restrictions on operations within 6 nm of the Islands will not result in foregoing a significant amount of oil and gas. Estimates of foregone resources relate only to the area from 3 to 6 nm within the Sanctuary because State legislation precludes leasing and operations within the territorial sea, unless Federal operations on adjacent leases threaten to drain basins under State lands. For the unleased area of the Federal Outer Continental Shelf within the Sanctuary, only one official estimate of resources is available. The USGS has projected that 24 tracts located on the mainland side of the Islands offer potential to recover only 5.7 million barrels of oil and 8.9 billion cubic feet of gas. These tracts represent a portion of the Sanctuary but other indications tend to confirm the likelihood of limited resources. First, nineteen tracts in the Sanctuary leased in sales up to 1973 have expired without any development or production activity by the oil and gas industry, even though exploratory drilling had occurred on at least seven of these tracts. Second, industry indicated extremely limited interest in the tracts located within the Sanctuary when these areas, excluding the 24 tracts discussed above, were included in the Call for Nominations for Lease Sale No. 66. Industry expressed no or low interest in 73 percent of the tracts or portions thereof within the Sanctuary which were included in the Call. Third, the existing pattern of hydrocarbon development indicates that the high resource potential areas occur close to the mainland, predominantly in State waters.

Industry commentators stated that finds within the Sanctuary area could range from 40 to 100 million barrels. However, this estimate extrapolates from inconclusive data based on activities on a small number of existing leases in and near the Sanctuary and dismisses both the official USGS estimate and the other indications of limited resources described above. In the light of the conflicting estimates and the ability to modify the regulations in the future, if evidence from exploratory drilling on existing tracts in the Sanctuary and tracts adjacent to the Sanctuary supports such action, the regulation is reasonable and is unlikely to preclude access to significant oil and gas resources.

(13) The California Coastal Commission requested that Section 935.12 (Amendments) of the Proposed

Final Regulations, as presented in the FEIS, be deleted.

Response

This Section had two objectives. First, it restated the applicability of the Federal Consistency Provisions of the Coastal Zone Management Act to any significant changes in Sanctuary regulations affecting Federal waters within the Sanctuary. Second, the proposed provisions gave the State flexibility in considering proposed development activities in State waters within the proposed Sanctuary. Since the State comments indicated that the proposed amendments were not necessary to achieve its purposes in protecting State waters and since the first portion of the proposed provision merely restated existing law, proposed Section 935.12 has been deleted.

The Designation Document

The Act and NOAA's general Marine Sanctuary regulations (15 CFR Part 922, 44 FR 44831, July 31, 1979) provide that the regulatory system for a marine sanctuary will be established by two documents, a Designation Document and the regulations issued pursuant to Section 302(f)(2) of the Act. The Designation Document will serve as a constitution for the Sanctuary, establishing among other things the purposes of the Sanctuary, the types of activities that may be subject to regulation within it and the extent to which other regulatory programs will continue to be effective.

As approved by the President on September 21, 1980, the Channel Islands National Marine Sanctuary Designation Document provides as follows:

Final Designation Document

Designation of the Channel Islands National Marine Sanctuary

Preamble

Under the authority of the Marine Protection, Research and Sanctuaries Act of 1972, Pub. L. 92-532, (the Act) the waters surrounding the northern Channel Islands and Santa Barbara Island are hereby designated a Marine Sanctuary for the purposes of preserving and protecting this unique and fragile ecological community.

Article 1. Effect of Designation

Within the area designated as the Channel Islands National Marine Sanctuary (the Sanctuary), described in Article 2, the Act authorizes the promulgation of such regulations as are reasonable and necessary to protect the values of the Sanctuary. Article 4 of this Designation lists those activities which

may require regulation but the listing of any activity does not by itself prohibit or restrict it. Restrictions or prohibitions may be accomplished only through regulation, and additional activities may be regulated only by amending Article 4.

Article 2. Description of the Area

The Sanctuary consists of an area of the waters off the coast of California, of approximately 1252.5 square nautical miles (nm), adjacent to the northern Channel Islands and Santa Barbara Island seaward to a distance of 8 nm. The precise boundaries are defined by regulation.

Article 3. Characteristics of the Area That Give it Particular Value

The Sanctuary is located in an area of upwelling and in a transition zone between the cold waters of the California Current and the warmer Southern California Countercurrent. Consequently, the Sanctuary contains an exceptionally rich and diverse biota, including 30 species of marine mammals and several endangered species of marine mammals and sea birds. The Sanctuary will provide recreational experiences and scientific research opportunities and generally will have special value as an ecological, recreational, and esthetic resource.

Article 4. Scope of Regulation

Section 1. *Activities Subject to Regulation.* In order to protect the distinctive values of the Sanctuary, the following activities may be regulated within the Sanctuary to the extent necessary to ensure the protection and preservation of its marine features and the ecological, recreational, and esthetic value of the area:

- a. Hydrocarbon operations
- b. Discharging or depositing any substance
- c. Dredging or alteration of, or construction on, the seabed
- d. Navigation of vessels except fishing vessels or vessels travelling within a Vessel Traffic Separation Scheme or Port Access Route designated by the Coast Guard outside of 1 nm from any island
- e. Disturbing marine mammals or birds by overflights below 1000 feet
- f. Removing or otherwise deliberately harming cultural or historical resources

Section 2. *Consistency with International Law.* The regulations governing the activities listed in Section 1 of this article will apply to foreign flag vessels and persons not citizens of the United States only to the extent consistent with recognized principles of international law including treaties and

international agreements to which the United States is signatory.

Section 3. *Emergency Regulations.* Where essential to prevent immediate, serious and irreversible damage to the ecosystem of the area, activities other than those listed in Section 1 may be regulated within the limits of the Act on an emergency basis for an interim period not to exceed 120 days, during which an appropriate amendment of this article would be proposed in accordance with the procedures specified in Article 6.

Article 5. Relation to Other Regulatory Programs

Section 1. *Fishing.* The regulation of fishing is not authorized under Article 4. However, fishing vessels may be regulated with respect to discharges in accordance with Article 4, Section 1, paragraph (b) and aircraft conducting kelp bed surveys below 1000 feet can be regulated in accordance with Article 4, Section 1, paragraph (e). All regulatory programs pertaining to fishing, including particularly regulations promulgated under the California Fish and Game Code and Fishery Management Plans promulgated under the Fishery Conservation and Management Act of 1976, 16 USC 1801 *et seq.*, shall remain in effect. All permits, licenses and other authorizations issued pursuant thereto shall be valid within the Sanctuary unless authorizing any activity prohibited by any regulation implementing Article 4. Fishing as used in this article and in Article 4 includes kelp harvesting.

Section 2. *Defense Activities.* The regulation of those activities listed in Article 4 shall not prohibit any activity conducted by the Department of Defense that is essential for national defense or because of emergency. Such activities shall be consistent with the regulations to the maximum extent practicable.

Section 3. *Other Programs.* All applicable regulatory programs shall remain in effect and all permits, licenses and other authorizations issued pursuant thereto shall be valid within the Sanctuary unless authorizing any activity prohibited by any regulation implementing Article 4. The Sanctuary regulations shall set forth any necessary certification procedures.

Article 6. Alterations to this Designation

This Designation can be altered only in accordance with the same procedures by which it has been made, including public hearings, consultation with interested Federal and State agencies and the Pacific Regional Fishery Management Council, and approval by the President of the United States.

[End of Designation Document]

Only those activities listed in Article 4 are subject to regulation in the Sanctuary. Before any additional activities may be regulated, the Designation must be amended through the entire designation procedure including public hearings and approval by the President.

Dated: September 28, 1980.

Michael Glazer,

Assistant Administrator for Coastal Zone Management.

Accordingly, Part 935, Title 15, Code of Federal Regulations is added as follows:

PART 935—THE CHANNEL ISLANDS NATIONAL MARINE SANCTUARY REGULATIONS

- | | |
|--------|--|
| Sec. | Authority. |
| 935.1 | Purpose. |
| 935.2 | Boundaries. |
| 935.3 | Definitions. |
| 935.4 | Allowed activities. |
| 935.5 | Hydrocarbon operations. |
| 935.6 | Prohibited activities. |
| 935.7 | Penalties for commission of prohibited acts. |
| 935.8 | Permit procedures and criteria. |
| 935.9 | Certification of other permits. |
| 935.10 | Appeals of administrative action. |
| 935.11 | |

Authority: 16 U.S.C. 1431-1434.

§ 935.1 Authority.

The Sanctuary has been designated pursuant to the authority of Section 302(a) of Title III of the Marine Protection, Research and Sanctuaries Act of 1972, 16 USC 1431-1434 (the Act). The following regulations are issued pursuant to the authorities of Sections 302(f), 302(g) and 303 of the Act.

§ 935.2 Purpose.

The purpose of designating the Sanctuary is to protect and preserve the extraordinary ecosystem including marine birds and mammals and other natural resources of the waters surrounding the northern Channel Islands and Santa Barbara Island and ensure the continued availability of the area as a research and recreational resource. This area supports a particularly rich and diverse marine biota, partially because it is located in a transition zone between northern and southern waters and partially because it is one of very few areas off the Southern California coast that has been relatively unaltered by human use.

§ 935.3 Boundaries.

The Sanctuary consists of an area of the waters off the coast of California of approximately 1252.5 square nautical

miles adjacent to the following islands and offshore rocks: San Miguel Island, Santa Cruz Island, Santa Rosa Island, Anacapa Island, Santa Barbara Island, Richardson Rock, and Castle Rock extending seaward to a distance of 6 nautical miles (nm). The coordinates are shown in Appendix 1A.

§ 935.4 Definitions.

(a) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

(b) "Assistant Administrator" means the Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.

(c) "Person" means any private individual, partnership, corporation, or other entity; or any officer, employee, agent, department, agency or instrumentality of the Federal government, or any state or local unit of government.

(d) "Islands" means San Miguel Island, Santa Cruz Island, Santa Rosa Island, Anacapa Island, Santa Barbara Island, Richardson Rock, and Castle Rock.

(e) "Vessel" means watercraft of any description capable of being used as a means of transportation on the waters of the Sanctuary.

§ 935.5 Allowed activities.

All activities except those specifically prohibited by Sections 935.6 and 935.7 may be carried on in the Sanctuary subject to all prohibitions, restrictions and conditions imposed by any other authority. Recreational use of the area is encouraged.

§ 935.6 Hydrocarbon operations.

(a) Hydrocarbon exploration, development and production pursuant to any lease executed prior to the effective date of these regulations and the laying of any pipeline is allowed subject to paragraph 935.6(b) and to all prohibitions, restrictions and conditions imposed by applicable regulations, permits, licenses or other authorizations and consistency reviews including those issued by the Department of the Interior, the Coast Guard, the Corps of Engineers, the Environmental Protection Agency and under the California Coastal Management Program and its implementing regulations.

(b) No person may engage in any hydrocarbon operation unless the following oil spill contingency equipment is available at the site of such operation:

- (1) 1500 feet of open ocean containment boom and a boat capable of deploying the boom;

(2) One oil skimming device capable of open ocean use; and

(3) Fifteen bales of oil sorbent material.

(c) Hydrocarbon exploration, development and production activities pursuant to leases executed on or after the effective date of these regulations are prohibited.

§ 935.7 Prohibited activities.

(a) Except as may be necessary for the national defense, in accordance with Article 5, Section 2 of the Designation, or as may be necessary to respond to an emergency threatening life, property, or the environment, the following activities are prohibited within the Sanctuary unless permitted by the Assistant Administrator in accordance with Section 935.9. All prohibitions shall be applied consistently with international law.

(1) *Discharge of substances.* No person shall deposit or discharge any materials or substances of any kind except:

(i) Fish or parts and chumming materials (bait);

(ii) Water (including cooling water) and other biodegradable effluents incidental to vessel use of the sanctuary generated by:

(A) marine sanitation devices;

(B) routine vessel maintenance, e.g. deck wash down;

(C) engine exhaust; or

(D) meals on board vessels;

(iii) Effluents incidental to hydrocarbon exploration and exploitation activities as allowed by Section 935.6.

(2) *Alteration of, or construction on, the seabed.* Except in connection with the laying of any pipeline as allowed by Section 935.6, within 2 nautical miles of any Island, no person shall:

(i) Construct any structure other than a navigation aid, or

(ii) Drill through the seabed, or

(iii) Dredge or otherwise alter the seabed in any way, other than

(A) to anchor vessels, or

(B) to bottom trawl from a commercial fishing vessel.

(3) *Commercial vessels operations.*

Except to transport persons or supplies to or from an Island, no person shall operate within one nautical mile of an Island any vessel engaged in the trade of carrying cargo, including but not limited to tankers and other bulk carriers and barges, or any vessel engaged in the trade of servicing offshore installations. In no event shall this section be construed to limit access for fishing (including kelp harvesting), recreational, or research vessels.

(4) *Disturbing marine mammals and birds.* No person shall disturb seabirds or marine mammals by flying motorized aircraft at less than 1000 feet over the waters within one nautical mile of any Island except:

(i) for enforcement purposes;

(ii) to engage in kelp bed surveys; or

(iii) to transport persons or supplies to or from an Island.

(5) *Removing or damaging historical or cultural resources.* No person shall remove or damage any historical or cultural resource.

(b) All activities currently carried out by the Department of Defense within the Sanctuary are essential for the national defense and, therefore, not subject to these prohibitions. The exemption of additional activities having significant impact shall be determined in consultation between the Assistant Administrator and the Department of Defense.

(c) The prohibitions in this section are not based on any claim of territoriality and will be applied to foreign persons and vessels only in accordance with recognized principles of international law, including treaties, conventions and other international agreements to which the United States is signatory.

§ 935.8 Penalties for commission of prohibited acts.

(a) Section 303 of the Act authorizes the assessment of a civil penalty of not more than \$50,000 against any person subject to the jurisdiction of the United States for each violation of any regulation issued pursuant to the Act, and further authorizes a proceeding in rem against any vessel used in violation of any such regulation. Procedures are set out in Subpart D of Part 922 (15 CFR Part 922) of this chapter. Subpart D is applicable to any instance of a violation of these regulations.

§ 935.9 Permit procedures and criteria.

(a) Any person in possession of a valid permit issued by the Assistant Administrator in accordance with this section may conduct any activity in the Sanctuary prohibited under Section 935.7 if such activity is either (1) research related to the resources of the Sanctuary, (2) to further the educational value of the Sanctuary, or (3) for salvage or recovery operations.

(b) Permit applications shall be addressed to:

Assistant Administrator for Coastal Zone Management
Attn: Sanctuary Programs Office,
Division of Operations and Enforcement

National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

An application shall provide sufficient information to enable the Assistant Administrator to make the determination called for in paragraph (c) and shall include a description of all activities proposed, the equipment, methods, and personnel (particularly describing relevant experience) involved and a timetable for completion of the proposed activity. Copies of all other required licenses or permits shall be attached.

(c) In considering whether to grant a permit the Assistant Administrator shall evaluate such matters as (1) the general professional, and financial responsibility of the applicant; (2) the appropriateness of the methods envisioned to the purpose(s) of the activity; (3) the extent to which the conduct of any permitted activity may diminish or enhance the value of the Sanctuary as a source of recreation, or as a source of educational or scientific information; (4) the end value of the activity; and (5) such other matters as may be deemed appropriate.

(d) In considering any application submitted pursuant to this section, the Assistant Administrator may seek and consider the views of any person or entity, within or outside of the Federal Government, and may hold a public hearing, as deemed appropriate.

(e) The Assistant Administrator may, at his or her discretion, grant a permit which has been applied for pursuant to this section, in whole or in part, and subject to such condition(s) as deemed appropriate. The Assistant Administrator or a designated representative may observe any permitted activity and/or require the submission of one or more reports of the status or progress of such activity. Any information obtained shall be available to the public.

(f) The Assistant Administrator may amend, suspend or revoke a permit granted pursuant to this section, in whole or in part, temporarily or indefinitely, if the permit holder (the Holder) has acted in violation of the terms of the permit or of the applicable regulations. Any such action shall be set forth in writing to the Holder, and shall set forth the reason(s) for the action taken. The Holder may appeal the action as provided for in Section 935.11.

§ 935.10. Certification of other permits.

(a) All permits, licenses and other authorizations issued pursuant to any other authority are hereby certified and shall remain valid if they do not authorize any activity prohibited by

Sections 935.6 or 935.7. Any interested person may request that the Assistant Administrator offer an opinion on whether an activity is prohibited by these regulations.

§ 935.11 Appeals of administrative action.

(a) Any interested person (the Appellant) may appeal the granting, denial, or conditioning of any permit under Section 935.9, to the Administrator of NOAA. In order to be considered by the Administrator, such appeal shall be in writing, shall state the action(s) appealed and the reason(s) therefore, and shall be submitted within 30 days of the action(s) by the Assistant Administrator. The Appellant may request an informal hearing on the appeal.

(b) Upon receipt of an appeal authorized by this section, the Administrator will notify the permit applicant, if other than the Appellant, and will request such additional information and in such form as will allow action upon the appeal. Upon receipt of sufficient information, the Administrator will decide the appeal in accordance with the criteria set out in Section 935.9(c) as appropriate, based upon information relative to the application on file at OCZM and any additional information, the summary record kept of any hearing and the Hearing Officer's recommended decision, if any, as provided in paragraph (c), and such other considerations as deemed appropriate. The Administrator will notify all interested persons of the decision, and the reason(s) therefor, in writing, normally within 30 days of the receipt of sufficient information, unless additional time is needed for a hearing.

(c) If a hearing is requested or if the Administrator determines that one is appropriate, the Administrator may grant an informal hearing before a Hearing Officer designated for that purpose after first giving notice of the time, place, and subject matter of the hearing in the Federal Register. Such hearing shall normally be held no later than 30 days following publication of the notice in the Federal Register unless the Hearing Officer extends the time for reasons deemed equitable. The Appellant, the Applicant (if different) and, at the discretion of the Hearing Officer, other interested persons, may appear personally or by counsel at the hearing and submit such material and present such arguments as determined appropriate by the Hearing Officer. Within 30 days of the last day of the hearing, the Hearing Officer shall recommend in writing a decision to the Administrator.

(d) The Administrator may adopt the Hearing Officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Administrator will notify interested persons of the decision, and the reason(s) therefor in writing within 30 days of receipt of the recommended decision of the Hearing Officer. The Administrator's action shall constitute final action for the Agency for the purposes of the Administrative Procedures Act.

(e) Any time limit prescribed in this section may be extended for a period not to exceed 30 days by the Administrator for good cause, either upon his or her own motion or upon written request from the Appellant or Applicant stating the reason(s) therefor.

Appendix 1.A.—Coordinates of the Channel Islands Marine Sanctuary

	Latitude N	Longitude W
01.....	33°56'28.959"	118°16'23.800"
02.....	33°56'03.819"	118°14'58.964"
03.....	34°01'33.548"	118°14'07.740"
04.....	34°04'24.203"	118°16'21.308"
05.....	34°06'08.653"	118°17'27.802"
06.....	34°06'54.809"	118°18'48.048"
07.....	34°06'57.988"	118°23'34.906"
08.....	34°06'51.627"	118°34'04.186"
09.....	34°07'01.640"	118°25'40.818"
10.....	34°06'59.904"	118°26'50.958"
11.....	34°06'02.002"	118°28'47.801"
12.....	34°06'17.693"	118°29'27.666"
13.....	34°06'52.234"	118°30'39.662"
14.....	34°06'16.780"	118°35'22.667"
15.....	34°09'05.106"	118°36'41.894"
16.....	34°06'02.782"	118°39'33.421"
17.....	34°06'46.870"	118°41'48.621"
18.....	34°06'35.563"	118°45'57.284"
19.....	34°06'32.627"	118°46'37.335"
20.....	34°09'33.596"	118°47'32.285"
21.....	34°09'43.668"	118°48'09.018"
22.....	34°10'06.818"	118°50'07.659"
23.....	34°10'21.586"	118°51'08.148"
24.....	34°10'33.181"	118°53'17.044"
25.....	34°10'36.545"	118°56'57.373"
26.....	34°10'21.283"	118°57'26.403"
27.....	34°08'07.265"	120°01'07.283"
28.....	34°06'13.144"	120°02'27.930"
29.....	34°07'47.772"	120°05'05.449"
30.....	34°07'29.514"	120°06'36.262"
31.....	34°07'30.691"	120°08'35.238"
32.....	34°06'36.285"	120°12'39.335"
33.....	34°06'40.634"	120°15'33.840"
34.....	34°06'10.759"	120°16'07.817"
35.....	34°06'12.290"	120°17'07.048"
35A.....	34°09'50.708"	120°17'31.649"
36.....	34°10'56.348"	120°18'40.620"
36B.....	34°11'26.249"	120°19'29.213"
37.....	34°12'06.076"	120°21'00.835"
37C.....	34°12'25.468"	120°25'01.261"
38.....	34°12'16.754"	120°26'39.373"
38D.....	34°11'33.184"	120°27'33.821"
39.....	34°12'19.470"	120°30'22.620"
39E.....	34°12'17.540"	120°32'19.959"
40.....	34°10'54.592"	120°35'57.887"
40F.....	34°06'07.461"	120°36'27.843"
41.....	34°04'53.454"	120°38'18.402"
41G.....	34°03'30.539"	120°37'39.442"
42.....	34°01'06.860"	120°36'04.808"
42H.....	34°00'48.573"	120°34'25.106"
43.....	33°59'13.122"	120°33'53.385"
44.....	33°57'01.427"	120°31'54.580"
45.....	33°56'36.873"	120°27'37.188"
46.....	33°56'30.037"	120°26'14.587"
47.....	33°54'50.522"	120°22'29.536"
48.....	33°53'01.640"	120°19'26.722"
49.....	33°54'34.408"	120°18'27.344"
50.....	33°53'23.129"	120°17'39.927"
51.....	33°50'38.990"	120°16'13.874"
52.....	33°48'53.280"	120°13'41.904"
53.....	33°48'03.437"	120°12'06.750"
54.....	33°46'36.067"	120°11'10.621"

Appendix 1.A.—Coordinates of the Channel Islands Marine Sanctuary—Continued

	Latitude N	Longitude W
55.	33° 47' 39.280"	120° 07' 38.707"
56.	33° 47' 37.817"	120° 06' 04.002"
57.	33° 47' 36.361"	120° 04' 08.370"
58.	33° 46' 36.700"	120° 02' 33.168"
59.	33° 46' 32.187"	120° 01' 50.244"
60.	33° 50' 28.488"	119° 57' 50.820"
61.	33° 50' 56.128"	119° 56' 19.834"
62.	33° 52' 13.308"	119° 52' 53.438"
63.	33° 52' 04.800"	119° 52' 10.719"
64.	33° 51' 38.918"	119° 47' 21.152"
65.	33° 51' 48.582"	119° 46' 13.213"
66.	33° 51' 36.798"	119° 44' 34.588"
67.	33° 51' 44.374"	119° 41' 12.738"
68.	33° 52' 23.867"	119° 38' 14.708"
69.	33° 53' 08.386"	119° 37' 30.784"
70.	33° 53' 12.754"	119° 36' 36.793"
71.	33° 53' 17.114"	119° 34' 54.867"
72.	33° 53' 38.885"	119° 32' 51.578"
73.	33° 54' 02.277"	119° 31' 08.274"
74.	33° 54' 56.444"	119° 28' 54.052"
75.	33° 54' 38.349"	119° 27' 37.512"
76.	33° 54' 15.236"	119° 25' 23.779"
77.	33° 54' 07.847"	119° 24' 22.848"
78.	33° 54' 04.682"	119° 22' 58.006"
79.	33° 54' 14.311"	119° 21' 44.573"
80.	33° 54' 22.824"	119° 21' 08.003"
81.	33° 54' 48.804"	119° 19' 54.877"
82.	33° 56' 05.834"	119° 18' 16.027"
83.	33° 58' 56.804"	119° 10' 04.082"
84.	33° 58' 32.364"	119° 10' 01.328"
85.	33° 54' 19.804"	119° 08' 52.238"
86.	33° 53' 28.018"	119° 07' 54.828"
87.	33° 52' 04.836"	119° 06' 18.718"
88.	33° 51' 48.387"	119° 04' 01.561"
89.	33° 51' 44.884"	119° 02' 49.887"
90.	33° 51' 48.556"	119° 01' 37.808"
91.	33° 52' 07.538"	118° 59' 48.367"
92.	33° 52' 27.774"	118° 58' 51.823"
93.	33° 52' 47.867"	118° 58' 07.633"
94.	33° 53' 20.808"	118° 57' 14.379"
95.	33° 54' 18.458"	118° 56' 08.480"
96.	33° 58' 24.130"	118° 54' 51.362"
97.	33° 59' 02.820"	118° 54' 22.778"
98.	33° 53' 27.917"	118° 54' 50.367"
99.	33° 52' 17.806"	118° 53' 18.396"
100.	33° 56' 10.090"	118° 59' 40.0910"
101.	33° 56' 24.573"	119° 01' 22.1081"
102.	33° 56' 08.497"	119° 03' 58.4632"
103.	33° 54' 48.322"	119° 05' 03.3743"

(FR Doc. 80-30703 Filed 10-1-80; 8:48 am)

BILLING CODE 3610-08-M

International Trade Administration

15 CFR Parts 370, 372, 375 and 386

Amendments to the Export Administration Regulations To Clarify the Applicability of the Qualified General License

AGENCY: Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: On July 8, 1980, regulations establishing a "Qualified General License" at § 373.4 of CFR Title 15 were announced in the Federal Register (45 FR 45894). The notice establishing the Qualified General License (QGL) did not include all changes to the *Export Administration Regulations* which were necessary to clarify the effects of this newly-established license. This notice is issued to clarify the effects of the QGL

by inserting references to it in appropriate places throughout the Regulations.

EFFECTIVE DATE OF ACTION: October 2, 1980.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Washington, D.C. 20230 (Telephone: (202) 377-5247 or 377-4811).

SUPPLEMENTARY INFORMATION: Section 13(a) of the Export Administration Act of 1979 ("the Act") exempts regulations promulgated thereunder from the public participation in rulemaking procedures of the Administrative Procedure Act. Section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form, is not applicable because these regulations do not impose controls on exports. It has been determined that these regulations are not "significant" within the meaning of Department of Commerce Administrative Order 218-7 (44 FR 2082, January 9, 1979) and International Trade Administration Administrative Instruction 1-8 (44 FR 2093, January 9, 1979) which implement Executive Order 12044 (43 FR 12661, March 23, 1978), "Improving Government Regulations." Therefore these regulations are issued in final form. Although there is no formal comment period, public comments on the regulations are welcome on a continuing basis.

Accordingly, the Export Administration Regulations (15 CFR Part 386 *et seq.*) are amended as follows:

PART 370—EXPORT LICENSING
GENERAL POLICY AND RELATED
INFORMATION

§ 370.2 [Amended]

1. Section 370.2 is amended by inserting a new definition, "Qualified General License," between the definition of "Purchaser" and that of "Reexport" as follows:

Qualified General License (§ 373.4) A special license authorizing multiple exports of certain commodities for approved end-uses to approved consignees in countries in the P, Q, W, and Y Country Groups for a period of one year. The consignees must be actual or prospective end-users of the licensed commodity.

PART 372—INDIVIDUAL VALIDATED
LICENSES AND AMENDMENTS

2. Section 372.2(b)(4) is revised to read as follows:

§ 372.2 Types of Validated Licenses.

(b) . . .

(4) A "Qualified General License (QGL)" (§ 373.4) authorizes the multiple export of certain commodities to approved consignees in Country Groups P, Q, W, and Y for a period of one year. The validity period of this license may be extended once for up to an additional two years. The consignees must be actual or prospective users of the licensed commodity.

3. Section 372.11 (e)(2)(ii), (e)(6), and (g)(3)(iii) are revised to read as follows:

§ 372.11 Amending Export Licenses.

(e) . . .

(2) . . .

(ii) To add one or more new consignees to an outstanding Project License, Distribution License, or Qualified General License; or

(6) *Extension of the validity period of the license, except for an export license authorized under the emergency clearance provisions of § 372.4(h); a Distribution License (see § 373.3(k)); a Qualified General License (see § 373.4(g)); or a Service Supply License (see § 373.7(n)).*

(g) . . .

(3) . . .

(iii) Amendment or extension of a Project License, Distribution License, Qualified General License, or Service Supply License.

PART 375—DOCUMENTATION
REQUIREMENTS

4. Section 375.3(d)(7) is revised to read as follows:

§ 375.3 International import certificate and delivery verification certificate.

(d) . . .

(7) a license application for a Project License (§ 373.2), Distribution License (§ 373.3), Qualified General License (§ 373.4), Service Supply License (§ 373.7); or supported by Form ITA-686, Statement by Foreign Importer of Aircraft or Vessel Repair Parts (§ 373.8).

PART 386—EXPORT CLEARANCE

5. Section 386.2 is amended by adding the following footnote to the title of paragraph (d):

§ 386.2 Use of validated license.

Issued in Washington, D.C. on March 24, 1981.

Andrew L. Lewis, Jr.,
Secretary of Transportation.

(FR Doc. 81-8525 Filed 3-27-81; 8:45 am)
BILLING CODE 4910-12-01

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 4a

Classification, Declassification and Public Availability of National Security Information; Correction

AGENCY: Office of the Secretary, Commerce.

ACTION: Final rule; Correction.

SUMMARY: This document corrects the effective date of a final rule relating to the classification, declassification and public availability of national security information published at 46 FR 16251, March 12, 1981.

FOR FURTHER INFORMATION CONTACT: Alan F. Brown, 202-377-1722.

SUPPLEMENTARY INFORMATION: The effective date of 15 CFR Part 4a as revised in FR Doc. 81-7640 published at 46 FR 16251, March 12, 1981, third column, was incorrectly listed as September 1980. The correct effective date should be September 4, 1980.

William H. Randolph,
Director, Office of Investigations and Security, U. S. Department of Commerce.

(FR Doc. 81-8524 Filed 3-27-81; 8:45 am)
BILLING CODE 3510-02-01

15 CFR Part 19

Federal Interaction With Voluntary Standards Bodies; Procedures

AGENCY: Assistant Secretary of Commerce for Productivity, Technology and Innovation, Department of Commerce.

ACTION: Deferral of effective date of final rule.

SUMMARY: The Procedures on Federal Interaction with Voluntary Standards Bodies were published at 46 FR 1574, January 6, 1981 to become effective February 5, 1981. In response to President Reagan's Memorandum of January 23, 1981, the effective date of these procedures was postponed until March 30, 1981 by notice of rulemaking published at 46 FR 11657, February 10, 1981. The effective date is being further postponed until April 29, 1981 to allow time to complete a rulemaking proceeding on the issues of (1) whether

the procedures should be suspended indefinitely pending reexamination; and (2) whether the procedures should be allowed to have interim effect while they are under review. See FR Doc. 81-9525 in Proposed Rules section of this issue.

EFFECTIVE DATES: The effective date of 15 CFR Part 19 is deferred until April 29, 1981. This amendment is effective March 27, 1981.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert B. Ellert, Acting Assistant Secretary for Productivity, Technology and Innovation, Room 3659, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-5394; or Mr. Donald M. Malone, Deputy Assistant General Counsel for Productivity, Technology and Innovation, Room 3659, Department of Commerce, Washington, D.C. 20230, telephone (202) 377-5394.

SUPPLEMENTARY INFORMATION: The Department of Commerce issued, on December 31, 1980 Part 19 of Title 15, entitled "Federal Interaction With Voluntary Standards Bodies; Procedures." This part appeared in the Federal Register for January 6, 1981. These procedures were issued in response to Section 7a(1)(a) of OMB Circular A-119, entitled "Federal Participation in the Development and Use of Voluntary Standards". In response to President Reagan's Memorandum of January 23, 1981 entitled, "Postponement of Pending Regulations", the effective date of the procedures was postponed to March 30, 1981 (see 46 FR 11657, February 10, 1981).

During the period of postponement ordered in the President's Memorandum of January 23, 1981, comments were received questioning the appropriateness of the procedures. A decision has therefore been made to reconsider these procedures, insofar as there is lawful discretion to do so. A notice of proposed rulemaking appears in this issue in the proposed rules section (FR Doc 81-8525). That notice proposes to suspend the procedures for an indefinite period of time while they are being reconsidered, and further proposes that they be permitted to go into effect on an interim basis during the period of reconsideration. To allow time for completion of the rulemaking proceeding initiated by that notice, the effective date of the procedures is being extended for an additional 30 days until April 29, 1981.

Effective date of this amendment: March 27, 1981.

Issued: March 25, 1981.

Robert B. Ellert,
Acting Assistant Secretary for Productivity, Technology and Innovation.

1. The preamble to FR Doc 81-254, published at 46 FR 1574, January 8, 1981 is amended by revising the effective date caption in the first column to read "Effective Date: April 29, 1981."

§ 19.5 [Amended]

2. The first sentence of § 19.5 of Title 15 of the Code of Federal Regulations (46 FR 1574, 1579) is amended to read as follows:

This subpart shall become effective on April 29, 1981.

(FR Doc. 81-8526 Filed 3-27-81; 8:45 am)
BILLING CODE 3510-02-01

National Oceanic and Atmospheric Administration

15 CFR Parts 305 and 306

Channel Islands and Point Puyos-Farallon Islands National Marine Sanctuaries; Partial Suspension of Regulations

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of deferral of effective date of final rule; request for comments.

SUMMARY: The majority of the regulations issued pursuant to the designations of the Channel Islands and Point Puyos-Farallon Islands national marine sanctuaries will become final as originally scheduled (15 CFR Parts 305 and 306). However, those provisions which would directly prohibit or have the effect of prohibiting hydrocarbon development within each Sanctuary will be suspended for an additional period of 30 days during which NOAA will consider whether to further suspend the regulations or make them effective on an interim basis while they are being reconsidered in accordance with Executive Order 12298. This reconsideration will involve an analysis of the costs and benefits to the nation which would result from imposing prohibitions on hydrocarbon activities in addition to the controls imposed under the Outer Continental Shelf Lands Act and other Federal statutes and may take up to six months.

NOTES: The provisions in §§ 305.8, 305.7 and 306.6 which would directly prohibit or have the effect of prohibiting hydrocarbon development are suspended until April 30, 1981.

Comments on whether they should continue to be suspended or thereafter be made effective on an interim basis are requested for a period of 15 days from publication in the *Federal Register* (April 14, 1981). Comments on the substantive issues involved in the analysis of the regulations will be accepted until June 30, 1981.

ADDRESS: Send comments to: Dr. Nancy Foster, Deputy Director, Sanctuary Programs Office, Office of Coastal Zone Management, 3300 Whitehaven Street NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Dr. Nancy Foster, telephone (202) 834-4238.

SUPPLEMENTARY INFORMATION:

Regulations pursuant to the designation of the Channel Islands National Marine Sanctuary were published on October 2, 1980 (45 FR 65198). Regulations for the designation of the Point Reyes-Farallon Islands National Marine Sanctuary were published on January 28, 1981 (46 FR 7938).

In accordance with Section 302(h)(2) of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1432(h)(2), (the Act) each set of regulations provided that they would not become effective until the expiration of a period of 60 calendar days of continuous session of Congress from the date of their transmittal to Congress, concurrent with publication. Under Section 302(h) of the Act, this period is broken by an adjournment *sine die* and tolled by an adjournment of either House of more than three days to a day certain.

The Congressional review period was still running for both sets of regulations on January 29, 1981, when President Reagan ordered a 60-day suspension of pending regulations. In response to this order, NOAA amended the regulations to provide that they would become effective on March 30, 1981, or upon the expiration of the 60-day Congressional period, whichever date was later (46 FR 14741, March 2, 1981). Assuming no further adjournments, the Channel Islands regulations will become effective on March 30, 1981, and the Point Reyes-Farallon Islands regulations on April 5, 1981.

On February 17, 1981, the President issued Executive Order 12291, directing Federal agencies to further suspend or postpone the effective dates of any pending "major" regulation to the extent permitted by law in order to reconsider the regulation in accordance with the objectives of the Executive Order and

prepare a Regulatory Impact Analysis. A major regulation is defined as one "likely to result in:

1. An annual effect on the economy of \$100 million or more;
2. A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
3. Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets."

A Federal agency's initial determination is whether a regulation meets these criteria. The only regulations in either Sanctuary which might meet these criteria are § 935.6 limiting or prohibiting hydrocarbon exploration, development, and production activities in the Channel Islands Sanctuary, § 935.7 to the degree that it has the effect of limiting or prohibiting hydrocarbon activities in the Channel Islands Sanctuary, and § 936.6 limiting or prohibiting hydrocarbon exploration, development and production activities within the Point Reyes-Farallon Islands Sanctuary.

In response to the President's Executive Order, NOAA will be reviewing in depth these proposed hydrocarbon development prohibitions in the two sanctuaries. NOAA has examined the issues in considerable detail already to satisfy Executive Order 12044, the predecessor to Executive Order 12291. However, NOAA will be reexamining them in light of Executive Order 12291 (46 FR 13193, February 19, 1981) and determining whether the prohibitions meet the criteria for "major" regulations and, in any event, whether they are consistent with the general requirements of section 2 of this Executive Order including the requirement that the potential benefits to the Nation outweigh the potential costs. Comments on these issues are invited until June 30, 1981.

Reconsideration will take up to six months. Therefore, NOAA will determine whether to allow the hydrocarbon regulations to become effective on an interim basis during the balance of the period of reexamination. The other option is to suspend the regulations pending completion of our review. Comments on the issue of interim effectiveness versus suspension are requested for a period of fifteen days. Comments on the substantive

issues connected with reconsideration will be requested again in a subsequent notice prior to April 30, 1981, announcing whether the relevant regulations will continue to be suspended or will be made effective on an interim basis.

Dated: March 25, 1981.

Donald W. Fowler,
Deputy Assistant Administrator for Coastal
Zone Management.

[FR Doc. 81-6038 Filed 3-27-81; 6:45 am]
BILLING CODE 3510-06-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

18 CFR Part 282

[Docket No. RM79-14]

Incremental Pricing Acquisition Cost
Thresholds Under Title II of the NGPA

Issued: March 24, 1981.

AGENCY: Federal Energy Regulatory
Commission.

ACTION: Order prescribing incremental
pricing thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: April 1, 1981.

FOR FURTHER INFORMATION CONTACT:
Kenneth A. Williams, Federal Energy
Regulatory Commission, 825 North
Capitol Street, N.E., Washington, D.C.
20426 (202) 357-8500.

SUPPLEMENTARY INFORMATION:

In the matter of publication of prescribed incremental pricing acquisition cost threshold of the NGPA of 1978: order of the Director, OPRR.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the

long-term wet leases the application may be submitted in letter form and shall describe the purpose and terms of the wet lease agreement. Applications shall be submitted in three copies to the Civil Aeronautics Board, addressed to the Director, Bureau of International Aviation. Upon a showing of good cause, the application may be transmitted by cablegram or telegram or may be made by telephone.

(b) A copy of the application for a long-term wet lease to a direct air carrier or direct foreign air carrier shall also be served on the Federal Aviation Administration, addressed to the Director of Flight Operations, and on each certificated air carrier that is authorized to serve the same general area in which the proposed transportation is to be performed.

(c) The application shall include documentation to establish the extent to which the country of the applicant's nationality (and, in the case of a long-term wet lease, the country of the lessee's nationality) deals with United States air carriers on the basis of reciprocity for similar flights, if such flights are not subject to a bilateral agreement and—

(1) The Board has not established that the country accords reciprocity,

(2) The Board has found reciprocity effective in the most recent prior approval application involving the country, or

(3) Changes in reciprocity have occurred since the most recent Board finding for the country in question.

(d)(1)

(2) Applications for a long-term wet lease to a direct air carrier or direct foreign air carrier shall be filed at least 45 days before the date of the first proposed flight.

7. In § 212.6, paragraphs (b)(2) and (b)(4) are revised so that the paragraph reads:

§ 212.6 Issuance of authorization.

(b) In determining the public interest the Board will consider (but not be limited to) the following factors.

(1) The extent to which the authority sought is covered by and consistent with bilateral agreements to which the United States is a party.

(2) The extent to which the country of the carrier's nationality (and, in the case of a long-term wet lease, the country of the lessee's nationality) deals with United States air carriers on the basis of substantial reciprocity.

(3) Whether the foreign air carrier or its agent or the charterer or its agent has

previously violated the provisions of this part.

(4) Where the application concerns a long-term wet lease—

(i) Whether the foreign air carrier or its agent or the lessee (charterer) or its agent has previously violated the provisions of Part 207, 208, or 218 of this chapter.

(ii) Whether, because of the nature of the arrangement and the benefits involved, the authority sought should be the subject of a bilateral agreement.

(iii) To what extent the applicant owns or controls the lessee, or is owned or controlled by the lessee.

§ 212.13 [Removed]

8. Section 212.13, *Reports of emergency commercial charters for other direct carriers*, is removed.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

(FR Doc. 81-23061 Filed 9-29-81; 8:45 am)
BILLING CODE 6320-01-M

14 CFR Part 218

(Economic Regulations ER-1250;
Amendment No. 1 to Part 218 Docket
39616)

Liberalized Regulation of Wet Lease Agreements

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB liberalizes its rules on wet leases (leases of aircraft with crew) between airlines, to eliminate unnecessary barriers to competitive opportunities. Supplementary information about this change appears in ER-1247, issued along with this rule.

DATES: Adopted: September 15, 1981.
Effective: November 23, 1981.

FOR FURTHER INFORMATION CONTACT:
Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-873-5442.

PART 218—LEASE BY FOREIGN AIR CARRIER OR OTHER FOREIGN PERSON OF AIRCRAFT WITH CREW

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 218, *Lease by Foreign Air Carrier or Other Foreign Person of Aircraft with Crew*, as follows:

1. The authority for Part 218 is:
Authority: Secs. 204(a), 402, Pub. L. 85-728, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1372.

§ 218.2 [Amended]

2. The last two sentences of § 218.2, *Applicability*, are removed.

3. In § 218.3, paragraph (a) is revised to read:

§ 218.3 Prohibition against unauthorized operations employing aircraft leased with crew.

(a) No foreign air carrier, or other person not a citizen of the United States, shall lease an aircraft with crew to a foreign air carrier for use by the latter in performing foreign air transportation unless either—

(1) The lessor holds a foreign air carrier permit issued under section 402 of the Act and any statement of authorization required by Part 212 of this chapter; or

(2) The Board has issued an exemption under section 418 of the Act specifically authorizing the lessor to engage in the foreign air transportation to be performed under the lease; or

(3) The Board has issued an order under § 218.6 disclaiming jurisdiction over the matter.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

(FR Doc. 81-23335 Filed 9-29-81; 8:45 am)
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Parts 935 and 936

Channel Islands and Point Reyes-Farallon Islands National Marine Sanctuaries; Partial Suspension of Regulations

AGENCY: Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: The Office of Coastal Zone Management within NOAA is continuing the suspension until March 30, 1982, of those provisions of the regulations issued pursuant to the designations of the Channel Islands and Point Reyes-Farallon Islands National Marine Sanctuaries which would directly prohibit or have the effect of prohibiting hydrocarbon development within each Sanctuary insofar as they apply to such development. NOAA is reconsidering the regulations in accordance with Executive Order 12291.

This reconsideration involves preparation of a formal regulatory impact analysis which is not yet complete. The continued suspension will not result in any substantive impact on either sanctuary.

DATE: The provisions in §§ 935.6, 935.7 and 936.8 which would directly prohibit or have the effect of prohibiting hydrocarbon development insofar as they apply to such development are suspended until March 30, 1982.

ADDRESS: Sanctuary Programs Office, Office of Coastal Zone Management, NOAA, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: John Epling, (202) 634-4236.

SUPPLEMENTARY INFORMATION: The majority of the regulations issued pursuant to the designation of the Channel Islands and Point Reyes-Farallon Islands National Marine Sanctuaries became effective on March 30, 1981, and April 5, 1981, respectively.

On March 30, 1981 (46 FR 19227), NOAA suspended those portions of the regulations which would directly prohibit or have the effect of prohibiting hydrocarbon development within each Sanctuary for a period of 30 days during which it considered whether to suspend them for an additional period of up to 6 months, and on April 29, 1981 (46 FR 23924), suspended such portions of the regulations until September 30, 1981, while it reconsidered their substantive impact in accordance with Executive Order 12291.

Executive Order 12291 directs Federal agencies to reconsider pending "major" regulations in accordance with the objectives of the Executive Order and prepare a Regulatory Impact Analysis. A major regulation is defined as one likely to result in:

1. An annual effect on the economy of \$100 million or more;
2. A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
3. Significant adverse effects on competition, employment, investment productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

NOAA has awarded a contract for the preparation of a formal regulatory impact analysis, a major element of the reconsideration. This analysis will not be completed prior to September 30, 1981. NOAA will need an adequate period of time to review its options with respect to the regulations.

Therefore, on September 8, 1981 (46 FR 44765), NOAA proposed to further continue suspension of those portions of the regulations under reconsideration to complete the Regulatory Impact Analysis and fully consider its recommendations. As to other activities the regulations remain effective.

Only a very limited number of comments have been received most from commentators who have continuously objected to any suspension of the hydrocarbon regulations. NOAA appreciates the underlying concern of these commentators for the resources of the sanctuaries. However, no lease sales involving either Sanctuary have been held since designation and none will be held during the period of the continued suspension. The next lease sale which could impact either Sanctuary, Sale #88, which contains 37 tracts in the Channel Islands Sanctuary, is not scheduled until April, 1982. No activities which could impact either sanctuary substantially will result from this continued suspension. Since this suspension action will not result in any practical effect on either Sanctuary, NOAA finds no advantage to having the regulations become effective on an interim final basis during the review and therefore elects to continue the suspension.

Conversely, the continued suspension will not restrict or prohibit any activity and the Administrator has determined therefore that the suspension is not a "major" rule under Executive Order 12291, nor will it have a significant economic impact on small entities under the Regulatory Flexibility Act.

Since the current suspension will expire on September 30, 1981, at which time the provisions of the regulations under review would become effective prior to completion of the Regulatory Impact Analysis, it has been impracticable to follow the review procedures set forth in Executive Order 12291, and the 60 day notice provisions set forth in Department of Commerce Administrative Order 218.7 and NOAA Directive 21-24 for this rule continuing the suspension. Consequently, this notice is being published in accordance with the emergency procedure of Section 8 of Executive Order 12291.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: September 24, 1981.

William Matuszaski,

Acting Assistant Administrator for Coastal Zone Management.

§§ 935.6, 935.7, 936.8 [Suspended]

Accordingly, the provisions in §§ 935.6, 935.7 and 936.8 which would

directly prohibit or have the effect of prohibiting hydrocarbon development insofar as they apply to such development are suspended until March 30, 1982.

(FR Doc. 81-28521 Filed 9-29-81; 8:45 am)
BILLING CODE 3510-06-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 561

(PH-FRL-1945-1; FAP OH5268/R85)

Cyano (3-Phenoxyphenyl)methyl-4-Chloro-Alpha-(1-Methylethyl) Benzeneacetate; Establishment as a Feed Additive

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule

SUMMARY: This rule establishes a feed additive regulation permitting residues of the insecticide cyano(3-phenoxyphenyl)-methyl-4-chloro-alpha-(1-methylethyl) benzeneacetate in or on soybean hulls at 1.0 part per million (ppm). This regulation was requested by Shell Oil Company.

EFFECTIVE DATE: Effective on: September 30, 1981.

ADDRESS: Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. 3708 (A-110), 401 M. St., SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS-787C), Office of Pesticide Programs, Environmental Agency, Rm. 400, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the Federal Register of August 15, 1980 (45 FR 54426) that Shell Oil Co., 1025 Connecticut Ave., NW, Washington, DC 20036, had submitted a feed additive petition (FAP OH5268) to the EPA. The petition proposed that 21 CFR Part 561 be amended by establishing a regulation permitting residues of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)-benzeneacetate in or on soybean hulls at 0.1 ppm.

The petitioner subsequently amended the petition by submitting a revised Section F petition, proposing that the tolerance be increased from 0.1 ppm to 1.0 ppm. The amended notice of filing published in the Federal Register of September 23, 1981 (46 FR 47009).

THE NATIONAL MARINE SANCTUARIES ACT

16 U.S.C. 1431 ET. SEQ., as amended by Public Law 106-513

Sec. 301. FINDINGS, PURPOSES, AND POLICIES; ESTABLISHMENT OF SYSTEM.

(a) FINDINGS.--The Congress finds that--

(1) this Nation historically has recognized the importance of protecting special areas of its public domain, but these efforts have been directed almost exclusively to land areas above the high-water mark;

(2) certain areas of the marine environment possess conservation, recreational, ecological, historical, scientific, educational, cultural, archeological, or esthetic qualities which give them special national, and in some instances, international, significance;

(3) while the need to control the effects of particular activities has led to enactment of resource-specific legislation, these laws cannot in all cases provide a coordinated and comprehensive approach to the conservation and management of special areas of the marine environment; and

(4) a Federal program which establishes areas of the marine environment which have special conservation, recreational, ecological, historical, cultural, archeological, scientific, educational, or esthetic qualities as national marine sanctuaries managed as the National Marine Sanctuary System will-

(A) improve the conservation, understanding, management, and wise and sustainable use of marine resources;

(B) enhance public awareness, understanding, and appreciation of the marine environment; and

(C) maintain for future generations the habitat, and ecological services, of the natural assemblage of living resources that inhabit these areas.

(b) PURPOSES AND POLICIES.--The purposes and policies of this title are--

(1) to identify and designate as national marine sanctuaries areas of the marine environment which are of special national significance and to manage these areas as the National Marine Sanctuary System;

(2) to provide authority for comprehensive and coordinated conservation and management of these marine areas, and activities affecting them, in a manner which complements existing regulatory authorities;

(3) to maintain the natural biological communities in the national marine sanctuaries, and to protect, and, where appropriate, restore and enhance natural habitats, populations, and ecological processes;

(B) the communities of living marine resources it harbors; or

(C) its resource or human-use values;

(3) existing State and Federal authorities are inadequate or should be supplemented to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education;

(4) designation of the area as a national marine sanctuary will facilitate the objectives in subparagraph (3); and

(5) the area is of a size and nature that will permit comprehensive and coordinated conservation and management.

(b) FACTORS AND CONSULTATIONS REQUIRED IN MAKING DETERMINATIONS AND FINDINGS.--

(1) Factors.--For purposes of determining if an area of the marine environment meets the standards set forth in subsection (a), the Secretary shall consider--

(A) the area's natural resource and ecological qualities, including its contribution to biological productivity, maintenance of ecosystem structure, maintenance of ecologically or commercially important or threatened species or species assemblages, maintenance of critical habitat of endangered species, and the biogeographic representation of the site;

(B) the area's historical, cultural, archaeological, or paleontological significance;

(C) the present and potential uses of the area that depend on maintenance of the area's resources, including commercial and recreational fishing, subsistence uses other commercial and recreational activities, and research and education;

(D) the present and potential activities that may adversely affect the factors identified in subparagraphs (A), (B), (C);

(E) the existing State and Federal regulatory and management authorities applicable to the area and the adequacy of those authorities to fulfill the purposes and policies of this title;

(F) the manageability of the area, including such factors as its size, its ability to be identified as a discrete ecological unit with definable boundaries, its accessibility, and its suitability for monitoring and enforcement activities;

(G) the public benefits to be derived from sanctuary status, with emphasis on the benefits of long-term protection of nationally significant resources, vital habitats, and resources which generate tourism;

(H) the negative impacts produced by management restrictions on income-generating activities such as living and nonliving resources development;

(I) the socioeconomic effects of sanctuary designation;

(J) the area's scientific value and value for monitoring the resources and natural processes that occur there;

(K) the feasibility, where appropriate, of employing innovative management approaches to protect sanctuary resources or to manage compatible uses; and

(L) the value of the area as an addition to the System.

(2) Consultation.--In making determinations and findings, the Secretary shall consult with--

(A) the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Secretaries of State, Defense, Transportation, and the Interior, the Administrator, and the heads of other interested Federal agencies;

(C) the responsible officials or relevant agency heads of the appropriate State and local government entities, including coastal zone management agencies, that will or are likely to be affected by the establishment of the area as a national marine sanctuary;

(D) the appropriate officials of any Regional Fishery Management Council established by section 302 of the Magnuson-Stevens Act (16 U.S.C. 1852) that may be affected by the proposed designation; and

(E) other interested persons.

Sec. 304. PROCEDURES FOR DESIGNATION AND IMPLEMENTATION

(a) SANCTUARY PROPOSAL.--

(1) Notice.--In proposing to designate a national marine sanctuary, the Secretary shall--

(A) issue, in the Federal Register, a notice of the proposal, proposed regulations that may be necessary and reasonable to implement the proposal, and a summary of the draft management plan;

(B) provide notice of the proposal in newspapers of general circulation or electronic media in the communities that may be affected by the proposal; and

(C) no later than the day on which the notice required under subparagraph (A) is submitted to Office of the Federal Register, submit a copy of that notice and the draft sanctuary designation

documents prepared pursuant to section 304(a)(2), including an executive summary, to the Committee on Resources of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Governor of each State in which any part of the proposed sanctuary would be located.

(2) Sanctuary Designation Documents.- The Secretary shall prepare and make available to the public sanctuary designation documents on the proposal that include the following:

(A) A draft environmental impact statement pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) A resource assessment that documents-

(i) present and potential uses of the area, including commercial and recreational fishing, research and education, minerals and energy development, subsistence uses, and other commercial, governmental, or recreational uses;

(ii) after consultation with the Secretary of the Interior, any commercial, governmental, or recreational resource uses in the areas that are subject to the primary jurisdiction of the Department of the Interior; and

(iii) information prepared in consultation with the Secretary of Defense, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, on any past, present, or proposed future disposal or discharge of materials in the vicinity of the proposed sanctuary. Public disclosure by the Secretary of such information shall be consistent with national security regulations.

(C) A draft management plan for the proposed national marine sanctuary that includes the following:

(i) The terms of the proposed designation.

(ii) Proposed mechanisms to coordinate existing regulatory and management authorities within the area.

(iii) The proposed goals and objectives, management responsibilities, resource studies, and appropriate strategies for managing sanctuary resources of the proposed sanctuary, including interpretation and education, innovative management strategies, research, monitoring and assessment, resource protection, restoration, enforcement, and surveillance activities.

(iv) An evaluation of the advantages of cooperative State and Federal management if all or part of the proposed sanctuary is within the territorial limits of any State or is superjacent to the subsoil and seabed within the seaward boundary of a State, as that boundary is established under the Submerged Lands Act (43 U.S.C. 1301 et seq.).

(v) An estimate of the annual cost to the Federal Government of the proposed designation, including costs of personnel, equipment and facilities, enforcement, research, and public education.

(vi) The proposed regulations referred to in paragraph (1)(A).

(D) Maps depicting the boundaries of the proposed sanctuary.

(E) The basis for the determinations made under section 303(a) with respect to the area.

(F) An assessment of the considerations under section 303(b)(1).

(3) Public Hearing.--No sooner than thirty days after issuing a notice under this subsection, the Secretary shall hold at least one public hearing in the coastal area or areas that will be most affected by the proposed designation of the area as a national marine sanctuary for the purpose of receiving the views of interested parties.

(4) Terms of Designation.--The terms of designation of a sanctuary shall include the geographic area proposed to be included within the sanctuary, the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or esthetic value, and the types of activities that will be subject to regulation by the Secretary to protect those characteristics. The terms of designation may be modified only by the same procedures by which the original designation is made.

(5) 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 title 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.

(6) Committee Action.--After receiving the documents under subsection (a)(1)(C), the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate may each hold hearings on the proposed designation and on the matters set forth in the documents. If within the forty-five day period of continuous session of

Congress beginning on the date of submission of the documents, either Committee issues a report concerning matters addressed in the documents, the Secretary shall consider this report before publishing a notice to designate the national marine sanctuary.

(b) TAKING EFFECT OF DESIGNATIONS.--

(1) Notice.--In designating a national marine sanctuary, the Secretary shall publish in the Federal Register notice of the designation together with final regulations to implement the designation and any other matters required by law, and submit such notice to the Congress. The Secretary shall advise the public of the availability of the final management plan and the final environmental impact statement with respect to such sanctuary. The Secretary shall issue a notice of designation with respect to a proposed national marine sanctuary site not later than 30 months after the date a notice declaring the site to be an active candidate for sanctuary designation is published in the Federal Register under regulations issued under this Act, or shall publish not later than such date in the Federal Register findings regarding why such notice has not been published. No notice of designation may occur until the expiration of the period for Committee action under subsection (a)(6). The designation (and any of its terms not disapproved under this subsection) and regulations shall take effect and become final after the close of a review period of forty-five days of continuous session of Congress beginning on the day on which such notice is published unless in the case of a natural [sic] marine sanctuary that is located partially or entirely within the seaward boundary of any State, the Governor affected certifies to the Secretary that the designation or any of its terms is unacceptable, in which case the designation or the unacceptable term shall not take effect in the area of the sanctuary lying within the seaward boundary of the State.

(2) Withdrawal of Designation.-- If the Secretary considers that actions taken under paragraph (1) will affect the designation of a national marine sanctuary in a manner that the goals and objectives of the sanctuary or System cannot be fulfilled, the Secretary may withdraw the entire designation. If the Secretary does not withdraw the designation, only those terms of the designation or not certified under paragraph (1) shall take effect.

(3) Procedures.-- In computing the forty-five-day periods of continuous session of Congress pursuant to subsection (a)(6) and paragraph (1) of this subsection--

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain are excluded.

(c) ACCESS AND VALID RIGHTS.--

(1) Nothing in this title shall be construed as terminating or granting to the Secretary the right to terminate any valid lease, permit, license, or right of subsistence use or of access that is in existence on the date of designation of any national marine sanctuary.

(2) The exercise of a lease, permit, license, or right is subject to regulation by the Secretary consistent with the purposes for which the sanctuary is designated.

(d) INTERAGENCY COOPERATION.--

(1) Review of Agency Actions.--

(A) In General.--Federal agency actions internal or external to a national marine sanctuary, including private activities authorized by licenses, leases, or permits, that are likely to destroy, cause the loss of, or injure any sanctuary resource are subject to consultation with the Secretary.

(B) Agency Statements Required.-- Subject to any regulations the Secretary may establish each Federal agency proposing an action described in subparagraph (A) shall provide the Secretary with a written statement describing the action and its potential effects on sanctuary resources at the earliest practicable time, but in no case later than 45 days before the final approval of the action unless such Federal agency and the Secretary agree to a different schedule.

(2) Secretary's Recommended Alternatives.--If the Secretary finds that a Federal agency action is likely to destroy, cause the loss of, or injure a sanctuary resource, the Secretary shall (within 45 days of receipt of complete information on the proposed agency action) recommend reasonable and prudent alternatives, which may include conduct of the action elsewhere, which can be taken by the Federal agency in implementing the agency action that will protect sanctuary resources.

(3) Response to Recommendations.--The agency head who receives the Secretary's recommended alternatives under paragraph (2) shall promptly consult with the Secretary on the alternatives. If the agency head decides not to follow the alternatives, the agency head shall provide the Secretary with a written statement explaining the reasons for that decision.

(4) FAILURE TO FOLLOW ALTERNATIVE.- If the head of a Federal agency takes an action other than an alternative recommended by the Secretary and such action results in the destruction of, loss of, or injury to a sanctuary resource, the head of the agency shall promptly prevent and mitigate further damage and restore or replace the sanctuary resource in a manner approved by the Secretary.

(e) REVIEW OF MANAGEMENT PLANS.--Not more than 5 years after the date of designation of any national marine sanctuary, and thereafter at intervals not exceeding 5 years, the Secretary shall evaluate the substantive progress toward implementing the management plan and goals for the sanctuary, especially the effectiveness of site-specific management techniques and strategies, and shall revise the management plan and regulations as necessary to fulfill the purposes and policies of this title. This review shall include a prioritization of management objectives.

(f) LIMITATION ON DESIGNATION OF NEW SANCTUARIES.-

(1) FINDING REQUIRED.- The Secretary may not publish in the Federal Register any sanctuary designation notice or regulations proposing to designate a new sanctuary, unless the Secretary has published a finding that--

- (A) the addition of a new sanctuary will not have a negative impact on the System; and
- (B) sufficient resources were available in the fiscal year in which the finding is made to--
 - (i) effectively implement sanctuary management plans for each sanctuary in the System; and
 - (ii) complete site characterization studies and inventory known sanctuary resources, including cultural resources, for each sanctuary in the System within 10 years after the date that the finding is made if the resources available for those activities are maintained at the same level for each fiscal year in that 10 year period.

(2) DEADLINE- If the Secretary does not submit the findings required by paragraph (1) before February 1, 2004, the Secretary shall submit to the Congress before October 1, 2004, a finding with respect to whether the requirements of subparagraphs (A) and (B) of paragraph 1 have been met by all existing sanctuaries.

(3) LIMITATION ON APPLICATION- Paragraph (1) does not apply to any sanctuary designation documents for--

- (A) a Thunder Bay National Marine Sanctuary; or
- (B) a Northwestern Hawaiian Islands National Marine Sanctuary.

[[(g) NORTHWESTERN HAWAIIAN ISLANDS CORAL REEF RESERVE*.-

(1) PRESIDENTIAL DESIGNATION.- The President, after consultation with the Governor of the State of Hawaii, may designate any Northwestern Hawaiian Islands coral reef or coral reef ecosystem as a coral reef reserve to be managed by the Secretary of Commerce.

(2) SECRETARIAL ACTION.- Upon the designation of a reserve under paragraph (1) by the President, the Secretary shall--

(A) take action to initiate the designation of the reserve as a National Marine Sanctuary under sections 303 and 304 of the National Marine Sanctuaries Act (16 U.S.C. 1433);

(B) establish a Northwestern Hawaiian Islands Reserve Advisory Council under section 315 of that Act (16 U.S.C. 1445a), the membership of which shall include at least 1 representative from Native Hawaiian groups; and

* * P.L. 106-513 the "National Marine Sanctuaries Amendments Act of 2000" did not insert subsection (g) Northwestern Hawaiian Islands Coral Reef Reserve into the body of the National Marine Sanctuaries Act. Rather subsection (g) is a stand-alone portion of P.L. 106-513. It has been placed here for the reader.

(C) until the reserve is designated as a National Marine Sanctuary, manage the reserve in a manner consistent with the purposes and policies of that Act.

(3) PUBLIC COMMENT- Notwithstanding any other provision of law, no closure areas around the Northwestern Hawaiian Islands shall become permanent without adequate review and comment.

(4) COORDINATION- The Secretary shall work with other Federal agencies and the Director of the National Science Foundation, to develop a coordinated plan to make vessels and other resources available for conservation or research activities for the reserve.

(5) REVIEW- If the Secretary has not designated a national marine sanctuary in the Northwestern Hawaiian Islands under sections 303 and 304 of the National Marine Sanctuaries Act (16 U.S.C. 1433, 1434) before October 1, 2005, the Secretary shall conduct a review of the management of the reserve under section 304(e) of that Act (16 U.S.C. 1434(e)).

(6) REPORT- No later than 6 months after the date of enactment of this Act, the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources, describing actions taken to implement this subsection, including costs of monitoring, enforcing, and addressing marine debris, and the extent to which the fiscal or other resources necessary to carry out this subsection are reflected in the Budget of the United States Government submitted by the President under section 1104 of title 31, United States Code.

(7) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to the Secretary of Commerce to carry out the provisions of this subsection such sums, not exceeding \$4,000,000 for each of fiscal years 2001, 2002, 2003, 2004, and 2005, as are reported under paragraph (6) to be reflected in the Budget of the United States Government.]]

Sec. 305. APPLICATION OF REGULATIONS AND INTERNATIONAL NEGOTIATIONS

(a) REGULATIONS.--This title and the regulations issued under section 304 shall be applied in accordance with generally recognized principles of international law, and in accordance with the treaties, conventions, and other agreements to which the United States is a party. No regulation shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States, unless in accordance with--

- (1) generally recognized principles of international law;
- (2) an agreement between the United States and the foreign state of which the person is a citizen;
or
- (3) an agreement between the United States and the flag state of a foreign vessel, if the person is a crewmember of the vessel.

(b) NEGOTIATIONS.--The Secretary of State, in consultation with the Secretary, shall take appropriate action to enter into negotiations with other governments to make necessary arrangements for the protection of any national marine sanctuary and to promote the purposes for which the sanctuary is established.

(c) INTERNATIONAL COOPERATION.--The Secretary, in consultation with the Secretary of State and other appropriate Federal agencies, shall cooperate with other governments and international organizations in the furtherance of the purposes and policies of this title and consistent with applicable regional and multilateral arrangements for the protection and management of special marine areas.

Sec. 306. PROHIBITED ACTIVITIES

It is unlawful for any person to--

(1) destroy, cause the loss of, or injure any sanctuary resource managed under law or regulations for that sanctuary;

(2) possess, sell, offer for sale, purchase, import, export, deliver, carry, transport, or ship by any means any sanctuary resource taken in violation of this section;

(3) interfere with the enforcement of this title by--

(A) refusing to permit any officer authorized to enforce this title to board a vessel, other than a vessel operated by the Department of Defense or United States Coast Guard, subject to such person's control for the purposes of conducting any search or inspection in connection with the enforcement of this title;

(B) resisting, opposing, impeding, intimidating, harassing, bribing, interfering with, or forcibly assaulting any person authorized by the Secretary to implement this title or any such authorized officer in the conduct of any search or inspection performed under this title; or

(C) knowingly and willfully submitting false information to the Secretary or any officer authorized to enforce this title in connection with any search or inspection conducted under this title; or

(4) violate any provision of this title or any regulation or permit issued pursuant to this title.

Sec. 307. ENFORCEMENT

(a) IN GENERAL.--The Secretary shall conduct such enforcement activities as are necessary and reasonable to carry out this title.

(b) POWERS OF AUTHORIZED OFFICERS.--Any person who is authorized to enforce this title may--

- (1) board, search, inspect, and seize any vessel suspected of being used to violate this title or any regulation or permit issued under this title and any equipment, stores, and cargo of such vessel;
- (2) seize wherever found any sanctuary resource taken or retained in violation of this title or any regulation or permit issued under this title;
- (3) seize any evidence of a violation of this title or of any regulation or permit issued under this title;
- (4) execute any warrant or other process issued by any court of competent jurisdiction;
- (5) exercise any other lawful authority; and
- (6) arrest any person, if there is reasonable cause to believe that such a person has committed an act prohibited by section 306(3).

(c) CRIMINAL OFFENSES-

(1) OFFENSES.- A person is guilty of an offense under this subsection if the person commits any act prohibited by section 306(3).

(2) PUNISHMENT.- Any person that is guilty of an offense under this subsection--

(A) except as provided in subparagraph (B), shall be fined under title 18, United States Code, imprisoned for not more than 6 months, or both; or

(B) in the case of a person who in the commission of such an offense uses a dangerous weapon, engages in conduct that causes bodily injury to any person authorized to enforce this title or any person authorized to implement the provisions of this title, or places any such person in fear of imminent bodily injury, shall be fined under title 18, United States Code, imprisoned for not more than 10 years, or both.

(d) CIVIL PENALTIES.--

(1) Civil penalty.--Any person subject to the jurisdiction of the United States who violates this title or any regulation or permit issued under this title shall be liable to the United States for a civil penalty of not more than \$100,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

(2) Notice.--No penalty shall be assessed under this subsection until after the person charged has been given notice and an opportunity for a hearing.

(3) In Rem Jurisdiction.--A vessel used in violating this title or any regulation or permit issued under this title shall be liable in rem for any civil penalty assessed for such violation. Such penalty shall constitute a maritime lien on the vessel and may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(4) Review of Civil Penalty.--Any person against whom a civil penalty is assessed under this subsection may obtain review in the United States district court for the appropriate district by filing a complaint in such court not later than 30 days after the date of such order.

(5) Collection of Penalties.--If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(6) Compromise or Other Action by Secretary.--The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is or may be imposed under this section.

(e) FORFEITURE.--

(1) In General.--Any vessel (including the vessel's equipment, stores, and cargo) and other item used, and any sanctuary resource taken or retained, in any manner, in connection with or as a result of any violation of this title or of any regulation or permit issued under this title shall be subject to forfeiture to the United States pursuant to a civil proceeding under this subsection. The proceeds from forfeiture actions under this subsection shall constitute a separate recovery in addition to any amounts recovered as civil penalties under this section or as civil damages under section 312. None of those proceeds shall be subject to set-off.

(2) Application of the Customs Laws.--The Secretary may exercise the authority of any United States official granted by any relevant customs law relating to the seizure, forfeiture, condemnation, disposition, remission, and mitigation of property in enforcing this title.

(3) Disposal of Sanctuary Resources.--Any sanctuary resource seized pursuant to this title may be disposed of pursuant to an order of the appropriate court or, if perishable, in a manner prescribed by regulations promulgated by the Secretary. Any proceeds from the sale of such sanctuary resource shall for all purposes represent the sanctuary resource so disposed of in any subsequent legal proceedings.

(4) Presumption.--For the purposes of this section there is a rebuttable presumption that all sanctuary resources found on board a vessel that is used or seized in connection with a violation of this title or of any regulation or permit issued under this title were taken or retained in violation of this title or of a regulation or permit issued under this title.

(f) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.--

(1) Expenditures.--

(A) Notwithstanding any other law, amounts received by the United States as civil penalties, forfeitures of property, and costs imposed under paragraph (2) shall be retained by the Secretary in the manner provided for in section 107(f)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

(B) Amounts received under this section for forfeitures and costs imposed under paragraph (2) shall be used to pay the reasonable and necessary costs incurred by the Secretary to provide temporary storage, care, maintenance, and disposal of any sanctuary resource or other property seized in connection with a violation of this title or any regulation or permit issued under this title.

(C) Amounts received under this section as civil penalties and any amounts remaining after the operation of subparagraph (B) shall be used, in order of priority, to--

(i) manage and improve the national marine sanctuary with respect to which the violation occurred that resulted in the penalty or forfeiture;

(ii) pay a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this title or any regulation or permit issued under this title; and

(iii) manage and improve any other national marine sanctuary.

(2) Liability for Costs.--Any person assessed a civil penalty for a violation of this title or of any regulation or permit issued under this title, and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred by the Secretary in storage, care, and maintenance of any sanctuary resource or other property seized in connection with the violation.

(g) SUBPOENAS.--In the case of any hearing under this section which is determined on the record in accordance with the procedures provided for under section 554 of title 5, United States Code, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, electronic files, and documents, and may administer oaths.

(h) USE OF RESOURCES OF STATE AND OTHER FEDERAL AGENCIES.—The Secretary shall, whenever appropriate, use by agreement the personnel, services, and facilities of State and other Federal departments, agencies, and instrumentalities, on a reimbursable or nonreimbursable basis, to carry out the Secretary's responsibilities under this section.

(i) COAST GUARD AUTHORITY NOT LIMITED.--Nothing in this section shall be considered to limit the authority of the Coast Guard to enforce this or any other Federal law under section 89 of title 14, United States Code.

(j) INJUNCTIVE RELIEF.--If the Secretary determines that there is an imminent risk of destruction or loss of or injury to a sanctuary resource, or that there has been actual destruction or loss of, or injury to, a sanctuary resource which may give rise to liability under section 312,

the Attorney General, upon request of the Secretary, shall seek to obtain such relief as may be necessary to abate such risk or actual destruction, loss, or injury, or to restore or replace the sanctuary resource, or both. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

(k) AREA OF APPLICATION AND ENFORCEABILITY.--The area of application and enforceability of this title includes the territorial sea of the United States, as described in Presidential Proclamation 5928 of December 27, 1988, which is subject to the sovereignty of the United States, and the United States exclusive economic zone, consistent with international law.

(l) NATIONWIDE SERVICE OF PROCESS.- In any action by the United States under this title, process may be served in any district where the defendant is found, resides, transacts business, or has appointed an agent for the service of process.

SEC. 308. REGULATIONS.

The Secretary may issue such regulations as may be necessary to carry out this title.

Sec. 309. RESEARCH, MONITORING, AND EDUCATION.

(a) IN GENERAL- The Secretary shall conduct, support, or coordinate research, monitoring, evaluation, and education programs consistent with subsections (b) and (c) and the purposes and policies of this title.

(b) RESEARCH AND MONITORING.-

(1) IN GENERAL.- The Secretary may--

(A) support, promote, and coordinate research on, and long-term monitoring of, sanctuary resources and natural processes that occur in national marine sanctuaries, including exploration, mapping, and environmental and socioeconomic assessment;

(B) develop and test methods to enhance degraded habitats or restore damaged, injured, or lost sanctuary resources; and

(C) support, promote, and coordinate research on, and the conservation, curation, and public display of, the cultural, archeological, and historical resources of national marine sanctuaries.

(2) AVAILABILITY OF RESULTS.- The results of research and monitoring conducted, supported, or permitted by the Secretary under this subsection shall be made available to the public.

(c) EDUCATION-

(1) IN GENERAL.- The Secretary may support, promote, and coordinate efforts to enhance public awareness, understanding, and appreciation of national marine sanctuaries and the System. Efforts supported, promoted, or coordinated under this subsection must emphasize the conservation goals and sustainable public uses of national marine sanctuaries and the System.

(2) EDUCATIONAL ACTIVITIES.- Activities under this subsection may include education of the general public, teachers, students, national marine sanctuary users, and ocean and coastal resource managers.

(d) INTERPRETIVE FACILITIES.-

(1) IN GENERAL.- The Secretary may develop interpretive facilities near any national marine sanctuary.

(2) FACILITY REQUIREMENT.- Any facility developed under this subsection must emphasize the conservation goals and sustainable public uses of national marine sanctuaries by providing the public with information about the conservation, recreational, ecological, historical, cultural, archeological, scientific, educational, or esthetic qualities of the national marine sanctuary.

(e) CONSULTATION AND COORDINATION.- In conducting, supporting, and coordinating research, monitoring, evaluation, and education programs under subsection (a) and developing interpretive facilities under subsection (d), the Secretary may consult or coordinate with Federal, interstate, or regional agencies, States or local governments.

Sec. 310. SPECIAL USE PERMITS

(a) ISSUANCE OF PERMITS.--The Secretary may issue special use permits which authorize the conduct of specific activities in a national marine sanctuary if the Secretary determines such authorization is necessary--

(1) to establish conditions of access to and use of any sanctuary resource; or

(2) to promote public use and understanding of a sanctuary resource.

(b) PUBLIC NOTICE REQUIRED.- The Secretary shall provide appropriate public notice before identifying any category of activity subject to a special use permit under subsection (a).

(c) PERMIT TERMS.--A permit issued under this section--

(1) shall authorize the conduct of an activity only if that activity is compatible with the purposes for which the sanctuary is designated and with protection of sanctuary resources;

(2) shall not authorize the conduct of any activity for a period of more than 5 years unless renewed by the Secretary;

(3) shall require that activities carried out under the permit be conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources; and

(4) shall require the permittee to purchase and maintain comprehensive general liability insurance, or post an equivalent bond, against claims arising out of activities conducted under the permit and to agree to hold the United States harmless against such claims.

(d) FEES.--

(1) Assessment and Collection.--The Secretary may assess and collect fees for the conduct of any activity under a permit issued under this section.

(2) Amount.--The amount of a fee under this subsection shall be equal to the sum of--

(A) costs incurred, or expected to be incurred, by the Secretary in issuing the permit;

(B) costs incurred, or expected to be incurred, by the Secretary as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity; and

(C) an amount which represents the fair market value of the use of the sanctuary resource.

(3) Use of Fees.--Amounts collected by the Secretary in the form of fees under this section may be used by the Secretary--

(A) for issuing and administering permits under this section; and

(B) for expenses of managing national marine sanctuaries.

(4) WAIVER OR REDUCTION OF FEES.- The Secretary may accept in-kind contributions in lieu of a fee under paragraph (2)(C), or waive or reduce any fee assessed under this subsection for any activity that does not derive a profit from the access to or use of sanctuary resources.

(e) VIOLATIONS.--Upon violation of a term or condition of a permit issued under this section, the Secretary may--

(1) suspend or revoke the permit without compensation to the permittee and without liability to the United States;

(2) assess a civil penalty in accordance with section 307; or

(3) both.

(f) REPORTS.--Each person issued a permit under this section shall submit an annual report to the Secretary not later than December 31 of each year which describes activities conducted under that permit and revenues derived from such activities during the year.

(g) FISHING.--Nothing in this section shall be considered to require a person to obtain a permit under this section for the conduct of any fishing activities in a national marine sanctuary.

Sec. 311. COOPERATIVE AGREEMENTS, DONATIONS, AND ACQUISITIONS

(a) AGREEMENTS AND GRANTS- The Secretary may enter into cooperative agreements, contracts, or other agreements with, or make grants to, States, local governments, regional agencies, interstate agencies, or other persons to carry out the purposes and policies of this title.

(b) AUTHORIZATION TO SOLICIT DONATIONS.--The Secretary may enter into such agreements with any nonprofit organization authorizing the organization to solicit private donations to carry out the purposes and policies of this title.

(c) DONATIONS.--The Secretary may accept donations of funds, property, and services for use in designating and administering national marine sanctuaries under this title. Donations accepted under this section shall be considered as a gift or bequest to or for the use of the United States.

(d) ACQUISITIONS.--The Secretary may acquire by purchase, lease, or exchange, any land, facilities, or other property necessary and appropriate to carry out the purposes and policies of this title

(e) USE OF RESOURCES OF OTHER GOVERNMENT AGENCIES.- The Secretary may, whenever appropriate, enter into an agreement with a State or other Federal agency to use the personnel, services, or facilities of such agency on a reimbursable or nonreimbursable basis, to assist in carrying out the purposes and policies of this title.

(f) AUTHORITY TO OBTAIN GRANTS.- Notwithstanding any other provision of law that prohibits a Federal agency from receiving assistance, the Secretary may apply for, accept, and use grants from other Federal agencies, States, local governments, regional agencies, interstate agencies, foundations, or other persons, to carry out the purposes and policies of this title.

Sec. 312. DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTUARY RESOURCES

(a) LIABILITY FOR INTEREST.--

(1) Liability to UNITED STATES.--Any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for an amount equal to the sum of--

(A) the amount of response costs and damages resulting from the destruction, loss, or injury; and

(B) interests on that amount calculated in the manner described under section 1005 of the Oil Pollution Act of 1990.

(2) Liability In Rem.--Any vessel used to destroy, cause the loss of, or injure any sanctuary resource shall be liable in rem to the United States for response costs and damages resulting from

such destruction, loss, or injury. The amount of that liability shall constitute a maritime lien on the vessel and may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(3) Defenses.--A person is not liable under this subsection if that person establishes that--

(A) the destruction or loss of, or injury to, the sanctuary resource was caused solely by an act of God, an act of war, or an act or omission of a third party, and the person acted with due care;

(B) the destruction, loss, or injury was caused by an activity authorized by Federal or State law; or

(C) the destruction, loss, or injury was negligible.

(4) Limits to Liability.-- Nothing in sections 4281-4289 of the Revised Statutes of the United States or section 3 of the Act of February 13, 1893, shall limit the liability of any person under this title.

(b) RESPONSE ACTIONS AND DAMAGE ASSESSMENT.-

(1) Response Actions.--The Secretary may undertake or authorize all necessary actions to prevent or minimize the destruction or loss of, or injury to, sanctuary resources, or to minimize the imminent risk of such destruction, loss, or injury.

(2) Damage Assessment.--The Secretary shall assess damages to sanctuary resources in accordance with section 302(6).

(c) CIVIL ACTIONS FOR RESPONSE COSTS AND DAMAGES.—

(1) The Attorney General, upon request of the Secretary, may commence a civil action against any person or vessel who may be liable under subsection (a) for response costs and damages. The Secretary, acting as trustee for sanctuary resources for the United States, shall submit a request for such an action to the Attorney General whenever a person may be liable for such costs or damages.

(2) An action under this subsection may be brought in the United States district court for any district in which-

(A) the defendant is located, resides, or is doing business, in the case of an action against a person;

(B) the vessel is located, in the case of an action against a vessel; or

(C) the destruction of, loss of, or injury to a sanctuary resource occurred.

(d) USE OF RECOVERED AMOUNTS.--Response costs and damages recovered by the Secretary under this section shall be retained by the Secretary in the manner provided for in section 107(f)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9607(f)(1)), and used as follows:

(1) RESPONSE COSTS.- Amounts recovered by the United States for costs of response actions and damage assessments under this section shall be used, as the Secretary considers appropriate--

(A) to reimburse the Secretary or any other Federal or State agency that conducted those activities; and

(B) after reimbursement of such costs, to restore, replace, or acquire the equivalent of any sanctuary resource.

(2) OTHER AMOUNTS.- All other amounts recovered shall be used, in order of priority--

(A) to restore, replace, or acquire the equivalent of the sanctuary resources that were the subject of the action, including for costs of monitoring and the costs of curation and conservation of archeological, historical, and cultural sanctuary resources;

(B) to restore degraded sanctuary resources of the national marine sanctuary that was the subject of the action, giving priority to sanctuary resources and habitats that are comparable to the sanctuary resources that were the subject of the action; and

(C) to restore degraded sanctuary resources of other national marine sanctuaries.

(3) Federal-State Coordination.--Amounts recovered under this section with respect to sanctuary resources lying within the jurisdiction of a State shall be used under paragraphs (2)(A) and (B) in accordance with the court decree or settlement agreement and an agreement entered into by the Secretary and the Governor of that State.

(e) STATUTE OF LIMITATIONS- An action for response costs or damages under subsection (c) shall be barred unless the complaint is filed within 3 years after the date on which the Secretary completes a damage assessment and restoration plan for the sanctuary resources to which the action relates.

SEC. 313. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary--

(1) to carry out this title--

(A) \$32,000,000 for fiscal year 2001;

(B) \$34,000,000 for fiscal year 2002;

(C) \$36,000,000 for fiscal year 2003;

(D) \$38,000,000 for fiscal year 2004;

(E) \$40,000,000 for fiscal year 2005; and

(2) for construction projects at national marine sanctuaries, \$6,000,000 for each of fiscal years 2001, 2002, 2003, 2004, and 2005.

Sec. 314. U.S.S. MONITOR ARTIFACTS AND MATERIALS

(a) CONGRESSIONAL POLICY. -- In recognition of the historical significance of the wreck of the United States ship Monitor to coastal North Carolina and to the area off the coast of North Carolina known as the Graveyard of the Atlantic, the Congress directs that a suitable display of artifacts and materials from the United States ship Monitor be maintained permanently at an appropriate site in coastal North Carolina. [P.L. 102-587 authorized a grant for the acquisition of space in Hatteras Village, NC, for display of artifacts and administration and operations of the Monitor National Marine Sanctuary.

(b) DISCLAIMER. --This section shall not affect the following:

(1) Responsibilities Of Secretary.--The responsibilities of the Secretary to provide for the protection, conservation, and display of artifacts and materials from the United States ship Monitor.

(2) Authority Of Secretary.--The authority of the Secretary to designate the Mariner's Museum, located at Newport News, Virginia, as the principal museum for coordination of activities referred to in paragraph (1).

Sec. 315. ADVISORY COUNCILS

(a) ESTABLISHMENT.--The Secretary may establish one or more advisory councils (in this section referred to as an 'Advisory Council') to advise and make recommendations to the Secretary regarding the designation and management of national marine sanctuaries. The Advisory Councils shall be exempt from the Federal Advisory Committee Act.

(b) MEMBERSHIP.--Members of the Advisory Councils may be appointed from among--

(1) persons employed by Federal or State agencies with expertise in management of natural resources;

(2) members of relevant Regional Fishery Management Councils established under section 302 of the Magnuson-Stevens Act; and

(3) representatives of local user groups, conservation and other public interest organizations, scientific organizations, educational organizations, or others interested in the protection and multiple use management of sanctuary resources.

(c) LIMITS ON MEMBERSHIP.--For sanctuaries designated after the date of enactment of the National Marine Sanctuaries Program Amendments Act of 1992, the membership of Advisory Councils shall be limited to no more than 15 members.

(d) STAFFING AND ASSISTANCE.--The Secretary may make available to an Advisory Council any staff, information, administrative services, or assistance the Secretary determines are reasonably required to enable the Advisory Council to carry out its functions.

(e) PUBLIC PARTICIPATION AND PROCEDURAL MATTERS.--The following guidelines apply with respect to the conduct of business meetings of an Advisory Council:

(1) Each meeting shall be open to the public, and interested persons shall be permitted to present oral or written statements on items on the agenda.

(2) Emergency meetings may be held at the call of the chairman or presiding officer.

(3) Timely notice of each meeting, including the time, place, and agenda of the meeting, shall be published locally and in the Federal Register, except that in the case of a meeting of an Advisory Council established to provide assistance regarding any individual national marine sanctuary the notice is not required to be published in the Federal Register.

(4) Minutes of each meeting shall be kept and contain a summary of the attendees and matters discussed.

Sec. 316. ENHANCING SUPPORT FOR NATIONAL MARINE SANCTUARIES

(a) AUTHORITY.- The Secretary may establish a program consisting of--

(1) the creation, adoption, and publication in the Federal Register by the Secretary of a symbol for the national marine sanctuary program, or for individual national marine sanctuaries or the System;

(2) the solicitation of persons to be designated as official sponsors of the national marine sanctuary program or of individual national marine sanctuaries;

(3) the designation of persons by the Secretary as official sponsors of the national marine sanctuary program or of individual sanctuaries;

(4) the authorization by the Secretary of the manufacture, reproduction, or other use of any symbol published under paragraph (1), including the sale of items bearing such a symbol, by official sponsors of the national marine sanctuary program or of individual national marine sanctuaries;

(5) the creation, marketing, and selling of products to promote the national marine sanctuary program, and entering into exclusive or nonexclusive agreements authorizing entities to create, market or sell on the Secretary's behalf;

(6) the solicitation and collection by the Secretary of monetary or in-kind contributions from official sponsors for the manufacture, reproduction or use of the symbols published under paragraph (1);

(7) the retention of any monetary or in-kind contributions collected under paragraphs (5) and (6) by the Secretary; and

(8) the expenditure and use of any monetary and in-kind contributions, without appropriation, by the Secretary to designate and manage national marine sanctuaries.

Monetary and in-kind contributions raised through the sale, marketing, or use of symbols and products related to an individual national marine sanctuary shall be used to support that sanctuary.

(b) CONTRACT AUTHORITY.-- The Secretary may contract with any person for the creation of symbols or the solicitation of official sponsors under subsection (a).

(c) RESTRICTIONS.-- The Secretary may restrict the use of the symbols published under subsection (a), and the designation of official sponsors of the national marine sanctuary program or of individual national marine sanctuaries to ensure compatibility with the goals of the national marine sanctuary program.

(d) PROPERTY OF UNITED STATES.-- Any symbol which is adopted by the Secretary and published in the Federal Register under subsection (a) is deemed to be the property of the United States.

(e) PROHIBITED ACTIVITIES.-- It is unlawful for any person--

(1) designated as an official sponsor to influence or seek to influence any decision by the Secretary or any other Federal official related to the designation or management of a national marine sanctuary, except to the extent that a person who is not so designated may do so;

(2) to represent himself or herself to be an official sponsor absent a designation by the Secretary;

(3) to manufacture, reproduce, or otherwise use any symbol adopted by the Secretary under subsection (a)(1), including to sell any item bearing such a symbol, unless authorized by the Secretary under subsection (a)(4) or subsection (f); or

(4) to violate any regulation promulgated by the Secretary under this section.

(f) COLLABORATIONS- The Secretary may authorize the use of a symbol adopted by the Secretary under subsection (a)(1) by any person engaged in a collaborative effort with the

Secretary to carry out the purposes and policies of this title and to benefit a national marine sanctuary or the System.

(g) AUTHORIZATION FOR NON-PROFIT PARTNER ORGANIZATION TO SOLICIT SPONSORS.-

(1) IN GENERAL.- The Secretary may enter into an agreement with a non-profit partner organization authorizing it to assist in the administration of the sponsorship program established under this section. Under an agreement entered into under this paragraph, the Secretary may authorize the non-profit partner organization to solicit persons to be official sponsors of the national marine sanctuary system or of individual national marine sanctuaries, upon such terms as the Secretary deems reasonable and will contribute to the successful administration of the sanctuary system. The Secretary may also authorize the non-profit partner organization to collect the statutory contribution from the sponsor, and, subject to paragraph (2), transfer the contribution to the Secretary.

(2) REIMBURSEMENT FOR ADMINISTRATIVE COSTS.- Under the agreement entered into under paragraph (1), the Secretary may authorize the non-profit partner organization to retain not more than 5 percent of the amount of monetary contributions it receives from official sponsors under the agreement to offset the administrative costs of the organization in soliciting sponsors.

(3) PARTNER ORGANIZATION DEFINED.- In this subsection, the term 'partner organization' means an organization that--

(A) draws its membership from individuals, private organizations, corporation, academic institutions, or State and local governments; and

(B) is established to promote the understanding of, education relating to, and the conservation of the resources of a particular sanctuary or 2 or more related sanctuaries.

SEC. 318. DR. NANCY FOSTER SCHOLARSHIP PROGRAM.

(a) ESTABLISHMENT.- The Secretary shall establish and administer through the National Ocean Service the Dr. Nancy Foster Scholarship Program. Under the program, the Secretary shall award graduate education scholarships in oceanography, marine biology or maritime archeology, to be known as Dr. Nancy Foster Scholarships.

(b) PURPOSES- The purposes of the Dr. Nancy Foster Scholarship Program are--

(1) to recognize outstanding scholarship in oceanography, marine biology, or maritime archeology, particularly by women and members of minority groups ; and

(2) to encourage independent graduate level research in oceanography, marine biology, or maritime archeology.

(c) AWARD.- Each Dr. Nancy Foster Scholarship--

(1) shall be used to support graduate studies in oceanography, marine biology, or maritime archeology at a graduate level institution of higher education; and

(2) shall be awarded in accordance with guidelines issued by the Secretary.

(d) DISTRIBUTION OF FUNDS.- The amount of each Dr. Nancy Foster Scholarship shall be provided directly to a recipient selected by the Secretary upon receipt of certification that the recipient will adhere to a specific and detailed plan of study and research approved by a graduate level institution of higher education.

(e) FUNDING- Of the amount available each fiscal year to carry out this title, the Secretary shall award 1 percent as Dr. Nancy Foster Scholarships.

(f) SCHOLARSHIP REPAYMENT REQUIREMENT- The Secretary shall require an individual receiving a scholarship under this section to repay the full amount of the scholarship to the Secretary if the Secretary determines that the individual, in obtaining or using the scholarship, engaged in fraudulent conduct or failed to comply with any term or condition of the scholarship.

(g) MARITIME ARCHEOLOGY DEFINED- In this section the term 'maritime archeology' includes the curation, preservation, and display of maritime artifacts.



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

CHANNEL ISLANDS MARINE RESERVES PROCESS OVERVIEW OF PUBLIC COMMENTS

AS OF MAY 15, 2001

As of May 15, 2001 the Channel Islands National Marine Sanctuary and CA Department of Fish and Game have received 9,161 public comments on the Channel Islands Marine Reserves Process. Public comments have been sent as electronic mails, phone messages, letters, postcards, faxes, and public comment forms submitted at meetings.

There are 564 comments received in opposition to the establishment of reserves. Some of these suggested that no reserves be designated, while others called for reducing reserve size (e.g., not larger than 20%, 10%, 5% etc.). Many comments supported restricting commercial fishing but not sportfishing or diving.

There are 8,597 comments received in support of marine reserves. The majority suggested that at least 30% and up to 50% of the current sanctuary should be set aside in reserves to protect and replenish marine ecosystems.

Overall, 6% of the comments received to date are opposition to marine reserves (or less than 30% area) and 94% are in support of marine reserves. The majority of opposition comments came from within the tri-county region, with a few coming from other locations within the state. Supportive comments came mostly from within the local area and the state. The balance of comments came from 46 states, and 3 foreign countries. Mass- or form-mailings of letters, e-mails and postcards were received and reflect both supporting and opposing comments.

The full collection of comments received is being housed at the CINMS office and will be forwarded with the reserves recommendation to the appropriate agencies.



Alolko

Marine Reserves in CINMS



Spring
2001

Volume 14
Number 1

APR 22 2001

Alolkoy is published quarterly through a contract between the Channel Islands National Marine Sanctuary and the Channel Islands Marine Sanctuary Foundation. Guest opinions expressed in Alolkoy do not necessarily reflect the official position of the Sanctuary or the Foundation.

The Channel Islands National Marine Sanctuary is part of the National Marine Sanctuary System, established under Title III of the Marine Protection, Research, and Sanctuaries Act, as amended. For more information, contact: National Marine Sanctuary System, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, SSMC4, 11th Floor, Silver Spring, MD 20910.

Direct correspondence, submissions, and address changes to Editor, Alolkoy, CINMS, 113 Harbor Way, Santa Barbara, CA 93109, 805/966-7107.

Editor: Cynthia Anderson
Production: Rebecca Ditmore

"Alolkoy" is a Chumash word meaning dolphin.
Printed with soy-based ink on recycled paper.

CHANNEL ISLANDS
MARINE SANCTUARY
FOUNDATION

CHANNEL ISLANDS



NATIONAL MARINE
SANCTUARY

From the Bridge

Marine Reserves

By Matthew Pickett, Sanctuary Manager

Over the past few years, the concept of marine reserves has gained attention as a viable tool in marine resource management. This issue of *Alolkoy* is focused on the benefits and challenges of marine reserves, and how the Channel Islands National Marine Sanctuary (CINMS) is moving towards effective implementation of marine reserves.

The Sanctuary, in partnership with the State of California, is engaged in a community-based process that has the potential to lead the nation in a new direction for marine resource protection. A recent consensus statement presented by over 160 marine scientists has added even more validation to the Sanctuary and State's efforts. Worldwide scientific studies support utilization of marine reserves as a method for protecting the ecosystem and sustaining marine economies.

CINMS brings unprecedented public involvement, the latest science and technological tools, strong economic analysis and community knowledge to the local process. This will be a year of important decisions. The establishment of marine reserves within CINMS will be a triumph for all who enjoy and utilize our offshore waters. The hard work necessary to establish marine reserves is sometimes challenging, but invaluable and of lasting benefit.



©1989 Julia B. Verch

CINMS' rich underwater ecosystem would be protected by marine reserves.

Editor's Watch

Concept to Reality

By Cynthia Anderson, Alolkoy Editor

The concept of marine reserves in CINMS has captured considerable media attention. Never before have marine reserves been proposed for such a heavily populated coastal region of the United States.

The marine reserves process has brought together scientists, policy-makers, fishers and many others in a thorough exploration of the threats to the local marine environment and the viability of "no take" zones as a solution. This issue of the *Alolkoy* contains an overview of the process.

You'll find the Problem Statement adopted by MRWG on page 3, along with frequently asked questions. Patricia Wolf and Matthew Pickett detail the marine reserves process, while Sean Hastings provides an overview of existing state and federal legislation.

Bob Leeworthy and Peter Wiley cover the social economics of marine reserves. Matthew Cahn comments on the integration of science and policy. Satie Airame reviews the benefits of marine reserves, effective reserve size and the methodology of locating marine reserves.

Ben Waltenberger explains how a new GIS tool aids in the marine reserves process. See "Things to Do" for an update on upcoming MRWG meetings; the public is welcome.

Cover photo:
An underwater
photographer in
CINMS explores
a kelp forest.
©Mark Conlin

Marine Reserves: Frequently Asked Questions

What are marine reserves?

Marine reserves, or “no take” zones, are a specific type of Marine Protected Area (MPA) that prohibits all extraction or harvesting of marine resources. Marine reserves are not intended to limit access or anchoring.

Why are marine reserves being considered?

The answer to this question is found in the official Problem Statement adopted by consensus of the Marine Reserves Working Group (MRWG), the entity charged by the Sanctuary Advisory Council with developing a preliminary recommendation for marine reserves (see page 4):

“The urbanization of Southern California has significantly increased the number of people visiting the coastal zone and using its resources. This has increased man demands on the ocean, including commercial and recreational fishing, as well as wildlife viewing and other activities. A burgeoning coastal population has also greatly increased the use of our coastal waters as receiving areas for human, industrial and agricultural wastes. In addition, new technologies have increased the efficiency, effectiveness and yield of sport and commercial fisheries. Concurrently, there have been wide-scale natural phenomena such as El Niño weather patterns, oceanographic regime shifts and dramatic fluctuations in pin-niped populations.

“In recognizing the scarcity of many marine organisms relative to past abundance, any of the above factors could play a role. Everyone concerned desires to better understand the effects of the individual factors and their interactions, to reverse or stop trends of resource decline and to restore the integrity and resilience of im-
paired ecosystems.

“To protect, maintain, restore and enhance living marine resources, it is necessary to develop new management strat-

egies that encompass an ecosystem perspective and promote collaboration between competing interests. One strategy is to develop reserves where all harvest is prohibited. Reserves provide a precautionary measure against the possible impacts of an expanding human population and management uncertainties, offer education and research opportunities and provide reference areas to measure non-harvesting impacts.”

Which species will marine reserves try to protect?

While marine reserves offer protection to the whole ecosystem, MRWG is also interested in protecting specific species. MRWG generated a list of over 100 species in CINMS to consider in designing reserves utilizing the following criteria: species that are economically or recreationally important; species that are candidates for, or listed as, endangered; species that have exhibited long-term or

rapid declines in harvest; habitat-forming and dominant species; and species that are sensitive and/or important as prey. The species list includes marine plants, such as kelp; invertebrates, such as urchins; over 80 species of fish; marine birds, such as brown pelicans; and marine mammals, such as harbor seals.

Where are marine reserves being considered?

Marine reserves are being considered within the boundaries of CINMS, a federally designated MPA that encompasses 1,252 square nautical miles, from the shoreline out six nautical miles around San Miguel, Santa Rosa, Santa Cruz, Anacapa and Santa Barbara islands. Sanctuary waters overlap state waters (shoreline out three miles) and Channel Islands National Park (shoreline out one mile). Reserves are only being considered within the current boundaries of CINMS.

Marine Reserves Working Group Members

For additional information visit the Sanctuary website,
<http://cinms.nos.noaa.gov/nmpreserves.html>.

Patricia Wolf, Co-Chair
Greg Helms
Dr. Michael McGinnis
Steve Roberson
Shawn Kelly
Chris Miller
Neil Guglielmo
Dale Glanz
Tom Raftican
Marla Daily
Dr. Craig Fusaro
Gary Davis
Mark Helvey
Deborah McArdle
Locky Brown
Robert Fletcher
Matt Pickett, Co-Chair

California Department of Fish and Game
Center for Marine Conservation
UCSB, Ocean Coastal Policy Center
Channel Islands Marine Resource Restoration
Surfrider Foundation, Ventura Chapter
Lobster Trappers Association
Squid Seiner and Processor
ISP Alginates (Kelp Harvesting Company)
United Anglers
Sanctuary Advisory Council
Sanctuary Advisory Council
National Park Service
National Marine Fisheries Service
California Sea Grant
Diving Interests
Sportfishing Association of California
Sanctuary Manager

The Marine Reserves Process

By Patricia Wolf and Matt Pickett

Marine reserves have been at the forefront of state and local politics for many years. A specific proposal for new reserves in the Channel Islands was made to the California Fish and Game Commission (FGC) in 1999 by a local conservation group of recreational fishermen. At the request of the FGC, and with the support of diverse interest groups, the Department of Fish and Game (DFG) and the Channel Islands National Marine Sanctuary (CINMS) developed a joint federal and state process to consider marine reserves.

At the core of this process is a panel of representatives formed by the Sanctuary Advisory Council (SAC). The panel is known as the Marine Reserves Working Group (MRWG) and represents many interest groups, experts and community members not represented on the SAC (See MRWG membership, page 3).

Two advisory panels support MRWG by providing additional expertise: a Science Advisory Panel and Socio-economic Advisory Panel (see related articles). These panels give advice and information to MRWG and analyze MRWG's proposals.

Goals for Marine Reserves

MRWG is designing marine reserves to achieve and balance the following goals:

Biodiversity: To protect representative and unique marine habitats, ecological processes and populations of interest.

Socio-economics: To maintain long-term socio-economic viability while minimizing short-term socio-economic losses to all users and dependent parties.

Sustainable Fisheries: To achieve sustainable fisheries by integrating marine reserves into fisheries management.

Natural and Cultural Heritage: To maintain areas for visitor, spiritual and recreational opportunities which include cultural and ecological features and their associated values.

Education: To foster awareness, promote stewardship and encourage responsible use of marine resources.



A meeting of the Marine Reserves Working Group (MRWG).

MRWG has already defined a problem statement, mission statement, and goals and objectives to guide the discussions. The mission statement gives the panel a clear direction: *Using the best ecological, socio-economic, and other available information, MRWG will collaborate to seek agreement on a recommendation to the Sanctuary Advisory Council regarding the potential establishment of marine reserves within the Channel Islands National Marine Sanctuary area.*

The MRWG recommendation will be consensus-based. The consensus approach requires that the legitimate concerns of all members be satisfactorily addressed before the group as a whole can reach agreement on a recommendation. The SAC will evaluate and forward this recommendation as formal advice to the Sanctuary Manager, who will then provide the recommendation to the FGC.

The power in the marine reserves process lies in the partnership among the agencies and the community. Through collective learning and communication, each panel member has become familiar not only with the problems at hand, but with the views and needs of other constituencies as well.

This multidisciplinary approach should lead to a recommendation that is more acceptable to all concerned parties. MRWG is using the best available science, socio-economics and local knowledge. The group forms a bridge linking ecology, economics and policy with the concerns of the marine community.

Because the recommendation will not be a majority vote and any member can stop the group from moving forward, everyone's needs must be met. This does not mean that a member can simply "veto" the recommendation. Concerns must be voiced along with constructive ways to meet them, without compromising the concerns of others.

The final recommendation will be stronger because it will represent the wide array of views and needs of the community-at-large. As MRWG nears the final steps in the negotiation, it is essential that we hear from all interested parties. You can track our progress and get involved by visiting the CINMS website: <http://cinms.nos.noaa.gov/nmpreserves.html>.

Patricia Wolf is Regional Manager of the Marine Region for the California Department of Fish and Game, the DFG Representative on the Sanctuary Advisory Council and Co-Chair of the Channel Islands marine reserves process. Matt Pickett, Sanctuary Manager, is also Co-Chair of the process.

Marine Reserves Legislation: A Review

By Sean Hastings

Marine protected areas and marine managed areas (MPAs and MMAs) are used increasingly by state and federal agencies as resource management tools. The purpose of MPAs and MMAs is to protect and/or enhance living marine resources, cultural heritage, water quality and recreational opportunities.

CINMS is an example of a federally designated MPA. When marine reserves are designated here, they will form a specific MPA within the Sanctuary. Taken together, MPAs and MMAs at the state and federal levels form a complex regulatory system. A key question is: how will Channel Islands marine reserves fit into this system?

This article attempts to answer this question by providing a brief outline of key legislation and agency activities at the state and federal levels since 1998.

State Legislation

State Interagency Marine Managed Areas Workgroup, 1998-2000

The Resources Agency of California established the State Interagency Marine Managed Areas Workgroup to evaluate MMA classifications and recommend improvements. The following agencies were involved: Coastal Commission, Department of Fish and Game (DFG), Department of Parks and Recreation, San Francisco Bay Conservation and Development Commission, State Lands Commission, State Water Resources Control Board and the University of California.

Marine Life Management Act (MLMA), 1998

The MLMA states that fishery management plans will form the primary basis for managing the state's sport and commercial fisheries. By September 2001, the DFG must prepare a status report on state-managed fisheries and a master plan for developing fishery management plans. The act stresses using the best available science and an adaptive approach to decision-making, including collaboration from a wide array of perspectives and ex-

pertise—as does the CINMS marine reserves process.

Marine Life Protection Act (MLPA), Assembly Bill 993, 2000

The MLPA sets goals for a comprehensive MPA program in California's marine waters; establishes criteria for selecting MPA sites, including fully protected marine reserves; requires development by 2002 of a statewide MPA master plan; and creates processes that require a sound scientific basis for the master plan and involvement by interested parties.

MMAs Improvement Act, Assembly Bill 2800, 2001

Based on the work of the State Interagency Work Group, this act establishes a new classification system for MMAs that consolidates over a dozen classifications into six and simplifies terminology. The act incorporates existing MMAs into the new system, without changing existing resource protection, in a manner consistent with the MLPA; eliminates the use of existing classifications by January 2002; and establishes a consistent designation process to be used by all state entities for MMAs.

The six new classifications are: State Marine Reserve, State Marine Park, State Marine Conservation Area, State Marine Cultural Preservation Area, State Marine Recreational Management Area and State Water Quality Protection Area. For more information, see: <http://caselaw.lp.findlaw.com/cacodes/prc/36700-36900.html>

Federal Legislation

President's Executive Order 13158 on Marine Protected Areas, 2000

President Clinton issued this Executive Order to develop, strengthen and expand a national system of marine protected areas. The order calls on federal agencies with an interest in MPAs to use their authorities to establish and recommend new MPAs, increase protection of existing MPAs and develop/share scientific information.

The order creates a National MPA

Center in Santa Cruz, sponsored by NOAA and the Department of Interior, to provide scientific resources for establishing and managing MPAs. In California's ocean waters, the order particularly affects the activities of national marine sanctuaries, national parks, the Pacific Fisheries Management Council and the U.S. Environmental Protection Agency.

Pacific Fisheries Management Council (PFMC), 2000

The PFMC is one of eight regional fishery management councils established under the Magnuson-Stevens Fishery Conservation and Management Act. The PFMC recently adopted a technical report identifying options for using marine reserves as a management tool for species under its jurisdiction. Currently under way, Phase II of the PFMC reserve process will designate marine reserves for groundfish along the West Coast.

Bringing It All Together

The Channel Islands marine reserves process is a year ahead of other reserve designation processes under way at the state and federal level. Therefore, it will be crucial to integrate Channel Islands reserves into the larger framework of reserves in California.

CINMS and DFG staff, and local community representatives, participate in several of the state and federal processes listed above to ensure that the Channel Islands marine reserves process and eventual designation are consistent with the MMA Improvement Act, exceed MLPA requirements, satisfy the President's Executive Order and are nested in fisheries management plans required under the MLMA and the PFMC.

Ultimately, the California Fish and Game Commission, PFMC and NOAA will be responsible for integrating CINMS marine reserves into the existing marine resource management system.

Sean Hastings, CINMS Resource Protection Coordinator, is lead staff for the marine reserves process. The California Resources Agency contributed substantially to this article.

Social Economics of Marine Reserves

By Bob Leeworthy and Peter Wiley

Commercial and recreational uses of the Channel Islands National Marine Sanctuary generate \$197.9 million of total income annually and support 5,491 jobs in the region. An effective marine reserve network will provide a sustainable resource base on which this economy can prosper over the long term.

A Socio-economic Advisory Panel was created to research the economic impacts of marine reserves and present a comprehensive analysis to the Marine Reserves Working Group (MRWG). Comprised of nine representatives from regulatory agencies, the research community and the community-at-large, the Socio-economic Advisory Panel mounted a vast data collection effort.

Given the lack of socio-economic data in CINMS when the analysis began two years ago, this analysis is arguably the most comprehensive to date. The panel's analysis focuses on consumptive uses such as private boat fishing/diving and commercial fishing/diving; and non-consumptive uses such as wildlife viewing, non-consumptive diving and kayaking. The analysis will assist in crafting a balanced marine reserve recommendation that maximizes ecological benefits while minimizing socio-economic impacts.

Recreation Industry

Researching the recreation industry involved collecting data from existing sources such as regional and county economic reports, identifying current activities and exploring patterns of recreational use. To perform a detailed and fine scale analysis, data were compiled at a 1 x 1 nautical mile resolution.

The team created a database of recreation charter/party boat operators for consumptive and non-consumptive activities. The data included geo-referenced data and business-related data of 18 operators.

Distribution of private boat activity was compiled from sources such as the Channel Islands National Park, The Nature Conservancy and yacht clubs/marinas.

Commercial Fishing Industry

Commercial fishing data were compiled from numerous sources. The California Department of Fish and Game (DFG) divides the ocean into 10 x 10 nautical mile blocks to record catch. Twenty-two DFG blocks encompass CINMS, and information was compiled for 1988-1999 by species caught and by each of the 22 blocks. Individual species, such as shrimp, shark and rockfish, were aggregated into 27 groups.

Information was collected on the distribution of catch at 1 x 1 nautical mile resolution for most of the 27 species groups. Thirteen species groups were mapped at 1 x 1

Socio-economic Advisory Panel Members

Dr. Vernon R. (Bob) Leeworthy, Chair, NOAA's National Ocean Service, Special Projects Office
Peter C. Wiley, NOAA's National Ocean Service, Special Projects Office
Dr. Cynthia Thomson, NOAA's National Marine Fisheries Service
Dr. James Lima, U.S. Department of Interior, Minerals Management Service
Marija Vojkovich, California Department of Fish and Game
Dr. Charles Kolstad, UC Santa Barbara
Dr. Craig Barilotti, Sea Foam Enterprises, San Diego
Dr. Caroline Pomeroy, UC Santa Cruz

nautical mile resolution and placed in an Arc View geographic information system for analysis. These 13 groups account for 98.5 percent of the ex vessel value in CINMS, and include squid, urchin, spiny lobster and prawns. ("Ex vessel value" indicates the amount of money received by fishermen for their catch.) Nine maps for species groups that account for the other 1.5 percent were developed at 10 x 10 nautical mile resolution.

Socio-economic Impacts

Economic models were constructed for both the recreation industry and commercial fishing industry to translate the mapped measurements into economic measures. The recreation industry model estimates the spending impacts of recreational users in CINMS. The commercial fishing model estimates the impacts on revenue (ex vessel value) of commercial fishing operations and translates this into total income and employment impacts. Socio-economic profiles of commercial fishermen show who might be impacted by marine reserves.

The socio-economic data and models will assist MRWG in designing boundary alternatives and allow the Socio-economic Advisory Panel to analyze their impacts. The models can estimate the "maximum potential loss" to users displaced from marine reserve areas. With the data distributions and models, and with local information on other factors, a complete socio-economic assessment will be produced for review by decision-makers and the general public.

Bob Leeworthy is Chief Economist of the National Ocean Service, Special Projects Office and the leader of the Socio-economic Advisory Panel. Peter Wiley is a staff economist of the National Ocean Service, Special Projects Office and the Panel's project lead for the recreation industry.

Integrating Science and Policy in Marine Reserves

By Matthew Cahn

CINMS is currently engaged in a fascinating decision-making process regarding the establishment of marine reserves, or no-take zones. As a federal agency, CINMS is required to solicit public input into any regulatory decision it makes. The marine reserves process, however, goes well beyond any required public participation. In fact, CINMS may be ahead of most other federal agencies in giving the public a seat at the table.

The challenge before the agency is significant. On one hand, CINMS must balance competing mandates established by the National Marine Sanctuaries Act in 1972: conservation of marine resources versus protection of public and commercial access to the Sanctuary. On the other hand, the agency takes its partnership with the public seriously.

There is a consensus among marine scientists that a network of marine reserves is a powerful tool for enhancing biodiversity and mitigating damage to marine ecosystems. Yet, marine reserves may seriously impact consumptive users of Sanctuary resources.

To meet this challenge, CINMS has constructed a unique stakeholder process for evaluating the marine reserve question. A stakeholder working group—the Marine Reserves Working Group (MRWG)—and two advisory panels (scientific and socio-economic) were convened to better review science and policy preferences. The Science Advisory Panel reviewed those aspects of the working group's discussion that relied upon science-based information. The Socio-economic Advisory Panel collected economic data and made those data available to MRWG.

The process represents the best ideal civic science, where stakeholders are integrated into the scientific process of evaluation in areas including: a) framing

the problem in partnership with scientists; b) defining goals and objectives, in consultation with scientists; c) and applying final ecological data to stakeholder reserve recommendations.

Scientists evaluated the best available information on marine reserves, assembled appropriate datasets and analyzed those data using theoretical modeling, case study analysis and computer-based annealing (see page 9).

Many observers have noted that the assumptions of science and policy are fundamentally different. Science is empirical; it assumes a high degree of training and expertise. There is a narrow protocol of acceptable methodologies, and outcomes are empirically justified according to these methodologies. By definition, access is limited.

In contrast, policy is normative, defining what we ought to do. Policy assumes multiple interests and stakeholders. There is no established protocol; instead, multiple methodologies are utilized. Policy outcomes are not empirically justifiable. And, policy access is, at best, unlimited. Stated another way, if science is rational and democracy is non-rational, there is bound to be conflict. It is no surprise, then, that bringing effective science into the policy process has been extremely challenging.

Integrating science into effective resource management has been attempted by federal agencies for many years. NOAA's national marine

sanctuaries have developed an innovative approach that may provide a model across the nation. CINMS is at the forefront of this trend. The CINMS process is not yet complete; however, it is possible to make some preliminary assessments. It is clear that this evolving model is closer to resolving the paradigmatic conflicts that have long kept science and policy at arm's length.

When interest-based stakeholders and scientists are successful at linking their analytic approaches, a truly civic-science based rulemaking process will emerge. Although practical issues may limit its application, the CINMS process is a model of a policy-science partnership.

Dr. Matthew Cahn is a Professor of Public Policy at California State University Northridge and a Visiting Professor of Public Policy at the Bren School of Environmental Science and Management.

Science Advisory Panel Members

Dr. Matthew Cahn, Chair, CSU Northridge
Dr. Mark Carr, UC Santa Cruz
Dr. Ed Dever, Scripps Institute
Dr. Steve Gaines, UC Santa Barbara,
Marine Science Institute
Peter Haaker, California Department of
Fish and Game
Dr. Bruce Kendall, UC Santa Barbara
Dr. Steve Murray, CSU Fullerton
Dr. Daniel Reed, UC Santa Barbara,
Marine Science Institute
Dan Richards, Channel Islands National Park
Dr. Joan Roughgarden, Stanford University
Dr. Steve Schroeter, UC Santa Barbara
Dr. Dave Siegel, UC Santa Barbara, ICESS
Dr. Allan Stewart-Oaten, UC Santa Barbara
Dr. Robert Warner, UC Santa Barbara
Dr. Libe Washburn, UC Santa Barbara, ICESS
Dr. Russ Vetter, National Marine Fisheries Service

Designing Marine Reserves for Conservation

By Satie Airame

Marine reserves are important tools for marine conservation and fisheries management, with the potential to protect ecosystems, improve fisheries yields and enhance recreational opportunities. Non-consumptive users, such as recreational divers and photographers, enjoy increased diversity and abundance of animals in and around reserves. Sport fishermen and divers may benefit from spillover of sport fish from reserves into non-reserve areas. Commercial fishermen may benefit from larval export of economically important species from reserves into non-reserve areas. All users benefit from sustainable use of resources over the long term.

There is substantial evidence that protecting areas from fishing leads to rapid increases in abundance, size, biomass and diversity of animals. Halpern (in press) reviewed 76 studies of reserves that were protected from at least one form of fishing. Across all reserves, abundance approximately doubled, biomass increased 2.5 times that in fished areas, average body size increased by approximately one third and the number of species present per sample increased by one third.

Marine scientists and state and federal agencies that manage fisheries have recognized the potential role of marine reserves in conservation and fisheries management. In 2000, the Pacific Fisheries Management Council specified a process to consider marine reserves as part of an integrated scheme to sustain a healthy ecosystem and more effectively manage the West Coast groundfish. In 2001, the National Research Council released an evaluation of marine reserves, identifying reserves as a tool for conservation and fisheries management where conventional approaches to management have failed to sustain fisheries. A

consensus statement strongly favoring marine reserves, signed by 161 top marine scientists from the United States and 10 other countries, was released at the 2001 annual meeting of the American Association of the Advancement of Science.

Agencies and scientists agree that marine reserves should be implemented around the world for long-term fishery and conservation benefits.

Effective Reserve Size

One of the most important questions in conservation and fisheries management is how large reserves must be to provide specific benefits. Reserve size depends on goals for marine reserves and the level of fishing intensity in a particular region.

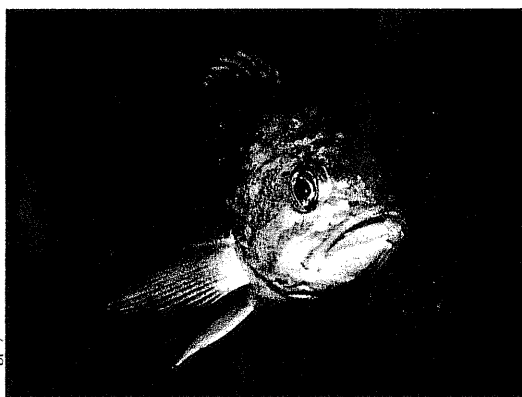
For example, Ballantine (1997) recommends a minimum size of 10 percent of representative marine habitats to meet humankind's ethical obligation to protect natural areas. DeMartini (1993) cautions that small reserves (e.g., 10 percent) may protect species with rapid growth, high reproduction and low dispersal, but larger reserves (e.g., 30 percent or more) may be necessary to protect species with slow growth and lower reproduction (such as rockfish). Sladek-Nowlis and Roberts (1997) recommend reserve sizes of 75-80 percent of the geographical distribution of populations to sustain species that suffer from extremely high fishing mortality.

In general, the benefit of a reserve for conservation increases with size. Larger reserves protect more habitats and populations, providing a buffer against losses from environmental fluctuations and other natural factors that may increase death rates or reduce population growth rates.

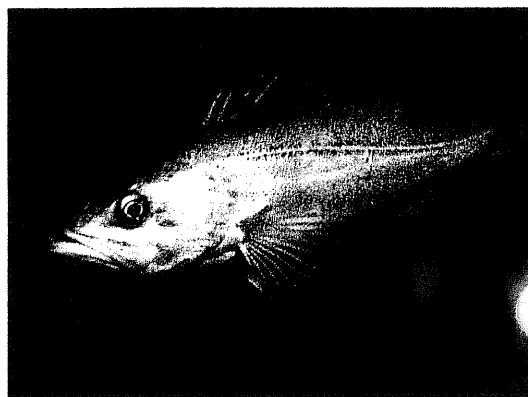
For fisheries management, the benefit of a reserve does not increase directly with size. The maximum benefit of no-take reserves for fisheries, in terms of sustainability and yield, occurs when the reserve is large enough to export sufficient larvae and adults, and small enough to minimize the initial economic impact to fisheries.

The Science Advisory Panel evaluated the status of fishery resources around the Channel Islands and goals established by the Marine Reserve Working Group for conservation and fisheries management. One of the goals for marine reserves is to protect representative and unique marine habitats. Another goal is to achieve sustainable fisheries by integrating marine reserves into fisheries management.

The Science Advisory Panel determined that setting aside no less than 30 percent, and possibly 50 percent, of CINMS for marine reserves would achieve some measure of protection for both conservation and fisheries goals.



©Gregory Ochocki



©Donna

Marine reserves would help currently depleted populations of canary rockfish (left), and bocaccio (right) to recover.

and Fisheries Management

Locating Marine Reserves

CINMS is located in a region of tremendous biological and physical complexity. The Science Advisory Panel divided the study area (CINMS) into three bioregions (the Oregonian Bioregion, the Californian Bioregion and the transition zone between the two) based on species distributions and physical characteristics. Each of the regions exhibits distinct oceanographic patterns that influence species composition.

For planning purposes, the regions were subdivided into "planning units" of 1 x 1 minute (approximately 1 x 1 square nautical mile). Each planning unit was assigned a set of values based on habitat and species diversity. For example, scientists described the depth and the percentage cover of soft sediments (mud, sand, gravel) and hard sediments (rock, boulder, bedrock) in each planning unit.

Submerged rocky features, such as sea stacks, seamounts and submarine canyons, were located using bathymetric maps, and the percent cover of each feature was estimated in each planning unit.

The areas covered by dominant algae and plant species, such as giant kelp, eelgrass and surfgrass, were identified from aerial photographs and habitat maps of the Channel Islands region. In addition, each planning unit was scored for the presence of bird colonies (16 species) and pinniped haul-outs (5 species).

Computer Analysis

Conservation priority areas were located using "Sites v. 1." This computer program was developed to help The Nature Conservancy locate potential reserve areas on land, and the program was modified to help conservation planners evaluate marine environments.

The program randomly generates an initial reserve system that includes the percentage of each habitat and feature. The program then calculates the conservation value of the reserve system

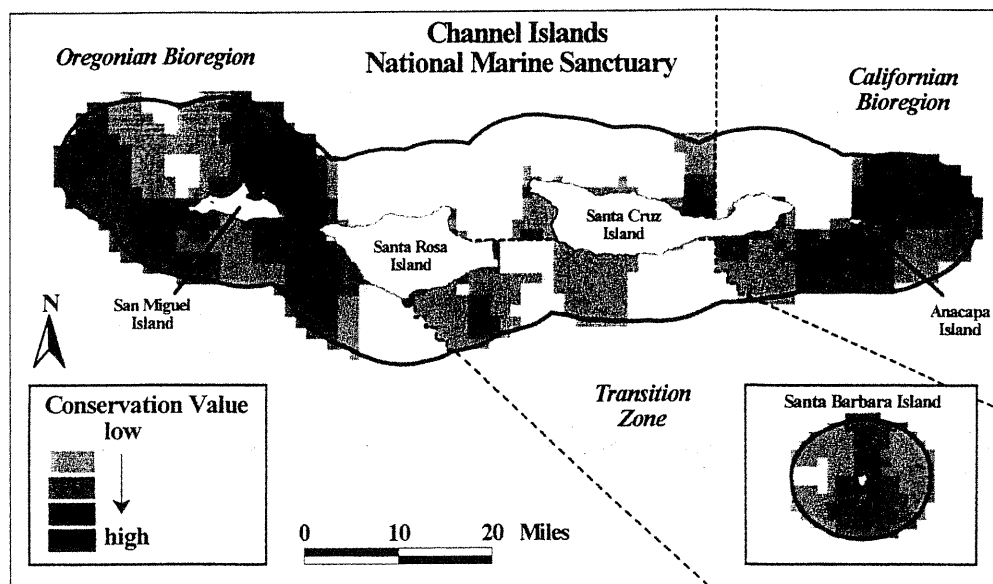


Figure 1. Conservation priority areas in the Channel Islands National Marine Sanctuary. Darker colors indicate areas of high conservation value in terms of a variety of habitats and species of interest.

(based on the goals of the reserve system) and the cost of the reserve system (in this study, based on the boundary length of each planning unit).

After evaluating the initial reserve system, the program randomly selects a planning unit that might or might not already be included. The program evaluates the change to the value (and cost) that would occur if this planning unit were added or removed. At each step, the new solution is compared to the previous solution, and the best one is accepted. In this study, the program evaluated 1 million iterations during a single run, and over 300 runs for each analysis.

A large number of good solutions may satisfy a single set of goals. The Science Advisory Panel provided a map demonstrating the number of times each planning unit was selected for a final solution out of the total number of runs (Figure 1). This map was used to locate a set of core conservation areas. The Science Advisory Panel also selected five solutions that meet all ecological goals at targets of both 30 percent and 50 percent set-aside (for a total of 10 possible solutions). These solutions

were chosen because of their high conservation value and because they were distinctly different from one another, allowing flexibility on the part of the conservation planners.

Flexibility to explore alternative solutions is critically important for conservation planners because optimal solutions may not be possible given practical problems. This approach provides resource managers with the tools necessary to develop acceptable and effective solutions to complex, multi-objective conservation problems.

Dr. Satie Airame is Scientific Advisor at CINMS. She currently works with the Science Advisory Panel and the Marine Reserves Working Group on conservation and fisheries management issues in the California Channel Islands.

References

- Ballantine W. J. 1997. In *The Design and Monitoring of Marine Reserves*. Fisheries Centre, University of British Columbia, Canada.
- DeMartini, E. E. 1993. Fisheries Bulletin 91:414-427.
- Halpern, B. In press. Ecological Applications.
- Roberts, C. M. and J. P. Hawkins. 1997. Coral Reefs 16:150.
- Sladek-Nowlis, J. J., and C. M. Roberts. 1999. Fisheries Bulletin 67:604-616.

Spatial Technology in the Marine Reserves Process

By Ben Waltenberger

An important part of the marine reserves siting process is efficiently conveying relevant information to the Marine Reserves Working Group (MRWG) and to the public. Much of the scientific and socio-economic information gathered is complex, and in its native format not easily interpreted by someone who is not an expert in a particular field.

Also, because information is linked to specific “places in space” (i.e., potential marine reserve sites), complex datasets must be “anchored” to geographic locations. One of the best tools for doing this is a Geographic Information System (GIS). A GIS allows users not only to intuitively visualize potential reserve sites relative to themselves and external landmarks, but also to “mine” them for scientific and socio-economic data related to their locations.

CINMS has partnered with NOAA's Coastal Services Center to create an enhanced GIS interface called the Channel Islands Spatial Support and Analysis Tool (CI-SSAT). CI-SSAT is more than a GIS; it is a “decision support system,” a term linked to the new and growing field of Public Participation GIS.

The idea behind Public Participation GIS is to create computer interfaces that allow stakeholders to query data contained in the GIS, and to “weight” those data relative to their importance to a particular stakeholder or group. This allows stakeholders to view and understand how community

processes may affect them and gives them an informed voice in those processes.

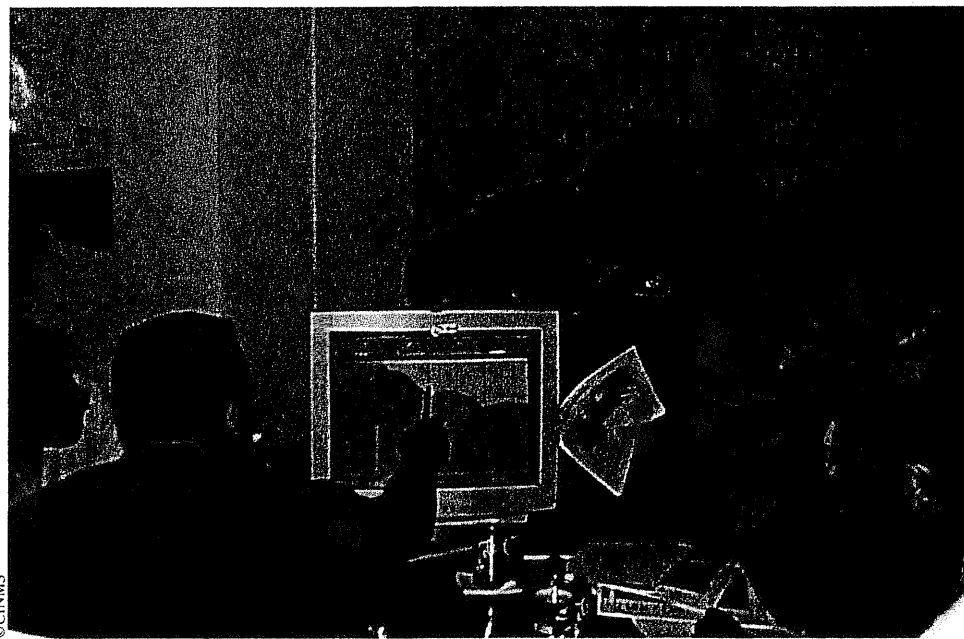
To illustrate this idea, let's walk through a simple example of using CI-SSAT in a marine reserve siting process. The first screen in CI-SSAT is the criteria screen, where users can weight criteria (i.e., assign relative importance of one criterion to another) within an area they wish to analyze as a potential site.

In the Channel Islands marine reserves process, for instance, MRWG has two criteria: ecological and socio-economic. A fisherman would probably decide that the socio-economic criterion has a higher degree of relative importance than the ecological criterion (a reserve in Area X may curtail or end a particular type of fishing activity). An environmentalist concerned with protecting a rare species that only occurs in Area X would probably give the ecological criterion a higher relative weight.

Once weights are assigned, CI-SSAT analyzes the criteria comparatively using a simple suitability algorithm. It then creates a map with the chosen analysis area in color shades going from dark to light. The darker the shade, the more likely the area meets a stakeholder's goals based on the weights they chose. The lighter the area, the less likely it will meet their goals.

Once this “results” map is made, users can dig into the data associated with it. For instance, users can perform a socio-economic analysis that shows dollar amounts of particular fish species taken out of the area and the percentage of commercial use in that area relative to the entire CINMS. Users can analyze the data for ecological resources (e.g., percentage of kelp, percentage of rocky shoreline, number of bird species) that are found in the area. Users can also query and display ancillary datasets that show information such as historical use patterns, bathymetry (water depth) and geology, to name a few.

The ability to analyze and compare all these data in an intuitive map environment is a powerful tool to help citizens become informed and involved in the marine reserves process.



A custom-designed GIS tool, the Channel Islands Spatial Support and Analysis Tool (CI-SSAT), helps stakeholders query data regarding the marine reserves process.

Ben Waltenberger is Spatial Data Analyst for the Channel Islands National Marine Sanctuary.

Sanctuary Waves

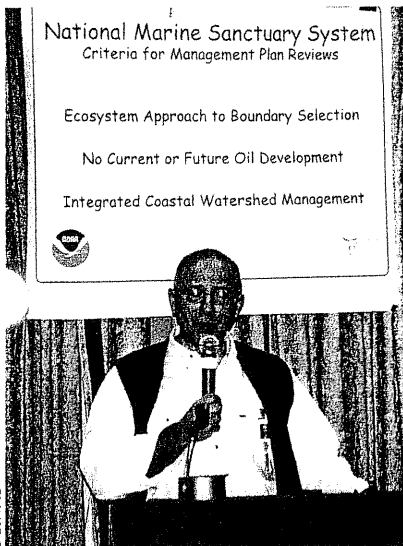
Management Plan Revision Update

On February 9, 2001 Dan Basta, Director of NOAA's Office of National Marine Sanctuaries, met with the Sanctuary Advisory Council to discuss CINMS boundary options. The SAC and the community advised Mr. Basta and CINMS staff on a wide range of concerns and ideas, and this information has been taken into consideration to help guide an agency decision on this challenging issue.

Late this summer or early fall, look for public release of the Draft Environmental Impact Statement (DEIS) and Draft Management Plan (DMP). These documents will compare a series of boundary options, identify the agency's preferred alternative and present a suite of management programs proposed for the next five years.

Following the DEIS/DMP release, public hearings will be scheduled, and CINMS will welcome and respond to public comments. Later in the year, watch for release of the Final Environmental Impact Statement and Final Management Plan.

For ongoing updates on the management plan process, access the CINMS website at: www.cinms.nos.noaa.gov/nmpintro.html or contact Anne Walton at (805) 884-1470.



Dan Basta, Director of NOAA's Office of National Marine Sanctuaries.

Cultural Resources Program Highlights

Conference presentations, a series of public lectures, an Internet chat and an online curriculum have been the focus of the CINMS cultural resources program.

Robert Schwemmer, CINMS Cultural Resources Coordinator, presented a paper at the Society for Historical Archaeology meeting in January 2001 that discussed the educational aspects of the cultural resources program. Deborah Marx of East Carolina University presented her survey work at the CINMS shipwreck site *Winfield Scott*, a California Gold Rush-era passenger steamer. Members of CMAR (Coastal Maritime Archaeology Resources), an avocational archaeological organization, presented papers on their partnership role in recording shipwreck sites in CINMS and Channel Islands National Park.

Lectures on shipwrecks of the Channel Islands were presented at the Santa Barbara Maritime Museum's Munger Theater to audiences that included the general public and community schools. Robert Schwemmer and Laura Francis, CINMS Educational Coordinator, participated in a two-hour Internet chat hosted by Rain Camp that reached students and teachers throughout Southern California.



Robert Schwemmer, CINMS Cultural Resources Coordinator, spoke to audiences at the Maritime Museum's Munger Theater on Sanctuary shipwrecks.

In December 2000, BRIDGE, an online Ocean Science Teacher Resources Center, provided teachers and students with a lesson plan featuring historic shipwrecks of the five West Coast sanctuaries. The curriculum is available on the CINMS website at www.cinms.nos.noaa.gov.

CINMS Foundation Initiates Collaborative Marine Research

The Channel Islands Marine Sanctuary Foundation has created a program to involve stakeholders in cooperative research, resource assessment and protection. The program is based on a partnership (facilitated by CINMS) of local marine researchers, commercial fishers and resource management agencies (National Marine Fisheries Service and California Department of Fish and Game).

This partnership will investigate resource management questions with commercial fishers in a variety of roles, including as participants in project selection and planning and as paid research assistants. The program is designed to collect resource management information in a cost-effective manner and build positive relations between marine stakeholders.

The program's pilot project will be "Movement Patterns of Nearshore Marine Fishes in the Channel Islands National Marine Sanctuary." Led by Dr. Jennifer Caselle of UC Santa Barbara, this project will investigate patterns of fish movement and stock structure of reef fishes (including California sheephead, rockfish, cabezon and kelp bass) associated with the premium/live finfish fishery. The project will involve trapping and tagging fish, combined with recapture and resighting surveys, in order to:

- Determine stock structure and population differences among sites for targeted and non-targeted species caught in live traps.
- Determine movement patterns and mobility scales for several stages and sexes (e.g. juveniles, adults, males and females) of species caught in live traps.
- Determine the catch composition of live traps in CINMS boundaries.
- Develop methods for efficient and effective fisher-scientist collaboration.



U. S. Department of Commerce
National Oceanic and Atmospheric Administration
Channel Islands National Marine Sanctuary
113 Harbor Way, Suite 150
Santa Barbara, CA 93109

Address Correction Requested

Alolkoy

Need more information?

Contact:

**Channel Islands
National Marine
Sanctuary**
Santa Barbara Harbor
113 Harbor Way, Suite 150
Santa Barbara, CA 93109
805/966-7107

Channel Islands Harbor
3600 South Harbor Blvd.
Suite 217
Oxnard, CA 93035
805/382-6141
805/382-6151

Email:
channelislands@nms.
noaa.gov
Website:
www.cinms.nos.noaa.gov

**Channel Islands
National Park**
1901 Spinnaker Drive
Ventura, CA 93001
805/658-5700
Website: www.nps.gov/chis

**Channel Islands
Marine Sanctuary
Foundation**
Kelly Darnell
113 Harbor Way, Suite 150
Santa Barbara, CA 93109
805/687-0324

Things to Do, Places to Go

Marine Reserve Working Group (MRWG) Meetings

MRWG meetings are open to the public and all are encouraged to attend. On May 23, the Sanctuary Advisory Council will meet to receive the MRWG recommendation. There will also be a public forum in May, date to be announced.

On **June 19** at Chase Palm Park Center, there will be a Sanctuary Advisory Council meeting to discuss the MRWG recommendation. For more information, contact Sean Hastings at (805) 884-1472.

Whale Watch Trips

Join the Sanctuary Naturalist Corps for educational whale watch trips departing from Santa Barbara Harbor, Ventura Harbor and Channel Islands Harbor. SNC volunteers will be available for blue and humpback whale watch trips. For more information, visit the CINMS website or call Shauna Bingham at (805) 382-6151.

Dive into Fish Counting

If you would like to participate in the Great American Fish Count this July, plan to attend a free Fish Identification Seminar. Reserve your place by contacting Laura Francis at laura.francis@noaa.gov or (805) 884-1463. **June 12, 2001**, 7 p.m.-9 p.m. Channel Islands National Park Visitor Center, 1901 Spinnaker Dr., Ventura; **June 19, 2001**, 7 p.m.-9 p.m. Munger Theater, Santa Barbara

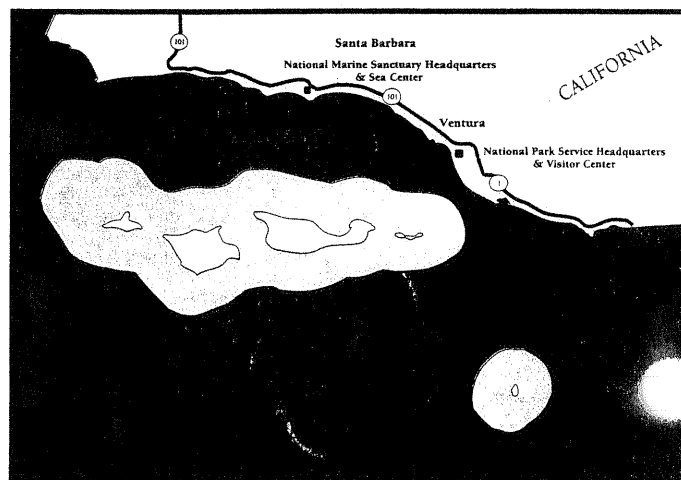
Maritime Museum, Santa Barbara Harbor; **July 7, 2001**, 7 p.m.-9 p.m. Waterfront Classroom, 125 Harbor Way (2nd floor), Santa Barbara Harbor.

Geographic Information Systems (GIS) Workshops

CINMS will host two GIS workshops for teachers this summer, one at UCSB from **June 16-19**, one at Ventura College from **August 8-11**. The \$75 fee includes all curriculum materials and a field trip. Contact Laura Francis at laura.francis@noaa.gov or (805) 884-1463.

Fish Survey Trip

Join CINMS and REEF for a fish survey trip aboard the Truth Aquatics boat *Conception* on **July 8-9**. The fee is \$175. Contact Shauna Bingham at shauna.bingham@noaa.gov or (805) 382-6151.



MARINE RESERVES IN THE CHANNEL ISLAND NATIONAL MARINE SANCTUARY

Situation: The California Department of Fish and Game (CDFG) and the Channel Island National Marine Sanctuary (CINMS) have been facilitating a community-based process for the consideration of marine reserves within the CINMS boundaries. The Council and several of its advisory committees received a presentation on this effort at the April 2001 Council meeting. Pursuant to Council discussion on this issue, a letter was sent to CDFG and CINMS requesting clarification and additional information (Attachment 1, including enclosures of the Council advisory body comments). A response letter has been received and is provided in Attachment 2. A substantial amount of documentation on the socioeconomic and scientific information used in the process was enclosed with the CINMS letter. These materials have been provided to the Scientific and Statistical Committee for review and comment. The designation, public outreach, and public comment documents referenced in the letter's list of enclosures are provided as part of Attachment 2 in your briefing papers.

Additionally, the Council will receive an update on the status of development of the marine reserves process for the Channel Islands. The Channel Island Marine Reserves Working Group gave a final report on its efforts to the Channel Island Sanctuary Advisory Council on May 23.

Council Action:

1. Provide guidance to Council staff and advisory bodies in light of the response to the Council letter and the update provided at this meeting.
2. Consider any recommendations made by the source agencies.

Reference Materials:

1. Letter to LCDR Matt Pickett and Ms. Patricia Wolf, April 17, 2001 (Exhibit E.2, Attachment 1).
2. Letter from LCDR Matt Pickett, May 16, 2001 and selected enclosures (Exhibit E.2, Attachment 2).
3. Public comment (Exhibit E.2.d, Public Comment).
4. Facilitator's Report (Exhibit E.2, Supplemental Attachment 3).

PFMC
05/29/01

5. Exhibit E.2.c, Supplemental GAP Report.
6. Exhibit E.2.c, Supplemental SSC Report.
7. Exhibit E.2.c, Supplemental HSG Report.

Facilitators' Report

Regarding the Channel Islands National Marine Sanctuary Marine Reserves Working Group

Prepared for

*Channel Islands National Marine Sanctuary
Sanctuary Advisory Council*

Prepared by

John C. Jostes, Lead Facilitator

INTERACTIVE Planning and Management
30 W. Mission Street, Suite 4
Santa Barbara, CA 93101
(805) 687-7032

And

Michael Eng, Co-Facilitator

U.S. Institute for Environmental Conflict Resolution
110 South Church Ave., Suite 3350
Tucson, AZ 85701
(520) 670-5299

May 23, 2001

Table of Contents

<u>Section</u>	<u>Page</u>
Introduction	1
Process Background	2
Substantive Areas of Agreement	3
Overview	3
Ground Rules	4
Mission Statement	4
Problem Statement	4
Issues of Concern	5
Goals and Objectives for Marine Reserves	6
Implementation Recommendations	8
Outstanding Unresolved Issues	13
Size of Reserves	13
Location of Reserves	14
Use of Limited Take Areas	15
Relative Weighting of Advice from Science Panel & Socioeconomic Team	16
Phasing of Reserves	16
Integration of Fisheries Management Outside of Reserves	17
Maps Developed by the MRWG	17
Overall Process Recommendations	22
Value Added by the Process	26
Appendix A – Ground Rules	27
Appendix B – MRWG, Facilitation Team, Advisory Panelists, and Staff Support	

Introduction

This Facilitator's Report has been prepared to aid the Channel Islands National Marine Sanctuary Advisory Committee (SAC) in making a recommendation regarding Marine Reserves within the Sanctuary waters. It is being provided to the SAC in place of a Consensus Recommendation from the Marine Reserves Working Group (MRWG) because the MRWG was unable to reach consensus on a single comprehensive recommendation regarding marine reserves, consistent with its own ground rules which required unanimity among its members for a recommendation to be made.

This report has been prepared by the facilitation team that provided neutral assistance and support to the MRWG over its twenty-two (22) month effort to "consider the potential establishment of marine reserves within the Channel Islands National Marine Sanctuary area." During this time, the MRWG sought "to collaborate to seek agreement on a recommendation to the Sanctuary Advisory Council by using the best ecological, socioeconomic, and all other available information."

As per its ground rules, since the MRWG was unable to achieve unanimity in its recommendation, the facilitation team was tasked with identifying the areas of agreement and disagreement that characterized the MRWG efforts toward reaching a consensus recommendation. We have also sought to provide some observations on the process used to seek agreement and the value derived from the hard work that each and every member of the MRWG invested in defining issues, crafting a problem statement, identifying options and seeking agreement.

This report has been prepared subsequent to the last formal meeting of the MRWG that took place on May 16, 2001. Therefore, it has not been reviewed by members of the Working Group. Accordingly, it represents the perspectives of the facilitation team and not necessarily those of the members of the MRWG itself. In crafting this report, the facilitation team has used its best efforts to objectively and independently convey the outcomes that emerged from nearly two years of collaborative listening, information collection and evaluation, constituent outreach, public forums, and interest-based negotiation.

While the MRWG was not able to achieve unanimity on a comprehensive recommendation to the SAC, this should not be interpreted as either a lack of effort or a failure of the process. As professional facilitators, we observed the working group:

- ❖ Develop a better understanding of each others perspectives and interests;
- ❖ Develop a better understanding of both the substance and process of marine resource policy making;

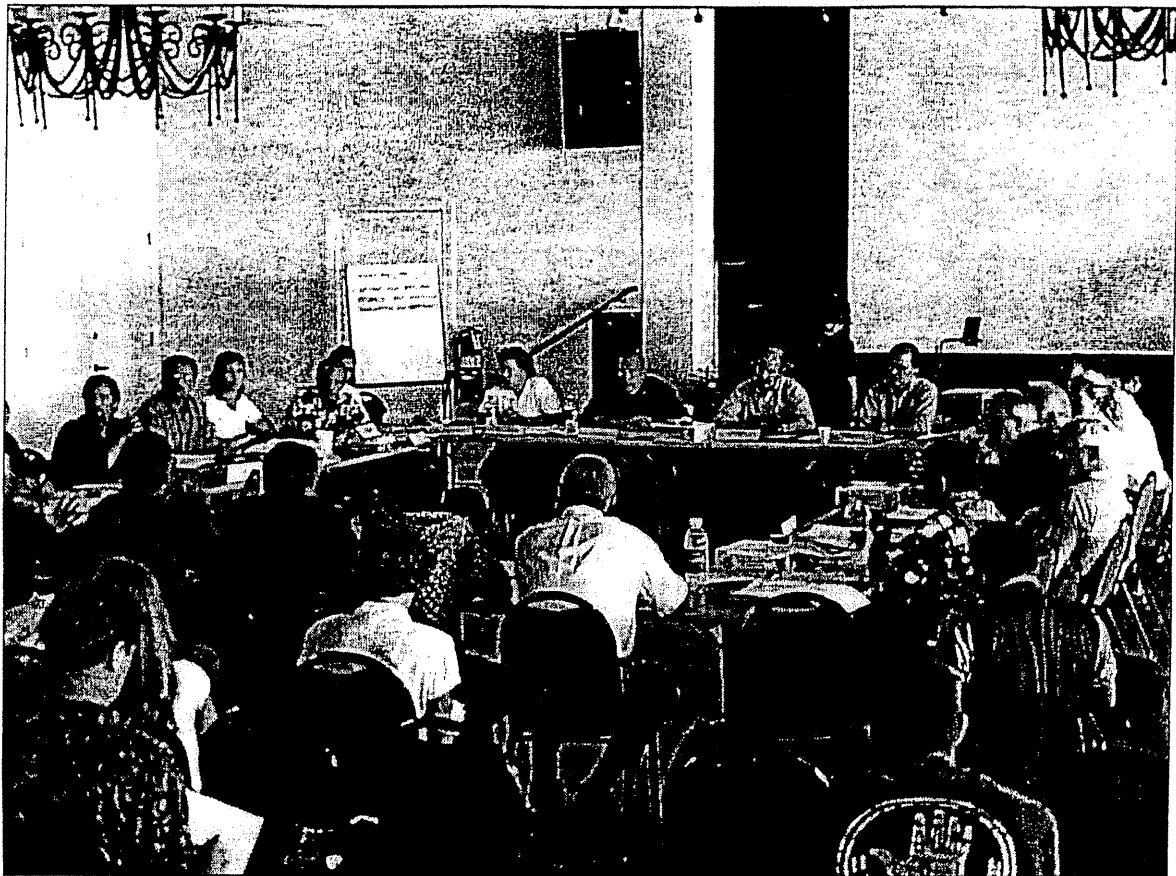
- ❖ Develop and improve working relationships among and between traditionally opposing interest groups;
- ❖ Generate proposals that were more responsive to a multitude of interests rather than responding to more narrow or limited interests; and,
- ❖ Frame the relevant marine reserve issues in a manner that will inform and help facilitate the development of a recommendation by the SAC to the Sanctuary Manager, the California Fish and Game Commission, and the National Oceanographic and Atmospheric Administration, as the state and federal stewards of Sanctuary waters.

Process Background

In 1999, the California Fish and Game Commission received a request from the Channel Islands Marine Resource Restoration Committee and the Channel Islands National Park to create a network of marine reserves within the Channel Islands National Marine Sanctuary. In response to this request the Channel Islands National Marine Sanctuary and the California Department of Fish and Game developed a joint federal and state process to consider establishing marine reserves in the Sanctuary. The Channel Islands National Marine Sanctuary Advisory Council (SAC) appointed the Marine Reserves Working Group (MRWG) in July 1999, to consider the establishment of marine reserves within the Sanctuary. The MRWG membership was designed to represent the full range of community perspectives. Members included representatives of the public-at-large, commercial fishing, recreational fishing and diving interests, and non-consumptive interests. The MRWG is presently comprised of 16 members¹, including five members from the SAC.

Because the MRWG was not able to arrive at a recommendation by consensus (i.e. unanimity), the SAC is now charged with evaluating their areas of agreement and disagreement and crafting its own recommendation to the Sanctuary Manager. The paragraphs that follow are intended to facilitate that process through delineating what was and was not accomplished during the tenure of the MRWG. It is our understanding that the SAC will develop a recommendation based in part on the insights gained from the MRWG process and forward it to the Sanctuary Manager as formal advice. The Sanctuary Manager and the California Department of Fish and Game (DFG) Marine Region Manager will then submit a recommendation to the California Fish and Game Commission, Pacific Fisheries Management Council, and the National Oceanic and Atmospheric Administration for consideration. Because the MRWG did not achieve consensus on a recommendation, there is no final "product" to be evaluated by its advisory bodies - the Science

¹ The MRWG was originally appointed with 17 members. One of the non-consumptive representatives withdrew from the process in early 2001. That open seat was not filled by the remaining caucus of non-consumptive, conservation representatives on the MRWG.



Panel and the Socioeconomic Team. Therefore, only the preliminary findings of these advisors regarding various options considered by the MRWG during the course of its deliberations will be provided to the SAC. In addition, the meeting notes of the three public forums held will also inform the SAC regarding the range of perspectives on the size, location and specifics of potential reserve areas.

Substantive Areas of Agreement

Overview

The MRWG did come to a series of general agreements in concept, even though it was not able to achieve unanimity on a recommendation regarding reserve size, design, location and administration. At its final meeting on May 16, 2001 the MRWG agreed to forward to the SAC those substantive agreements that did garner the full support of the group. Those agreements focused on the following six topics:

- ❖ Ground Rules
- ❖ Mission Statement (Reaffirming the SAC's direction to the MRWG)
- ❖ Problem Statement

- ❖ Issues of Concern
- ❖ Goals and Objectives
- ❖ Implementation Recommendations

Areas where the MRWG could not achieve consensus centered around the size and location of marine reserves, possible phasing-in of marine reserves, possible designation of "limited take" areas, and how to integrate potential reserves with current and anticipated fisheries management actions in the CINMS region. The pages that follow review points of agreement reached by the MRWG. Consensus language is indicated in *italics*.

Ground Rules: The MRWG reached agreement on a set of Ground Rules that provided a common understanding about the purpose of the MRWG process and established a basis for constructive communication with each other as well as decision-making, and the day-to-day working group operations (See Attachment A)

Mission Statement: The MRWG agreed to the following consensus language regarding a its mission:

Using the best ecological and socioeconomic and other available information, the Marine Reserve Working Group (MRWG) will collaborate to seek agreement on a recommendation to the Sanctuary Advisory Council regarding the potential establishment of marine reserves² within the Channel Islands National Marine Sanctuary area.

Problem Statement: The MRWG agreed on a problem statement to guide the development of goals and objectives for marine reserves. This problem statement sought to answer the question "If marine reserves are the solution, what is the problem?" that was posed by many in attendance at the first Public Forum. By agreeing on a problem statement, the MRWG was able to frame the question of "why" consider the establishment of marine reserves. By taking this approach, the problem statement:

- ❖ Enhanced the legitimacy of the process;
- ❖ Encouraged collaboration among a broad alliance of interests;
- ❖ Engaged stakeholders and their constituencies in the process;
- ❖ Served as a "touchstone" for productive dialogue;
- ❖ Identified the implications of non-agreement and maintaining the "status quo"
- ❖ Established a focus on the future of the Channel Islands marine ecosystem;
- ❖ Framed the problem to be addressed; and
- ❖ Minimized misinterpretations regarding the purpose for collaborating.

² A marine reserve is defined as a "No Take" zone.

When difficult situations emerged, the problem statement was used to refocus the participants on a constructive approach to changing the status quo. The MRWG agreed to the following consensus language regarding a Problem Statement:

Problem Statement

The urbanization of southern California has significantly increased the number of people visiting the coastal zone and using its resources. This has increased human demands on the ocean, including commercial and recreational fishing, as well as wildlife viewing and other activities. A burgeoning coastal population has also greatly increased the use of our coastal waters as receiving areas for human, industrial, and agricultural wastes. In addition, new technologies have increased the efficiency, effectiveness, and yield of sport and commercial fisheries. Concurrently there have been wide scale natural phenomena such as El Nino weather patterns, oceanographic regime shifts, and dramatic fluctuations in pinniped populations.

In recognizing the scarcity of many marine organisms relative to past abundance, any of the above factors could play a role. Everyone concerned desires to better understand the effects of the individual factors and their interactions, to reverse or stop trends of resource decline, and to restore the integrity and resilience of impaired ecosystems.

To protect, maintain, restore, and enhance living marine resources, it is necessary to develop new management strategies that encompass an ecosystem perspective and promote collaboration between competing interests. One strategy is to develop reserves where all harvest is prohibited. Reserves provide a precautionary measure against the possible impacts of an expanding human population and management uncertainties, offer education and research opportunities, and provide reference areas to measure non-harvesting impacts.

Issues of Concern: Early on in the process, the MRWG agreed to the consensus language regarding Issues of Concern. The following language was instrumental in guiding the development of goals and objectives that occurred later in the process.

Issues of Concern

The Working Group identified the following key issues of concern that needed to be addressed in developing its recommendation regarding marine reserves in the Channel Islands National Marine Sanctuary.

- ❖ **Status of Resources:** *There was an interest in quantitatively assessing how the combination of anthropogenic influences and natural variability have led to changes over time in the distribution and abundance of the species of interest that are indicative of the status of the ecosystems and fisheries of the Channel Islands.*
- ❖ **Social / Economic / Ecological Considerations:** *There was an interest in achieving marine resource conservation while minimizing socioeconomic*

impacts to the marine fisheries industry as well as fairly allocating the risks and benefits among consumptive and non-consumptive users.

- ❖ **Evaluation:** *There was an interest in avoiding the repetition of mistakes made in the development of other marine reserves and in future scientific monitoring to assess the long-term effectiveness of the proposed reserve(s).*
- ❖ **User Profiles:** *There was an interest in identifying all relevant user-groups and their respective areas of primary operation in order to quantitatively assess the principle economic activities and related interests in the Channel Islands.*
- ❖ **Reserve Design:** *There was interest in identifying the specific spatial extent of any potential reserve (s) and in determining whether there would be any temporal variation regarding reserve size and location.*
- ❖ **Reserve Administration:** *There was an interest in seeing the development of a comprehensive interagency management strategy for reserve(s) and in determining how reserve management would operate in terms of enforcement and administrative procedures.*

Goals and Objectives: Considerable time was invested in developing and refining a set of goals and objectives to provide guidance to the Science Panel and Socioeconomic Team as well as to themselves in the development of a network of marine reserves. The goals and objectives were developed to answer the question of "what" is the desired future state of the Channel Islands marine ecosystem, as well as "what" are the measurable outcomes for evaluating progress and success in moving toward that future desired condition. Through additional input from the Science Panel, the Socioeconomic Panel, existing marine protected area legislation and policies, and further interactive discussion among members, the following Goals and Objectives for marine reserves in the Channel Islands were refined and agreed upon.

Goals and Objectives for Marine Reserves in the Channel Islands³

Ecosystem Biodiversity Goal:

To protect representative and unique marine habitats, ecological processes, and populations of interest.

Objectives -

1. *To include representative marine habitats, ecological processes, and populations of interest.*

³ In developing and adopting these goals and objectives, the MRWG has adopted the following operational definitions:

Goal: A broad statement about a long-term desired outcome that may, or may not be completely obtainable.

Objective: A measurable outcome that will be achieved in specific timeframe to help accomplish a desired goal.

2. To identify and protect multiple levels of diversity (e.g. species, habitats, biogeographic provinces, trophic structure).
3. To provide a buffer for species of interest against the impacts of environmental fluctuations.
4. To identify and incorporate representative and unique marine habitats.
5. To set aside areas which provide physical, biological, and chemical functions.
6. To enhance long-term biological productivity.
7. To minimize short-term loss of biological productivity.

Socio-Economic Goal:

To maintain long-term socioeconomic viability while minimizing short-term socioeconomic losses to all users and dependent parties.

Objectives

1. To provide long-term benefits for all users and dependent parties.
2. To minimize and equitably share short-term loss in activity for all users and dependent parties.
3. To maintain the social and economic diversity of marine resources harvest by equitably sharing the loss of access to harvest grounds among all parties to the extent practicable when designing reserves.
4. To address unavoidable socioeconomic losses created by reserve placement through social programs and management policy.

Sustainable Fisheries Goal:

To achieve sustainable fisheries by integrating marine reserves into fisheries management.

Objectives -

1. To increase abundance, distribution, reproductive capacity and individual sizes of harvested populations within marine reserves in the Channel Islands region.
2. To facilitate rebuilding and sustaining harvested populations.
3. To enhance spillover into non-reserve areas.
4. To establish a recognition program for sustainable fisheries in the Channel Islands region.

Natural and Cultural Heritage Goal:

To maintain areas for visitor, spiritual, and recreational opportunities which include cultural and ecological features and their associated values.

Objectives -

1. To conserve exceptional ecological and cultural resources that stimulate and encourage human interaction with the marine environment and promote recreational activities.
2. To conserve outstanding areas that encompass seascape, adjoining coastal landscapes, or possesses other scenic or visual qualities.
3. To maintain submerged remnants of past life that are of special historical, cultural, archeological, or paleontological value.
4. To maintain areas of particular importance that support traditional non-consumptive uses.
5. To maintain opportunities for outdoor recreation as well as the pursuit of activities of a spiritual or aesthetic nature.
6. To facilitate ease of access to natural features without compromising their value or uniqueness

Education Goal

To foster stewardship of the marine environment by providing educational opportunities to increase awareness and encourage responsible use of resources.

Objectives -

1. To develop and distribute offsite interpretations and displays allowing indirect observation, study and appreciation of marine resources.
2. To provide current pamphlets, project ideas and worksheets for use on and offsite.
3. To promote personal and organized visits for direct observation and study.
4. To link monitoring and research projects to support classroom science curriculum.

Implementation Recommendations: In addition to the goals and objectives that the MRWG developed, the group also identified an additional set of suggestions related to the question of "how". In coming to closure on these recommendations, the MRWG sought to anticipate some of the difficulties related to the implementation or execution of reserve and identify matters that should be taken into account in that process, as well as relevant procedures or protocols for maximizing their success and effectiveness.

Implementation Recommendations

The following "implementation recommendations" have been adopted to compliment the above goals and objectives for marine reserves and to provide additional guidance and clarification to stakeholders, management agencies, user groups and members of the broader "maritime community," as the details of program implementation are refined and put in to place.

MONITORING, EVALUATION, AND ASSESSMENT RECOMMENDATIONS**Purpose:**

1. To understand ecosystem functions in order to distinguish natural processes from human impacts;
2. To monitor and evaluate the short- and long-term effectiveness of reserves for managing living marine resources including harvested populations;
3. To widely publicize the results of findings of monitoring and evaluation efforts.

For Biodiversity:

1. Design reserves that will be tractable for monitoring of biological and physical processes;
2. Establish long-term monitoring of ecological patterns and processes in, adjacent to, and distant from marine reserves;
3. Evaluate short- and long-term differences between reserve and non-reserve areas;
4. Study the effects of marine mammal predation on marine populations in, adjacent to and distant from reserves;
5. Provide for water quality testing near and distant from reserves;
6. Monitor ecosystem structure and functioning along gradients of human activities and impacts;
7. Develop methods for evaluating ecosystem integrity.

For Fisheries Management

1. Evaluate the short- and long-term effectiveness of reserves as an integrated fisheries management tool;
2. Develop and adopt a monitoring, evaluation and data management plan for goals and objectives that explicitly contribute to "adaptive management";
3. Provide long-term continuity in effort, expertise, and funding during reserve monitoring and evaluation;
4. Establish long-term resource monitoring programs in, adjacent to, and distant from reserves;
5. Monitor impacts of reserves on commercial and recreational industries;
6. Provide for the systematic study of near shore species, including (1) larval export, (2) adult migration, (3) relative abundances, (4) size-frequency distributions, and (5) other topics of interest, for stock assessment purposes;
7. Monitor reserves to test their ability to:
 - Replenish and recover marine populations of interest including harvested populations;
 - Export larvae and adult individuals to areas outside reserve boundaries;
 - Document changes of catch characteristics of users adjacent to and distant from reserves;
 - Study and evaluate the effects of predators on marine populations in, adjacent to, and distant from reserves.

For Socioeconomic Impacts:

1. *Provide an opportunity to monitor and evaluate the benefits and impacts to all users and dependent parties inside, adjacent to, and distant from reserves.*

For Data Management

1. *Create and adopt interagency memoranda of understanding to define integrated management framework, responsibilities and accountability;*
2. *Seek commitments of adequate resources of time, funding, and expertise to assure adequate and ongoing monitoring, synthesis, interpretation, and reporting of information;*
3. *Undertake preliminary surveys to provide baseline information to gauge reserve performance;*
4. *Design monitoring strategies to produce definitive results through an explicit reporting process including clearly stated monitoring objectives to address priority issues, and quality assurance programs to ensure that type, amount, and quality of data meets research objectives;*
5. *Design a data management program that provides mechanisms to ensure data is processed, summarized, and reported to concerned individuals, organizations and agency representatives in an easily understood format on a regular (e.g., bi-annual) basis. Seek an ongoing funding base to maintain adequate data management capacity;*
6. *Design and implement a program for dissemination of information from ongoing studies in a useable and accessible format that can provide information for better environmental protection and management;*
7. *Design the monitoring and evaluation program with built in mechanisms for periodic review and that allows for program adjustments that are responsive when monitoring results or new information from other sources justifies program refinement.*

RESERVE ADMINISTRATION RECOMMENDATIONS:**Purpose:**

To effectively respond to the "Problem Statement" and achieve the goals and objectives of this program of marine reserves through:

1. *Effective agency coordination and accountability*
2. *Community oversight*
3. *Data management*
4. *Adequate funding*
5. *Appropriate enforcement practices*

Agency Coordination and Accountability:

1. *Create and adopt interagency Memoranda of Understanding (MOU), Memoranda of Agreement (MOA), or other means to memorialize agency commitment to the marine reserves program by the California DFG, CINMS, NMFS, FWS and NPS and other responsible agencies with jurisdiction.*
2. *Develop procedures to insure and maintain consistent interpretation, application and enforcement of regulations across agencies.*
3. *Continue efforts to protect the intent of these reserves from outside intervention and changes.*

Community Oversight:

1. Convene a standing community oversight committee to review implementation, the effectiveness of reserve administration and monitoring, and to ensure that community concerns can be expressed and addressed.

Funding:

1. Develop cooperative interagency agreements (among CINMS, CINP, DFG and NMFS, and other agencies) to seek and commit annual funding and other in-kind assistance to support reserve administration.
2. Provide operational support and seek a dedicated funding stream to implement and maintain: marine reserve design, research, monitoring, and evaluation.
3. Develop a protocol in which each agency annually reports its contributions to the CINMS or other designated "lead" agencies reserve administration.
4. Explore the utilization of non-profit, research, and academic organizations and other implementation strategies as methods of institutionalizing long-term program funding.

Enforcement:

1. Develop an enforcement Memorandum of Understanding (MOU) and cooperative interagency enforcement plan with the NMFS, DFG, CINP, CINMS, and Coast Guard.
2. Design clear and discernable reserve boundaries.
3. Enlist community participation in marine reserve management and enforcement in order to maximize the cost-effectiveness of the enforcement program.
4. Provide operational support and seek a dedicated funding stream to maintain an active presence on the water and in the air.
5. Develop explicit regulations and restriction that are clear and consistently interpreted.
6. Use "state of the art" enforcement resources, reserve dedicated officers, and vessels.
7. Allow the transit of vessels with fish through reserves at any time, as long as no gear is in the water.
8. Allow anchoring of vessels with fish in marine reserves as permitted by Federal law or in case of emergency caused by hazardous weather.
9. Allow for limited take associated with research, monitoring and adaptive management of this network of marine reserves.

Education Recommendations:

1. Create a (CINMS, DFG, FWS, NPS, and others) team of educators to create a coordinated plan with input from the community for the development of interpretive programs, multimedia products, signs, brochures, and curriculum materials related to marine reserves.
2. Develop a training program for staff and volunteers from the above agencies so that they have the tools and information they need to provide interpretation about marine reserves to the general public.
3. Integrate marine reserves educational materials into existing educational programs such as Sanctuary Naturalist Corps, Sanctuary Cruises, Great American Fish Count, etc.

4. *Incorporate data from marine reserve research and monitoring projects into science curriculum materials and hold workshops to present this information to teachers.*
5. *Develop interagency Web site for Channel Islands Marine Reserves that is a portal to best available and most current information about marine reserves that could be used by the general public and school audiences*
6. *Develop a program for organized public educational visits (such as diving, whale watching, nature photography, etc.) to marine reserves for direct observation and study.*
7. *Seek funding for interagency efforts described above.*

Outstanding Unresolved Issues

Consistent with the MRWG's Ground Rules, there are several unresolved issues that the group wanted to share with the SAC. Resolution of these issues was elusive to the MRWG, in part because in certain cases, these issues were framed such that the gains to one interest group were viewed as losses to at least one or more other caucus of interests. Efforts by the Facilitation Team to transform these positions into broader interests or as components of a package of proposals were not successful. This section of the Facilitators' Report is intended to provide the SAC with our insights regarding what the MRWG could not agree on and the competing interests underlying those issues.

1. **Size of Reserves:** While efforts were made to avoid focusing primarily on reserve size as the basis for a recommendation, input from the Science Panel largely defined the success of reserves in terms of size. Efforts by the facilitation team and others to introduce other variables such as phasing, limited take areas and integrated fisheries management into the "conversation" did not create sufficient agreement to resolve the issue of reserve size. The following perspectives appear at odds at this time:

Perspective	Interest	Proposals to Date:
Reserves should initially be limited in size until their benefits, especially spillover benefits, can be adequately demonstrated.	Minimize economic hardships on consumptive users. Maintain access to key important traditional areas of use.	7% Set-aside 14% Set-aside
Set aside 20-30% of high quality habitat within the Sanctuary as a initial Phase of marine reserves. Provide consumptive users additional time to adapt to the closures and through adaptive management over time, increase the area to 30+% per the Science Panel's recommendation.	Make significant scientifically defensible progress towards achievement of the goals and objectives for marine reserves and build community support for additional expansions through adaptive management.	
Reserves must cover at least 30% of the Sanctuary to be successful, as defined by the Science Panel.	Minimize environmental risk at the expense of short-term adverse economic impacts to consumptive users	30+% Set-aside 28% Set-aside
Reserves should be at least 30% plus an additional 1.2 – 1.8X "insurance" multiplier. Anything less could fail to protect species if natural or manmade disasters cause significant harm to ecosystem health and functions.	Eliminate environmental risk at the expense of adverse economic impacts to consumptive users.	36-48% Set aside

Facilitation Team Observation: A primary focus on reserve size (i.e., percentage set-aside) will not likely lead to a consensus agreement because the gains to one or more stakeholder groups are construed as losses to other groups and because stakeholder options away from

the negotiating table appear better to each side than compromise on this issue. This issue can probably only be resolved by higher-level policy decisions or by negotiating other combinations of proposal elements in place of a "size-driven" outcome.

2. **Location of Reserves:** Generally, the discussion of the location of specific areas for reserves has been driven by a combination of desire for quality habitat and accessibility (either distance from port, or safety of access). While there may be general agreement that areas that are difficult to access that also contain quality habitat are well suited for reserves, that approach becomes more problematic as one moves from west to east toward Santa Cruz (north side), Anacapa and Santa Barbara Islands. The following perspectives kept the MRWG from consensus:

Perspective	Interest	Proposals to Date:
Santa Barbara and Anacapa Islands are used extensively by sport fishermen (and for Anacapa by recreational divers) from throughout Ventura and Los Angeles Counties and should not be off limits. Access to Santa Barbara has already been severely limited by the Cow Cod Conservation closure.	Maintain some areas easily accessible to ½ and ¾ day charter boats.	No reserves what so ever on Santa Barbara or Anacapa Islands.
Sport fishermen and squid fishermen use the north side of Santa Cruz Island; very limited reserve areas should be set aside along this portion of the Island.	Maintain some areas easily accessible to ½ and ¾ day charter boats. Balance the placement of reserves so that squid harvesting is not disproportionately impacted	If reserves are absolutely necessary in this area, they should only extend out to the 20 fathom depth, leaving the remainder either open entirely or open to some limited take by recreational fishermen and possibly some types of low impact commercial fishing.
Commercial fishermen utilize the northwest portion of San Miguel, weather permitting.	Maintain some areas accessible to shrimp trawlers and other commercial uses.	The placement of reserves should not extend beyond three miles from the elbow to Wilson Rock
The placement of reserves should not be such that it significantly impacts existing kelp harvesting lease areas. Kelp harvesting is a renewable resource and only impacts the top six feet of the water column.	Balance the placement of reserves so that kelp harvesting is not disproportionately impacted.	Allow limited kelp harvesting in selected reserve areas which are situated in locations that are critical to the economic viability of the kelp harvest industry.
Adequate habitat should be fully protected in a replicate manner in all three bio-geographic provinces	The placement of reserves needs to provide for sufficient representation of the full range of habitats in amounts sufficient to meet identified sustainability and biodiversity goals	Set aside quality habitat areas on both the north and south sides of islands in the Oregonian, Californian and Transitional provinces.

3. Use of "Limited Take" areas to compliment or substitute for "No Take" Reserves:

Proposals were offered by some Working Group members to allow for different types of "limited take" in some areas. Various types of "limited take" were considered, such as recreational "catch and release" fishing for pelagics; restrictions on certain kinds of recreational fishing tackle and commercial fishing gear; and access to recreational fishing as well as certain commercial fisheries that cause less impacts to habitat, but closure to the commercial finfish fishery. Such areas might equate to the concept of Marine Conservation Areas as defined by the Marine Life Management Act (MLMA) process.

The basis for these proposals is that some MRWG members felt that such measures would not significantly impact stocks identified as being in decline, and they would still allow some recreational and commercial activities adjacent to no-take reserves.

Perspective	Interest	Proposals to Date:
Allow limited-take/catch & release areas instead of or for credit toward the total percent set aside of marine reserves	Allow for the commercial and recreational benefits of limited impact fisheries of non-threatened species that do not directly require or benefit from no take reserves.	Some discussion as a possible option on the north sides of Santa Cruz and Anacapa Islands.
Allow "recreational only" areas where sport fishing is allowed but commercial fishing is not.	Give preferential treatment to recreational fishing to compensate for other areas set aside for no-take reserves.	No specific proposals offered to date.
Allow for recreational-only, catch & release areas only as a interim measure, prior to designating such areas as Phase II "no-take" reserve areas	Utilize phasing as a method of distributing or minimizing economic hardship and adverse impacts to users over time.	Some discussion as a possible option on the north sides of Santa Cruz and Anacapa Islands.
Do not allow any credit for limited take/catch & release areas toward marine reserves	Preclude unanticipated impacts on biodiversity and predator/prey relationships of an intact marine ecosystem; the Science Panel's recommendation assumes reserves are "no-take" – catch & release is a form of "take".	N.A.

It appears that the designation of limited take areas could provide selective benefits to sport fishing and/or certain commercial fishing interests without significantly affecting non-consumptive conservation interests. If satisfactorily sized reserves are also established, this approach may hold promise in realizing the hoped for long-term spillover benefits of reserves, particularly if the limited take areas are located adjacent to no-take reserves.

- 4. Relative Weighting of Advice from Science Panel and Socioeconomic Team** – There was a significant divergence of opinion regarding the relative importance of advice from the two advisory bodies to the MRWG. The facilitation team had sought to establish a system of aggregating individual stakeholders' preferences for how to weigh socioeconomic factors in relation to the advice and recommendations of the Science Panel. The Working Group as individuals and as a group, however, were unwilling to establish the relative weight that should be given to the advice of the two bodies. Some members were of the opinion that because the process was established from the outset as a "science-based" process, that the recommendations of the Science Panel should take precedence over those of the Socioeconomic Team. Other members expressed the perspective that both bodies were advisory in nature, and that it was the responsibility and role of the MRWG itself to "balance potentially conflicting perspectives and make an independent judgment based upon both sets of data." Both perspectives are supported by the MRWG's Ground Rules. However, neither "position" moved the full group toward common ground.
- 5. Phasing of Reserves:** The MRWG engaged in meaningful discussion of the role of phasing as a method of establishing marine reserves over time. This particular approach presents a series of nested options for consideration. There is general agreement that phasing could be an acceptable method of implementing marine reserves that would spread out the potential socioeconomic impacts on user groups over time. The issues center around: 1) the size of the initial phase, 2) the certainty of future phases, and 3) the use of performance standards or criteria to determine the specific implementation of subsequent phases. All three issues are underlain by a desire for marine reserves to be successful.

The Size of the Initial Phase: One perspective expressed was that for reserves to be successful, they need to be initiated by setting aside a sufficient percentage of the total area to ensure a high probability of succeeding in ultimately meeting the goals established by the Working Group. Another perspective was that the initial size of reserves should be one that would minimize the economic impact to user-groups. Over time perhaps, the size of reserves could increase to a size that would have a higher probability of success in regards to enhancing the distribution and abundance of species of concern.

The Certainty of Future Phases: A concern expressed by several MRWG members was that if a phased reserve network began too small, it would not be effective in producing the desired biological effects on the species of concern. Thus, if the desired biological effects cannot be produced and clearly demonstrated by a small Phase I reserve, then a larger Phase II reserve would never be implemented.

Use of Performance Standards or Criteria to affect the specifics of Subsequent Phases: One concern expressed regarding the use of performance standards was that criteria might be developed that would cause the biological effects of reserves to appear not as pronounced and thereby reduce the probability that larger phases of reserves would be implemented. Another perspective regarding the use of performance standards was that criteria could be developed that would cause the biological effects of reserves to appear more pronounced and thereby increase the probability that larger phases of reserves would be implemented over time. In order to promote constructive dialogue, the nature of appropriate performance standards would need to be discussed and agreed. Without time to more fully consider and define appropriate performance criteria, the MRWG members tended to respond to this concept from their own worst-case scenario perspective.

6. **Integration of Fisheries Management Outside Reserves:** During the course of the MRWG's deliberations, additional fisheries management strategies have been proposed and/or implemented by state and federal authorities outside of the MRWG process. Some on the MRWG had the perspective that fisheries management actions implemented outside by near the CINMS area should be considered when determining the spatial extent of a reserve system. That is, if areas are closed to certain fisheries south of the CINMS border, then that should be taken into account, and not as much emphasis needs to be placed on the area within the CINMS in regards to establishing no-take reserves.

Others on the MRWG felt that new management actions and strategies should be acknowledged and considered when designing a reserve system within the CINMS. Such consideration might allow for not fully meeting the Science Panel's minimum 30% set aside recommendation.

Yet others on the MRWG felt that the Science Panel's 30-50% recommendation applied to CINMS as a discrete management unit unto itself, without regard to other closures outside its boundaries.

Thus, these differences in perspective stem from the way in which different people perceive how fisheries management strategies outside of the CINMS will affect the resources within the Sanctuary.

Maps Generated by the MRWG:

A total of 30 maps of potential marine reserve scenarios and proposals were generated by the MRWG over its 22-month tenure. Support staff from the Channel Islands National Marine

Sanctuary (as well as the Science Panel and Socioeconomic Team) provided extensive technical support and analysis that complimented these mapping efforts, through the development and application of GIS and Decision Support Tools.

Formal mapping efforts took place immediately following the consensus on the MRWG's Goals and Objectives in August, 2000. The table below provides an overview of the range of options developed, their purpose and context, and the resultant outcome of MRWG efforts specific to those maps.

Timeframe	Maps Developed	Context	Outcome
September 27, 2000	10 initial marine reserve Concepts (Maps A1, B1, B2, B3, C1a, C1b, D1, D2, & D3) developed by small <u>heterogeneous</u> MRWG sub-groups for refinement by full MRWG	Provide the basis for negotiating goal-oriented options among divergent interest groups within the MRWG; identify pros and cons for range of interest groups.	Utilized for analytical purposes to evaluate ability to meet both social, economic and ecological goals; not pursued as viable proposals for formal consideration
October 18, 2000	5 additional marine reserve Scenarios (Maps A, B, C, D, & E) developed by small homogeneous, self-selecting groups for refinement by full MRWG	Build upon initial set of maps and identify areas from which to negotiate a proposed network of reserves that was responsive to full range of interests	Provided a basis for soliciting feedback from constituent groups.
February 21, 2001	4 proposed marine reserve Options (Maps A-D) developed by full MRWG, with audience input.	Maps developed for feedback and evaluation from Science Panel, Socioeconomic Team and general public	Science Panel and Socioeconomic team provide technical analysis of implications of each map; pubic forum held to receive input on each map.
April 18, 2001	MRWG identifies four additional scenarios (E, F, G, H) and identifies one non-consensus-based map (I) as representing the overlap of potential marine reserve proposals. MRWG reaches impasse on a proposal to send forth to SAC.	Maps developed in response to advisory input from Science Panel, Socioeconomic team, and general public; represented an attempt to find common ground, and reflect constituent group input as well.	No Consensus achieved among full MRWG.
April 19, 2001 - May 15, 2001	MRWG members negotiate additional scenarios (J, K, L, M, N, O) outside of meeting in small groups with intention of achieving consensus	Further efforts to negotiate common ground and integrate other dynamics including phasing, areas of limited take, fisheries	No Consensus achieved among full MRWG.

Timeframe	Maps Developed	Context	Outcome
		management and other factors into a map that is agreeable to all MRWG members..	
May 16, 2001	MRWG reaches formal impasse on a recommendation and sends forward two maps to SAC, neither of which received a full consensus. Each map represents, the "resistance point" of consumptive vs. non-consumptive interests.	Deadline for agreement reached; parties identify their bottom lines for mapping purposes and identify areas of overlap but not consensus	Impasse formally acknowledged; MRWG forwards one composite map (depicting areas of overlap and non agreement) to the SAC representing divergent perspectives, neither of which could garner consensus from the group as a whole.

The composite map forwarded to the SAC and depicted below represents the best effort that each of the consumptive and non-consumptive interests could propose and remain true to their constituent groups. The two areas depicted on this map represents the "resistance point"⁴ of each caucus of interests - that combination of reserve locations and size configurations beyond which they and/or their constituent group(s) could not support.

For those representing conservation interests, Map E represented the minimum level of habitat set-aside and spatial extent that could be supported. For those representing consumptive interests, the map depicting Areas of Overlap represented their maximum level of habitat set-aside and spatial extent. Neither of these two proposals contains elements for dealing with phasing, areas of limited take or integration of fisheries management issues.

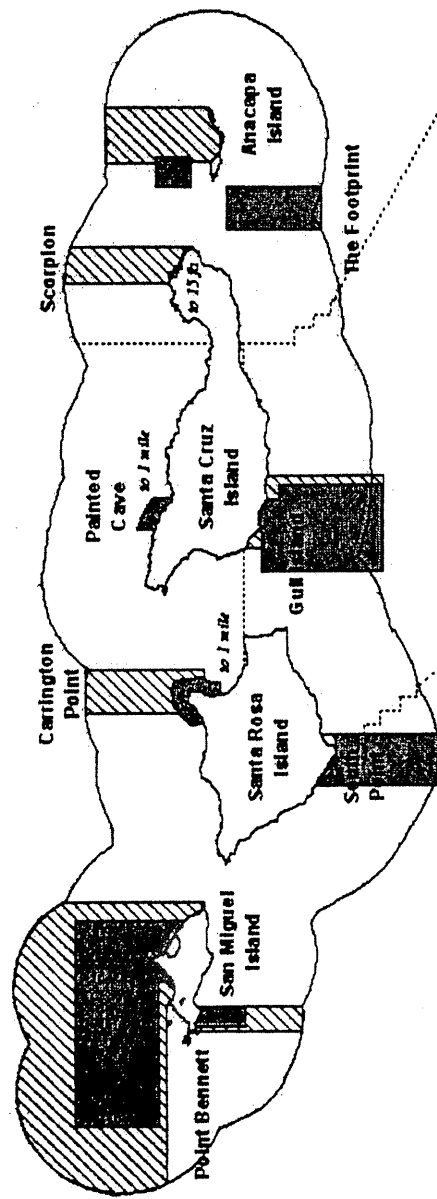
⁴ In the field of Negotiation Analysis, a resistance point or reservation value is a negotiator's bottom line, beyond which alternatives to a negotiated settlement (walking away, letting someone else decide, pursuing more other methods of dispute resolution) are more attractive than agreeing on an outcome negotiated by the parties themselves.

Composite Map of Areas of Overlap and Non-Overlap

May 16, 2001

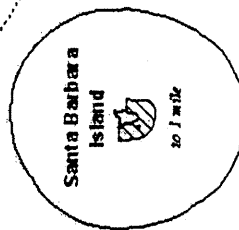


Oregonian Bioregion



Californian Bioregion

Transition Zone



Areas of Overlap
Areas of Non-Overlap

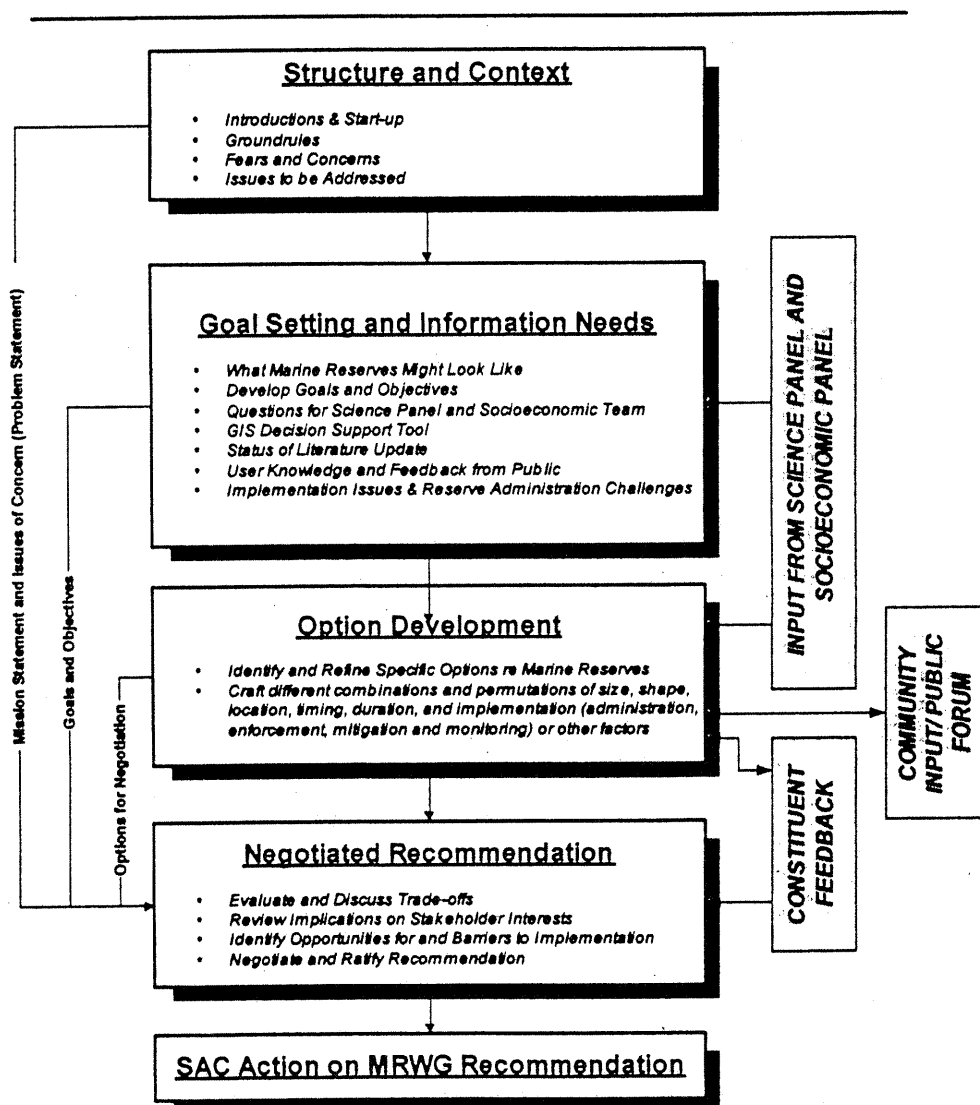


The challenge for those who must interpret the areas of consensus and non-consensus of the MRWG will be to find additional ways to creatively address the key concerns of the consumptive and non-consumptive interests in the marine reserve policy arena. For consumptive users, this means perhaps incorporating new policy alternatives and approaches for helping to minimize or mitigate the anticipated economic impacts of marine reserve designation, while also maintaining an acceptable level of access to productive fishing areas. For non-consumptive interests, a solution requires a system of representative reserves, situated in opportune locations, which are of sufficient size to protect the integrity of marine ecological processes at the scale of the Channel Islands. The thoughtful consideration of phasing, limited take areas, and further integration with sustainable approaches to fisheries management may help decision-makers in arriving at ecologically sound high quality solutions that also significantly address the core needs and interests of affected stakeholders.

Overall Process Observations

The Marine Reserves Working Group (MRWG) was convened in July of 1999 and began its substantive discussions regarding the establishment of marine reserves ("no take" fishing zones) in October of that year. Group members invested a considerable amount of time working together, reviewing information provided by their advisory panels, and the public at large in undertaking its mission to use the best available ecological, socioeconomic and other information to seek agreement on a recommendation regarding the potential establishment of marine reserves within the Channel Islands National Marine Sanctuary area. The flowchart below provides a general overview of the components of the MRWG process.

Overview of MRWG Process Stages



In their collaborative efforts, the MRWG has accomplished a number of positive and long lasting substantive results including:

- ❖ Framing the policy issues surrounding the issue of designating a network of marine reserves;
- ❖ Adopting protocols for collaborative problem solving and constructive dialogue;
- ❖ Improved working relationships among disparate interest groups;
- ❖ General agreement on a problem statement to guide the consideration of marine reserves;
- ❖ Development of goals and objectives that should guide the design, location, implementation and administration of marine reserves;
- ❖ Building of consensus regarding the potential value and benefits of marine reserves;
- ❖ Narrowing of original differences over the acceptable size of marine reserves.
- ❖ Identification of areas of overlap where marine reserve(s) could be located. (See discussion below)
- ❖ Public education and outreach with regard to the scientific, political and socioeconomic issues surrounding the creation and management of marine reserves.

From a process perspective, the MRWG discussions and deliberations were based upon a series of guiding principles. These guiding principles contribute to the stability of the outcomes that have been realized, as well as lessons to be learned.

Diversity of Representation: The representation reflected on the MRWG was formulated in advance of the involvement of the facilitators, being comprised of recreational fishing interests, kelp harvesting, commercial fishing interests, consumptive and recreational diving interests, conservation interests, public at large representatives, marine policy/science, and regulatory agencies at the state and federal level. If any deficiencies of representation were to be identified, they would center around a lack of representation of oil interests, and harbor/yachting interests, as well as the geographical extent of users. However, these limitations were overcome by efforts to involve Ventura-based fishing interests as alternates on the MRWG, and specific efforts by constituent representatives including squid seiners and other commercial fishing interests outreaching within their groups to users well beyond the immediate area (e.g., Monterey and San Pedro). Overall, the facilitation team concluded that representation was sufficiently diverse to craft a lasting agreement that was representative of all of the key stakeholding interests.

Commitment of the Participants to the Process: One noteworthy observation of the process was the energy and commitment of participants to preparing for and attending meetings. In spite of some degree of turnover and organizational change within the MRWG membership, each stakeholder group represented on the MRWG fielded representatives for each of the 27 meetings held. Principals rather than their alternates attended the great majority of the meetings.

Ability to Respond to a Loss of Membership: One of the originally designated MRWG members, Dr. Michael McGinnis withdrew from the process in early 2001. His withdrawal was consistent with the ground rules as interpreted by the MRWG itself and the facilitation team. The conservation caucus, within which Dr. McGinnis' seat was classified, determined that it would not seek to have his vacancy filled. Negotiations continued and Dr. McGinnis continued to attend several of the meetings as a member of the public, and communicated his views to the MRWG as a whole on a regular basis up until the final meeting.

Process Flexibility: Flexibility was designed into the process from the initial involvement of the facilitators. On several occasions, the facilitation team conferred with the MRWG as a whole regarding process design issues and made adjustments in not only the time frame for discussions but also the role of the MRWG itself in designing and refining agendas and meeting topics. While the process did consume considerably more time than was envisioned by its convenors, deadlines and timing did not significantly affect the outcome (i.e., lack of consensus recommendation) as much as the inability of competing interests to identify common ground. While extraordinary efforts were made to develop proposals that could address all stakeholder interests at the table, in the end, divergent interests precluded a true consensus regarding the issues of both size and location.

Use of Advisory Panels: The MRWG relied heavily upon the advice of their two advisory panels – the Science Panel and the Socio-economic Team. Both bodies were utilized in the context of joint fact-finding, and responded in varying degrees to questions posed by the MRWG. Initial concerns and conflicts over the discretionary versus advisory nature of panel input were resolved during the early stages of the process. The independence of each advisory panel was evident in the manner in which they responded to questions raised by the MRWG.

Strategic Use of Public Comment/Input: The process was designed to function as a series of working meetings rather than a schedule of public hearings where public comment was an integral part of the meeting design. Because of this approach, members of the public were encouraged to voice their concerns through the network of stakeholder representatives sitting on the MRWG. Concerns were raised with this approach and there was an ongoing tension throughout the process between members of the general public who wanted to participate directly in the MRWG discussions and the need to have sufficient time to allow for meaningful dialogue among the MRWG itself. This dilemma was mitigated in part with three public forums held in at strategic points in the process. Early on, an initial public forum was held in Oxnard (January 2000) that addressed the overall process and its purpose. Constructive input was received from

over 200 participants, resulting in the eventual adoption of a "problem statement" by the MRWG. Mid-way through the process, a second public forum was held in Goleta where the goals and objectives developed by the MRWG were reviewed and discussed, again by over 200 individuals in attendance. A third public forum was held in February of 2001 and discussed specific options for the location of marine reserves. Like the previous two public forums, a brief question and answer session was followed by a series of small round-table focus groups that identified areas of agreement and disagreement. Focus-group moderators then reported back to the full assembly the results of the small group discussions. In all three cases, vocal and passionate comments were aired and the Sanctuary staff provided follow-up meeting summaries.

Stakeholder Understanding of the Science and User Profiles behind Marine Reserves:

Because of the engagement of scientific and socioeconomic experts as part of the process, the MRWG as a whole improved their knowledge and integration of the scientific basis for reserves as a method of addressing ecosystem biodiversity and sustainable fisheries, while at the same time considering the potential impacts of "no take" fishing zones on those who depend upon the resources for their livelihood.

Stakeholder/Constituent Outreach: While not all MRWG members had identifiable or formalized constituent groups, a number of MRWG members made a concerted effort to meet with and discuss evolving MRWG dialogues with their respective constituencies. In many cases, they were challenged with conveying the dynamics and the "give and take" that took place at MRWG meetings with their constituent groups who had not attended the MRWG meetings. However, in the final analysis, each MRWG member succeeded in establishing worthwhile and meaningful connections between their identified constituencies and their role as decision makers/consensus builders on the MRWG. In the end, some constituencies remained uncomfortable with the broad based support for some proposals and were not able to commit their representatives to sign on to a consensus recommendation.

Need for Process Evaluation: Mindful that many outside interested observers have looked to the MRWG process as a potential model approach to consensus stakeholder-based marine resource decision-making, the facilitation team believes it is important to invest the time to impartially evaluate the lessons to be learned from the MRWG's effort about its overall process conception, design, and execution. Such an evaluation would enhance the long-term benefits gained from the MRWG process and provide useful guidance and advice to agency sponsors and conveners of similar collaborative agreement-seeking processes in the future.

Value Added by the Process

At the close of the Marine Reserve Working Group meeting on May 16, 2001, members were asked to reflect on the benefits gained from their collective efforts for themselves personally and to the community as a whole. Each of the participants outlined their thoughts about lasting value and importance of the MRWG process. Those observations can be classified into six categories. Selected observations are as follows:

- ❖ **From consideration to action:** Everybody on the MRWG is now in agreement that Marine Reserves provide potential benefits and should be implemented.

"We have come a long way from just considering Marine Reserves to proposing thousands of acres for Marine Reserves"

"The final maps discussed (today) reflected a scale of reserves that is positive in terms of community perspective. They're bigger than everything else on the continent."

"The reserves dialogue shifted fisherman into a pro-active mode."

"The leadership, commitment and perseverance has been significant; that is pleasantly surprising."

- ❖ **Everyone got smarter:** Increased awareness and understanding of scientific basis and socioeconomic implications of reserves gave everyone a vastly improved perspective.

"We have received great benefit from being "forced fed" information, not the least of which is an expanded political and jurisdictional awareness."

"We amassed a huge information base in one place for resource management."

"We learned about the limits of science and challenges inherent in using science in decision-making process."

- ❖ **Building consensus requires an exceptional amount of work:** In spite of not reaching agreement, efforts toward unanimity created substantial benefits in terms of improved collective capacity for collaborative problem solving.

"We invested heart and soul into this process, not just time and money."

"Constituent involvement has been a challenge and tremendous learning experience."

"We compressed a 10-year effort that took place at the Florida Keys National Marine Sanctuary, into a 2-year effort for the Channel Islands National Marine Sanctuary."

"The big challenge is to move beyond the uncertainties associated with Marine Reserves."

"Our hard work and pain will pay dividends in the future."

- ❖ **The end of our process will be where others start:** The products and experiences of this process will inform future processes so that they can be more effective, both in terms of substance and process.

"The outcome of this process gives a starting point for other processes (MLPA, etc.)"

"The Goals and Objectives reflect everyone's perspectives and desires for the future."

"Working with other stakeholders was rewarding and yielded good information to build on."

- ❖ **Created a broader knowledge base:** Substantial information gathering, research, evaluation of existing studies, mapping, and dialogue all added significantly to the body of knowledge about marine reserves.

"There is tremendous value for the community to be derived from Science and Socio-economic panels."

"Our information base (Socio-economic information and GIS) was developed by a partnership. This can be built upon from a data base perspective."

"There is a higher level of broad based understanding and how to deal with uncertainty."

- ❖ **Better working relationships:** People are now able to put a face with the issues. Good will is no longer in short supply; better understanding of diverse perspectives and friendships exist where they previously did not.

"I have better appreciation of people and process."

"Working with other stakeholders was rewarding and yielded good information to build on."

"This was a beneficial process in part because it put faces on the issues."

"The MRWG was better than the "Survivor" television show – we could not boot people out!"

"Interagency relations have been improved."

Appendix A

ADOPTED GROUND RULES

Channel Islands National Marine Sanctuary Advisory Council
Marine Reserve Working Group

1. Purpose

The purpose of these ground rules is to provide a common set of understandings upon which the discussions of the Marine Reserve Working Group might proceed and to facilitate the efficient use of participants' time and resources in achieving consensus on a recommendation to the Sanctuary Advisory Council (SAC). These ground rules will serve as the group's "agreement" for collaboration and consensus building.

2. Why are we doing this?

The Working Group has been established in response to:

- Channel Islands National Marine Sanctuary (CINMS) and California Department Fish and Game (CDFG) legislative purposes and mandates;
- A proposal to the California Fish and Game Commission for "no take" marine reserves in the Channel Islands National Marine Sanctuary area; and,
- The need to establish a community and stakeholder process for considering marine reserves in the Channel Islands National Marine Sanctuary for the California Fish and Game Commission.

3. Mission Statement

Using the best available ecological, socioeconomic and other information, the Marine Reserve Working Group (MRWG) will collaborate to seek agreement on a recommendation to the Sanctuary Advisory Council regarding the potential establishment of marine reserves within the Channel Islands National Marine Sanctuary area.

4. Timeline

It is anticipated that the MRWG will develop and forward its recommendation to the Sanctuary Advisory Council by June 2000.

5. Definitions⁵

- A. A Marine Reserve is defined as a "No Take" zone.

6. Participation

Working Group Selection Process: The Channel Islands National Marine Sanctuary Advisory Council (SAC) created the Marine Reserve Working Group around a core of five Council members and a Sea Grant Extension Marine Advisor. The MRWG operates under the purview of the SAC. The SAC solicited nominations of individuals with a strong knowledge of the regional marine resources and management issues, who also had the ability to understand and respect diverse points of view. The SAC selected members of the Working Group from this roster of nominated individuals.

⁵ Definitions within the context of these Ground Rules may be refined and new terms added at the discretion of the Marine Reserve Working Group. However, as with other changes or additions to these Ground Rules, all such revisions shall be by consensus of the Working Group.

Composition: The membership of the Working Group was established with the intention of having a range of community and stakeholder perspectives being represented. These included the public-at-large, commercial fishing and diving interests, recreational fishing and diving interests, and conservation interests. The SAC sought to have relative parity between members representing consumptive and non-consumptive interests on the Working Group. However, because it was envisioned that the Working Group would develop its recommendations through consensus, achieving a perfect numerical balance on the Working Group was not considered essential for a fair and informed process.

Alternates: All Working Group members have the responsibility to identify a designated alternate who can represent their interests and perspectives. The alternate's role is to attend any meeting that the member cannot attend, participate on that member's behalf, and to provide information about the proceedings and results of the meeting directly to the member. Alternates are empowered to participate in the decision making process when members are not in attendance. Alternates are not empowered to ratify the final recommendation of the MRWG.

Technical Advisors: The Working Group may choose to invite other individuals with special knowledge and expertise related the Channel Islands marine reserve issues to attend meetings to provide information and/or advice. Advisors will be encouraged to participate in discussions but shall not participate in the decision-making of the Working Group.

Constituent Involvement: Working Group members and their alternates serve as conduits for two-way information exchange with their constituencies. Constituents wanting to provide input to the process are encouraged to channel their concerns and suggestions through individual members of the Working Group who they feel could represent their interests. Working Group members will make a concerted outreach effort to communicate regularly with their agencies or constituencies to keep them informed about the process and the issues under discussion.

Participation and Observation by Members of the Public: All Working Group meetings are open to the public and observers are welcome. Meetings of the Working Group are meant to be working meetings focused on collaboratively developing a recommendation to the Sanctuary Advisory Council regarding marine reserves in the Channel Islands area. As such, the meetings are not designed to be opportunities for soliciting input from the general public. However, members of the public are encouraged to raise their concerns with Working Group members before or after the meetings, as well as during breaks, to help ensure that all issues of significant concern to the public are considered in the Working Group's deliberations or directed to other relevant entities such as the Science Panel or Sanctuary Advisory Council.

Public Involvement Opportunities: The Sanctuary will be providing a number of opportunities to solicit additional public input throughout the marine reserve and management plan review process. Specifically, one or more workshops will be scheduled with this specific purpose in mind. The Working Group is expected to utilize the input and feedback obtained through these public involvement activities in their deliberations, in order to develop a recommendation to the Sanctuary Advisory Council that will receive broad support from the general public.

Additions to the Working Group: During the course of its deliberations, the Working Group may determine that it's in the best interests of achieving a quality and informed outcome to add additional members with different perspectives to the Working Group. Such new members may be added by consensus of the Working Group, subject to ratification by the Sanctuary Advisory Council.

Replacement of Working Group Members: In the unlikely event that a member of the Working Group is unable to continue to serve, his or her replacement shall be added by consensus of the Working Group, subject to ratification by the Sanctuary Advisory Council.

7. Decision-Making Process

The Working Group will strive to achieve decisions by consensus. For matters of substance associated directly with its mission, the Working Group will strive for unanimity. In seeking consensus, each member has an obligation to articulate interests, propose alternatives, listen to proposals and build agreements by negotiating a recommendation for adoption by the SAC. In exchange, each member has the right to expect:

1. a full articulation of agreement and areas of disagreement, if any;
2. an opportunity to revisit issues on grounds of substantial new information becoming available during the Working Group's deliberations.

When unable to support a consensus, a member has an obligation to demonstrate that the item at issue is a matter of such principle or importance that his or her constituents' interests would be substantially and adversely affected by the proposed decision. In addition, it is the responsibility of the dissenting party to: 1) state the reason(s) underlying their withholding of consent in sufficient detail, and 2) offer an alternative suggestion that satisfactorily addresses not only their concerns and interests, but also those of other members of the Working Group as well.

Definition of Consensus: One definition of consensus is unanimity. This means that all participants will work toward reaching agreement as a group on all major elements of their collective decisions. In practice, however, where the challenge is a balancing of interests and issues, it is necessary to provide for differing levels of support between members and issues in constructing a viable set of agreements. In the unlikely event that one or more members disagree on a specific aspect of the decision making process, the following factors will be used in crafting agreements:

1. the relative importance of the issues to individual members;
2. the relationship of the issue in dispute to the total package that comprises the Working Group's recommendation to the SAC; and,
3. the provision of specific assurances (e.g., sunset clauses, etc.) that respond to uncertainties that cannot be resolved in the context of these discussions.

From an operational standpoint, the Working Group will utilize the following definition of consensus: *Consensus is a process used to find the highest level of agreement without dividing the participants into factions. Everyone in the group supports, agrees to, or can accept a particular decision. In the end, everyone can say "whether or not I prefer this decision, above all others, I will support it because it was reached fairly and openly."*

In seeking consensus on an interim or final recommendation, it is understood that members should voice their concerns with specific proposals along the way, rather than waiting until a final recommendation has been developed. In addition, the Working Group may choose to use the following five levels of agreement to indicate a member's degree of approval and support for any proposal or decision being considered by the Working Group and to determine the degree of consensus among the Working Group:

Level 1 - I feel we have no clear sense of agreement among the group. We need to talk more before considering a decision.

Level 2 - I do not agree with the group's proposal. I feel the need to block its adoption and propose an alternative.

Level 3 - I may not be especially enthusiastic about it, but I can accept the group's proposal.

Level 4 - I think this proposal is the best choice of the options available to us.

Level 5 - I am enthusiastic about the group's proposal and am confident it expresses the best wisdom of the entire group.

The goal is for all members of the Working Group to be in the upper levels of agreement. The Working Group would be considered to have reached consensus if all members are at Levels 3 to 5. If any member of the Working Group is at levels 1 or 2, the Working Group will stop and evaluate how best to proceed.

In the event of significant disagreements, the Working Group will decide, in consultation with the Facilitators, how best to move forward. For example, additional discussion may be needed to help understand unresolved concerns before proceeding further, or the group may benefit from working on creating additional options. If, after exhausting all other options, a Working Group member feels that he or she cannot go along with a very strong consensus developed by the group, they have the option to withdraw as an official member of the Working Group.

Straw Polls: Straw polls may also be taken to assess the degree of preliminary support for an idea, before being submitted as a formal proposal for final consideration by the Working Group. Members may indicate only tentative approval for a preliminary proposal, without fully committing to its support. It is understood that agreement on a final recommendation will typically require consideration by constituent groups of all elements of the recommendation that ultimately emerges from the Working Group.

Absence When Decisions Are Made: When members and their alternates cannot attend a meeting of the Working Group, they will seek to communicate their views to other members of the group prior to that meeting. Absence of both a member and their alternate is interpreted as assent.

If Consensus Cannot Be Reached on the Final Recommendation: If consensus cannot be reached on a recommendation to the Sanctuary Advisory Council regarding marine reserves, the Working Group will forward to the SAC a summary of their areas of agreement and their areas of disagreement. In no case will there be a statement of what proportion of members were in favor of or opposed to any provision on which there is continuing disagreement.

Implementation Considerations: Although the Working Group as a whole is not directly responsible for implementation of its recommendation by the SAC, members should be continually mindful of the feasibility and practical aspects of any recommendation they develop.

8. Day-to-Day Working Group Operations

Co-Chairs of the Working Group:

The manager of Channel Islands National Marine Sanctuary and the Southern Marine Manager of the California Department of Fish and Game, who together represent the lead federal and state agency sponsors of the Marine Reserve Working Group process, will serve as Co-Chairs of the Working Group.

It is the responsibility of the Co-chairs or their designee to:

- Develop meeting agendas with input from the members and in consultation with the Facilitators.
- Serve as the official spokespersons for the process.

- Clearly communicate to the Working Group the parameters, constraints, goals, and requirements of the lead federal and state agencies sponsoring this process that will have the primary responsibility for the implementation of any recommendation that is adopted.
- Encourage the active participation of all Working Group members.
- Keep Working Group members and support staff accountable for agreed upon tasks and deadlines.
- Support the efforts of the Facilitators.

Meeting Mechanics:

The Working Group will initially meet approximately monthly for all-day meetings. The time and location of all Working Group meetings will be publicized in advance and the public is welcome to attend. The development of meeting schedules will take into consideration the special needs of its members so as to maximize attendance. Members agree to place a high priority on participation in the Working Group process and to make a good faith best effort to attend all meetings. If unable to attend a meeting, members will ensure that their designated alternate attends in their place.

Any member of the Working Group may request a break or caucus to consult with other colleagues or constituents attending the meeting. The Facilitators may also request or suggest a caucus.

Draft Meeting Agendas along with supportive materials will be provided to the Working Group at least 10 calendar days and preferably two weeks in advance of each meeting. The Facilitator will produce meeting notes following each meeting that identify the major issues discussed and any decisions made or actions to be taken⁶. The draft meeting notes will be distributed as a part of the subsequent meeting agenda packet for review by the participants. Finalized meeting summaries will be posted on the Sanctuary's web site.

Role and Responsibilities of Working Group Members

The following points are offered as examples of the roles and responsibilities of members and guests of the Working Group:

- Actively participate in discussions.
- Bring concerns to other members, co-chairs or facilitators.
- Share the airtime with others.
 - Offer respect of different viewpoints and attention when others speak.
- Ask questions of each other for clarification and mutual understanding.
- Verify assumptions when necessary.
- Avoid characterizing the motives of others.
- Acknowledge and try to understand others' perspectives.
- Deal with differences as problems to be solved, not battles to be won.
- Stay focused on the task at hand.
- Refrain from distracting others through side conversations; silence all cell phones during meetings.
- Keep the Facilitators neutral.

⁶ Meeting notes are intended to characterize and clarify points of agreement and areas in need of resolution in order to move the process forward. They are not intended to serve as "meeting minutes" in the traditional sense.

- Concentrate on the content of discussions and allow the Facilitators to focus on how to promote productive discussion.
- Share the responsibility of ensuring the success of the process and the quality of the outcome.
- Make our best good faith effort to work towards reaching an agreement.
- Represent the perspectives, concerns, and interests of our agency or constituencies whenever possible to ensure that agreements developed by the Working Group are acceptable to the organizations, agencies, or constituents we are representing.
- Keep the Working Group informed regarding constraints on our decision-making authority within our agencies or constituency groups.

Role and Responsibilities of the Facilitators

The Facilitators are neutral third parties whose responsibility it is to serve the entire Working Group impartially, build consensus and provide the procedural framework for productive working relationships among all participants. The Facilitators serve at the pleasure of the Working Group and can be replaced at any time. Other roles and responsibilities include the following:

- Help the group focus on their common task, clarify information and achieve a common understanding of the available information.
- Create a constructive environment for open discussion and dialogue.
- Protect individuals and their ideas from attack.
- Help channel strong emotions into productive discussions and solutions.
- Help ensure that all points of view are expressed and understood.
- Help ensure that all members have an opportunity to participate in discussions.
- Clarify areas of agreement and disagreement.
- Suggest processes and procedures to help the group accomplish its tasks.
- Help the group reach agreement, resolve differences, identify options, and discover common ground.
- Ensure that key decisions are documented.
- Draft press releases to be issued through the Co-Chairs on the progress of the process upon request and with guidance from the Working Group.

Establishment of Task Groups

Because of the technical complexity of the tasks at hand, it may be necessary and useful to appoint task groups of the Working Group to: (1) engage in the development and refinement of options for the full Working Group consideration, (2) refine proposals for specific action by the Working Group as a whole, (3) conduct specific joint "fact-finding" efforts, and (4) undertake other specific tasks necessary to the success of the Working Group as a whole. As a general rule, any task-oriented sub-group should be small enough to effectively accomplish their charge and at the same time large enough to ensure a balance of interests. Each Task Group will also operate through the principle of consensus and be facilitated by a Chair whose responsibility it is to regularly communicate with the Working Group through its Chair and the Facilitators. Task Groups are not empowered to make decisions in place of the Working Group as a whole.

9. Joint Fact-Finding and Information Sources

Relevant information can play an important role in the identification of options and the development of informed consent. At the same time, too much information or information of limited relevance can cause confusion and slow down the process. The Sanctuary Advisory Council has established a Science Panel to aid the Working Group in utilizing the best science to

craft recommendations for its consideration⁷. The Sanctuary Advisory Council has also established a Socio-Economic Team to assist the Working Group in evaluating various socio-economic implications of marine reserves⁸.

The Working Group will seek access to information from the following sources:

- a. Science Panel established by the Sanctuary Advisory Council to assist the Working Group in its deliberations.
National Center for Ecological Analysis and Synthesis (NCEAS), established by the National Science Foundation at UCSB, which has a Marine Reserves Working Group.
- b. Information provided by various groups that utilize the Channel Islands National Marine Sanctuary area for consumptive and non-consumptive activities.
- c. Information provided by various constituent groups with an interest in the Channel Islands National Marine Sanctuary area.
- d. Information provided by others with knowledge and expertise related to the marine environment of the Channel Islands National Marine Sanctuary area or marine reserves.
- e. GIS-based decision support tools being developed by the Sanctuary, that will integrate and map the ecological and socioeconomic information being developed and that will allow Working Group members to evaluate different impacts and benefits of various marine reserve scenarios it may be considering.
- f. Workbook binders compiled by the Sanctuary staff that will provide background information and ongoing technical, and procedural information that will contribute to the success of the process and the development of consensus-based recommendations to the SAC

Working Group members may, from time to time, desire additional information to resolve outstanding issues related to developing recommendations. These requests should be developed by the consensus of the Working Group. In crafting requests, the Working Group should clarify how or why the information would facilitate the resolution of issues of concern to its members.

⁷ It is the Mission Statement of the Science Panel to use the best available information and expertise to assist the Marine Reserves Working Group in evaluating potential reserve scenarios. The draft tasks reflected in the minutes include:

- 1) to identify and review the state of the literature on marine reserves and provide MRWG with potential natural resource consequences of reserves;
- 2) to identify and evaluate existing data sets for incorporation into a GIS-based ecological characterization;
- 3) to define scientific criteria to achieve the objectives defined by the MRWG; and
- 4) to evaluate the scientific merit of different reserve scenarios provided by the Working Group and provide feedback.

⁸ The mission of the Socio-economic Study Team is: "to use the best available socioeconomic information and expertise to assist the MRWG in evaluating various socioeconomic implications of marine reserves. The proposed tasks of the Socio-Economic Study Team are:

1. To identify, review and analyze potential socioeconomic implications of marine reserves;
2. To provide to the MRWG the potential socioeconomic costs and benefits of marine reserves;
3. To identify and evaluate existing datasets for incorporation in a GIS-based socioeconomic characterization;
4. To design, collect and analyze supplemental necessary information for incorporation into the GIS-based socioeconomic characterization;
5. To define socioeconomic criteria for the MRWG to consider in achieving reserve objectives; and,
6. To evaluate socioeconomic implications of different reserve scenarios provided by the MRWG.

Where individual members wish to share written or printed information regarding an "action item" with the Working Group as a whole, such information should be provided to the Sanctuary staff at least 48 hours prior to any meeting, along with a written abstract summarizing the key points and indicating how it facilitates agreement or understanding related to a specific issue under consideration.

10. Interactions with the Media

The Working Group Co-Chairs will serve as the official spokespersons for the MRWG process. Any press releases or media contact regarding the process or its outcome will be conducted through the Co-chairs, unless other arrangements are made by a consensus of the group.

All members are free to interact with the media, but they agree to focus on explaining the concerns and interests of their own constituencies and avoid characterizing the views or motives of other members of the MRWG. Members will not use the media for communicating their concerns to other members of the MRWG. When in contact with the media about marine resources in the Channel Islands, members will, as a courtesy, provide notice to the Working Group about those contacts.

11. Use of MRWG Funds

Some members of the Working Group have expressed an interest in contributing funds to support activities related to the MRWG process. Contributors may stipulate the kind of activities they would like to support; however, all allocations of funds are subject to approval of the Working Group to ensure that the common needs of the process are being addressed. All contributed funds will be administered by the Facilitators or a task group selected by the Working Group, and held in a dedicated bank account established for the MRWG process.

Appendix B – MRWG, Facilitation Team, and Support Staff

Marine Reserves Working Group Membership:

Name	Affiliation	Representation
Patricia Wolf, Chair	Department of Fish and Game	Department of Fish and Game
Matt Pickett , Sanctuary Manager Co-Chair	NOAA'S Channel Islands National Marine Sanctuary	NOAA's National Marine Sanctuary
Warner Chabot Greg Helms	Center for Marine Conservation	Non-Consumptive
Steve Roberson	Channel Island Marine Resource Restoration Committee	Non-Consumptive
Alicia Stratton Sean Kelly	Surfrider Foundation	Non-Consumptive
Chris Miller	Lobster Trappers Association	Consumptive
Neil Guglielmo	Squid Seiner and Processor	Consumptive
Dale Glanz	ISP Alginates Inc.	Consumptive
Tom Raftican	United Anglers	Consumptive
Robert Fletcher	Sport Fishing Association of California	Marina/Business
Lucky Brown	Channel Islands Council of Divers	Sport Diving
Marla Daily	Sanctuary Advisory Council	Public At Large
Dr. Craig Fusaro	Sanctuary Advisory Council	Public At Large
Gary Davis	Channel Islands National Park	National Park Service
Mark Helvey	NOAA's National Marine Fisheries Service	NOAA'S National Marine Fisheries Service
Deborah McArdle	California Sea Grant	California Sea Grant
Dr. Michael McGinnis	Acting Director of the Ocean and Coastal Policy Center, MSI, UCSB.	Non-Consumptive

Note: Where two names are listed, the former initiated the process and the latter completed it

Facilitation Team:

John C. Jostes, Lead Facilitator

Mark Zegler, Support Staff

INTERACTIVE Planning and Management

30 W. Mission Street, Suite 4

Santa Barbara, CA 93101

(805) 687-7032

(805) 687-7832

john@interactiveplans.com

Michael Eng, Co-Facilitator

U.S. Institute for Environmental Conflict Resolution

110 South Church Ave., Suite 3350

Tucson, AZ 85701

(520) 670-5299

(520) 670-5530

eng@ecr.gov



e
ENVIRONMENTAL DEFENSE
finding the ways that work

Exhibit E2.d
Supplemental Public Comment
June 2001

June 11, 2001

RE: June Council Meeting, Agenda Item E.2

To the members of the Pacific Council,

For the last year we have followed the process in the Channel Islands to create a network of marine reserves. Along with other members of the conservation community, we have tried to work towards a solution that is both based in sound science and reflects the needs and desires of the community — a balance that the Council aims to find for each of its fisheries.

At this point, there is no firm proposal from the Channel Islands National Marine Sanctuary or the California Fish and Game Commission for a suite of marine reserves. However, despite the conclusion of the Marine Reserves Working Group process, there are other efforts underway to find a common ground solution for the area. NRDC, Environmental Defense and our members are concerned that the reserves be scientifically sound so that they have the best possible opportunity to protect biodiversity and habitat around the Islands. We will continue to pursue this goal until reserves are approved by the California Fish & Game Commission and NOAA. NRDC and Environmental Defense believe it is important to integrate activities surrounding marine reserves and other MPAs in the Pacific, including the Council's own investigations into the use of reserves to protect groundfish. The advice from Council committees and members will prove invaluable in the assessment of any reserve network proposed for the Islands. However, the goals of the Sanctuary program, and the State of California under the Marine Life Protection Act are substantively different from those of the Council. Under these statutes, ecosystem protection and biodiversity are the highest goals, including all species and their habitats, not solely the ones subject to active fisheries. While fisheries benefits can accrue from marine reserves — and we believe they will — the Sanctuary and California are responding to a much broader mandate, one of overall resource protection.

In considering the eventual recommendations of the Sanctuary and the Fish & Game Commission, I ask that you recognize the differing, but complementary, goals of those entities and the Council.

Thank you,

Kate Wing
Natural Resources Defense Council

Rod Fujita
Environmental Defense