

ENFORCEMENT CONSULTANTS REPORT ON
PLANNING FOR FEDERAL WATERS PORTION OF THE
CHANNEL ISLANDS NATIONAL MARINE SANCTUARY

The Enforcement Consultants (EC) recommends that as Marine Protected Areas are developed or expanded, enforcement programs from all effected entities be involved at the earliest planning stage. The EC wishes to continue to be represented in any related processes and committees.

Specific to the extension of Marine Protected Areas from state waters to federal waters, the EC believes rules should be consistent between the two jurisdictions. The concept of maintaining consistency in rulemaking should also apply in the development of sanctuary regulations in general.

PPMC
06/19/03

GROUND FISH ADVISORY SUBPANEL STATEMENT ON
PLANNING FOR FEDERAL WATERS PORTION OF THE
CHANNEL ISLANDS NATIONAL MARINE SANCTUARY

The Groundfish Advisory Subpanel (GAP) met with representatives of the National Marine Sanctuary system to discuss planning for the Channel Islands National Marine Sanctuary (CINMS) and central California sanctuary processes. In the interest of time, the GAP has incorporated its statement on agenda item G.2 into this agenda item.

GAP members and sanctuary personnel held a lengthy discussion on the pros and cons of creating a network of marine reserves in federal waters within CINMS. While we appreciate the expressed intent of sanctuary personnel to address our comments in their management plan review, the GAP does not at this time support the sanctuary request for a change in the sanctuary designation documents. The authority to regulate fishing with sanctuaries should remain entirely with state agencies and the Pacific Fishery Management Council through the National Marine Fisheries Service. Further, while marine reserves should continue to be a tool which can be used appropriately, the decision to establish a marine reserve should remain with states and Fishery Management Councils. A decision to establish a marine reserve is a *de facto* decision to regulate fishing; such regulation is not within the range of authority or expertise of national marine sanctuaries.

The GAP also discussed a possible ban on krill fishing within the Monterey Bay Marine Sanctuary. While the GAP has no comment on whether such a fishery would be desirable, the GAP notes that the fishery would be regulated under California state law if it is prosecuted by California vessels or if catches are landed in California. The GAP sees no reason why a sanctuary - which has no authority over fishing - should attempt to regulate a krill fishery or any other fishery.

PPMC
06/19/03

HABITAT COMMITTEE COMMENTS ON
PLANNING FOR FEDERAL WATERS PORTION OF THE CHANNEL ISLANDS
NATIONAL MARINE SANCTUARY (CINMS)

The HC received an update on the Channel Islands Marine National Marine Sanctuary planning process for potential marine reserves in Federal waters. The HC noted the importance of tracking and coordinating this process with ongoing work on issues such as the groundfish EFH EIS. The Sanctuary staff were interested in input into their process, but the HC did not have specific input at this time.

The HC also received a presentation from Dr. Richard Parrish regarding the potential use of marine reserves for fishery management objectives as contrasting with ecosystem, research, and social objectives. He expressed scepticism about the ability of reserves to meet multiple objectives simultaneously.

Dr. Parrish pointed out a distinction between complete no-take areas and areas that would allow some fishing, for example for migratory species. He said that even with marine reserves or partially closed areas, other management measures would always be required. He thought that no-take areas would be insufficient to meet most fishery management goals, but that could meet other objectives. However, Dr. Parrish indicated that a particularly important use of marine reserves for the Council would be to help determine unfished biomass estimates. To serve that purpose, a few large reserves could be established representing diverse habitat types but encompassing a relatively small proportion (less than 10%) of total habitat.

Dr. Parrish suggested that the Council Council needs to be prepared if it wants to influence the establishment of marine reserves in a manner that supports Council goals. To assure this, he suggested that the Council continue planning for marine reserves even with the constraints of inadequate funding. Other entities continue to plan and promote marine reserves and the Council needs to stay involved if it wishes to influence the process and be prepared when funding becomes available. The HC agreed with these recommendations. The HC suggests that the SSC Marine Reserves Subcommittee review Dr. Parrish's written report at its August meeting.

PPMC
06/16/03

SCIENTIFIC AND STATISTICAL COMMITTEE REPORT ON
PLANNING FOR FEDERAL WATERS PORTION OF THE CHANNEL ISLANDS NATIONAL MARINE
SANCTUARY

Mr. Chris Mobley and Mr. Sean Hastings briefed the Scientific and Statistical Committee (SSC) regarding initiation of the process to create reserves in federal waters of the Channel Islands National Marine Sanctuary (CINMS). There are no new technical issues to discuss at the present time; however, the Council has an opportunity to consider how it plans to participate in the process.

According to their time table CINMS intends to spend June through November 2003 preparing the draft environmental impact statement (DEIS). Public comment on scoping for the DEIS is open until July 23. The final product is currently scheduled for December, but this may not be a realistic deadline.

The CINMS is seeking Council assistance in streamlining the environmental review. The SSC reminded CINMS staff that we have serious concerns with the Net Assessment and have provided detailed comments to the Council and CINMS. Substantial work needs to be done to meet federal regulatory requirements.

Mr. Mobley suggested the Council could draft three or four alternative sets of regulations prior to completion of an acceptable DEIS. The SSC is concerned that this could put the Council in a vulnerable position *vis a vis* the regulatory requirements, particularly if the drafting of regulations is viewed as a recommendation made in the absence of an adequate DEIS. This highlights the need for defensible analyses from CINMS if the Council is to participate as a partner in the process.

Mr. Hastings requested guidance for bringing the existing documents and analysis up to standard. The SSC has already provided two review documents (November 2001, June 2002) pointing out specific deficiencies in the existing analysis and providing specific recommendations to address these shortcomings. With Council direction, and if requested by CINMS, the chair of the SSC Marine Reserves Subcommittee is willing to provide further clarification of the SSC review comments. As a review body, the SSC is not in a position to actively participate in revision of the analysis.

PFMC
06/18/03

Subject: [Fwd: Channel Islands National Marine Sanctuary comment by ACE CARTER]
From: "PFMC Comments" <pfmc.comments@noaa.gov>
Date: Wed, 04 Jun 2003 13:56:23 -0700
To: Jennifer Gilden <Jennifer.Gilden@noaa.gov>
CC: Jim Seger <jim.seger@noaa.gov>

----- Original Message -----

Subject: Channel Islands National Marine Sanctuary comment by ACE CARTER

Date: Wed, 4 Jun 2003 10:57:36 -0700 (PDT)

From: ACE CARTER <acecarter2000@yahoo.com>

To: Channel Islands National Marine Sanctuary <reservesprocess@noaa.gov>

CC: WESTERN OUTDOORS <Woutdoors@aol.com>, World Publications Saltwater Sportsman Magazine <glenn.hughes@worldpub.net>, SANTA BARBARA NEWS PRESS <sbnpedit@newspress.com>, SPORTS AFIELD <sprtafield@aol.com>, Stan VandeRberg Rod & Reel Radio Sunday 6 to 8 PM 760-AM <stangetnbit@aol.com>, "Steve Carson, CO-STAR of the Ronnie Kovach's Fishing University Radio Show Sat. 5-7 AM KRLA 870-AM" <scarson@joshuanet.com>, Tackle Trade World <john@dhpublish.co.uk>, President Michael Nussman AMERICAN SPORTFISHING ASSOCIATION <president@asafishing.org>, "LET'S TALK HOOKUP RADIO SHOW every Sat. & Sun. from 7 to 9 AM ON 1090-AM Starring Pete Gray & Marty Milner on the number one fishing talk radio show" <pete@hookup1090.com>, Mike Lum FRED HALL SHOWS <mlum@fredhall.com>, FISHNEWS <Fishnews.feedback@noaa.gov>, Forbes Darby <fdarby@asafishing.org>, JIM MATHEWS-Outdoor News Service <odwriter@outdoornewsservice.com>, Jim Paulk Past President of UNITED ANGLERS OF SOUTHERN CALIFORNIA <jimdpaulk@yahoo.com>, John Ugoretz The DFG Biologist-Bureaucrat behind the fishing closures <jugoretz@dfg.ca.gov>, DFG Enforcement <lschwall@dfg.ca.gov>, Don McIsaac Pacific Fishery Management Council <pfmc.comments@noaa.gov>, "Ed Zieralski, SAN DIEGO UNION TRIBUNE" <ed.zieralski@uniontrib.com>, Fishing & Hunting News <staff@fishingandhuntingnews.com>, FISHING TACKLE RETAILER <retailer@bassmaster.com>, BOYCOTT ! Bombardier/Evenrude <ann.stawski@recreation.bombardier.com>, CALIFORNIA FISH & GAME COMMISSION <fgc@dfg.ca.gov>, CALIFORNIA SPORTFISHING COALITION <supportcsc@aol.com>, BIG TUNA BILL ROD & REEL RADIO KFMB 760-AM Sundays 6 to 8 PM <bigtunabill@cox.net>, 976TUNA <p976tuna@aol.com>, "Anthony \\\(Anton\\\) J. Ross The Log Newspaper" <editor@thelognewspaper.com>, Bill Becher The Daily News Outdoor Editor <billbecher@yahoo.com>, "THE KIM SERAFIN SHOW, KABC 790AM Sundays 4-6PM" <kim@kimserafin.com>, THE LARRY ELDER SHOW Weekday drive 3-7 PM KABC 790-AM <the_sage@larryelder.com>, The Santa Clarita Signal <info@the-signal.com>, THE SEAN HANNITY SHOW <seanhannity@kabc.com>, WASHINGTON TIMES <general@washtimes.com>, "Mr. KABC No guests, No topics, No SCREENERS! Weeknites 10-2 KABC 790-AM" <mrkabc@kabc.com>, "Worldnetdaily.com" <letters@worldnetdaily.com>, "Don Barrett LARADIO.COM" <db@thevine.net>, Larry Marino Smart Talk KRLA 870-AM <larry@larrymarino.com>, Michael Medved <michaelmedved@onefarstar.com>, Ken Minyard <kenandcompany@kabc.com>, Phil Shuman Investigative Reporter at KCOP-13 TV <pshuman@mail13.com>, "SAVE US!, oh

Lord, from 4 mores years of corruption from Gray Davis" <governor@governor.ca.gov>, Senator Pete Knight <Senator.Knight@sen.ca.gov>, "Ted Costa-RECALLDAVIS.COM" <info@davisrecall.com>, THE BILL HANDEL SHOW weekday morning drive 640-AM 5-9 AM <bill@kfi640.com>, THE BOB DORNAN SHOW on Cable Radio Network <dornan@talkradionetwork.com>, "Zany Marl Larsen, KRLA 870-AM 6-9AM Weekdays" <marklarson@kcbq.com>, "Assemblyman Tony Strickland 37th. District" <assemblymember.strickland@assembly.ca.gov>, ACE CARTER-Fishing Activist & Expert at THE WORLD FAMOUS CASTAIC MINI-MART <acecarter2000@yahoo.com>, AV PRESS <letters@avpress.com>, Congressman McKeon <tellbuck@mail.house.gov>, "Dave & Bob 6-10AM 1520AM Ventura's Talk Radio" <am1520kvta@hotmail.com>, "George W. Bush THE PRESIDENT OF THE UNITED STATES OF AMERICA" <president@whitehouse.gov>

**Channel Islands National Marine Sanctuary comment
by ACE CARTER**

I am strongly opposed to any closures in the Channel Islands to legal, licensed sportfishing.

Strict closures are not warranted as conditions now stand.

The state has failed to either maintain, enhance or even study the 186 "Reserves" it has had for many years.

IF, things are as bad as the enviromental extremists say they are, we the sportsfishermen would have to be both crazy and stupid to entrust the fisheries recovery, to the very bureaucrats that let it get so bad.

The giant, wealthy, leftist enviromentalist groups are in no real way concerned with healthy, abundant fisheries or that would not stop the building of artificial reefs.

Your so called public meetings are a fraud and insulting. You do not provide sufficient advance public notice. You have the meetings in halls to small to accomodate all interested persons.

You schedule your meetings at inconvienient times for the average working individual.

You give preferential treatment to environmentalist speakers, while muzzling would be sportfishing speakers.

You provide dubious science as your proof of need.

In spite of overwhelming evidence of drastic economic consequences to the sportfishing industry, you push on with your one sided plans.

The advocates of these closures might be well meaning, but they are mostly all ignorant of the condition and the realities of the ocean.

The sportfishing community will never accept your stupid plans. The DFG could not even enforce what

it had on it's plate before you decided to close the Channel Islands.

How will you enforce such a universally unpopular law?

We vow to fight your misguided closures. We will defeat you.

Lets go fishing,

Yer pal, ACE...

Do you Yahoo!?

Free online calendar with sync to Outlook(TM).

HABITAT COMMITTEE COMMENTS ON
CENTRAL CALIFORNIA SANCTUARY PROCESSES INCLUDING KRILL BAN

The Habitat Committee (HC) reviewed the Briefing Book materials concerning central California marine sanctuaries. The HC urges continued communication with the Sanctuaries to ensure the Council's ability to influence Sanctuary decisions and foster a spirit of partnership. The Council and the Sanctuaries have many common interests and concerns.

The Monterey Bay National Marine Sanctuary has raised the issue of krill fishing. The HC discussed the potential for a krill fishery and the possibility of banning krill fishing. This issue has implications beyond those related to Sanctuaries. Because krill serve as a key component in the food chain for nearly all Council-managed species, the HC views krill as a component of fish habitat, and krill harvest as a concern.

The economic importance of worldwide krill harvest is growing quickly. While no formal proposal to either manage krill or ban krill harvesting has been put before the Council, increasing demands for coloring agents for aquaculture and other krill uses may make West Coast krill fishing economically viable.

The HC would like to see the Council recognize the potential importance of this issue, but does not know how best to deal with this. One concept might be to deal with this as an EFH issue; another might be to deal with it as a bycatch issue, since harvest techniques would likely involve tremendous impacts on juvenile fish. There may be other appropriate methods for the Council to address potential krill harvest as well.

If the Council wishes, the HC is interested in monitoring this issue.

PPMC
06/18/03

RECEIVED

May 29, 2003

JUN - 9 2003

PFMC

Holly Price, Ph.D.
Monterey Bay National Marine Sanctuary
299 Foam Street
Monterey, CA 93940

Dear Holly,

We the undersigned members of the Monterey Bay National Marine Sanctuary special MPA Work Group (MPAWG) want to go on record as stating clearly what we will and will not support in the way of Sanctuary endorsed or created "special" MPAs within our Sanctuary, and why. We will also propose a roadmap that outlines the steps it will take to get our support for MPAs. We also want to state up-front that we appreciate the largely constructive tone of the MPAWG.

The Problem

The MPAWG spent its time discussing potential criteria for establishing MPAs within the Sanctuary. Despite much discussion and some good work, what remains missing is a problem statement that justifies Sanctuary action. Sanctuary action could be either advocacy/comment (including the idea of "partnering" with the State Department of Fish and Game, or the Pacific Fisheries Management Council) or the direct use of the regulation/zoning authority found in the National Marine Sanctuary Act. We think this point is a showstopper that will not allow our MPAWG to ever reach full consensus, nor produce a quality product. When weighed against the moral and ethical issues inherent in the promise of a non-regulating Sanctuary originally made to the fishing community, and the language found in our existing Management Plan, we do not see that the Sanctuary has a clear legal basis for establishing or advocating for MPAs, unless significant problems within our fisheries can be shown that were not anticipated in the 1992 Designation documents, and which are not being addressed by authorized fishery management agencies. However, if the MBNMS or the Sanctuary Headquarters folks intend on seeking new authority by changing the designation documents, we would like to be told that.

We must go into some detail on this point. To quote from the existing designation documents:

"No fishing regulations are proposed. Fisheries management will remain under the existing jurisdiction of the State of California, the National Marines Fishery Service, and the Pacific Fisheries Management Council. In the case of the Monterey Bay, area fish resources are already extensively managed by existing authorities. Sanctuary prohibitions that may indirectly affect fishing activities have been written to explicitly exempt traditional fishing activities, mariculture, and kelp harvesting." (Sec I – 24), and,

"The proposed designation should have no negative effects on the fishing industry.

Net effects of preserving habitat and water quality by controlling pollutants and disturbance of the sea bed should be very positive for maintaining healthy and productive fish stocks. No regulations are proposed governing fishing activities.” (Sec I – 25), and,

“During consultation, NOAA requested that the PFMC determine if additional fishery regulations were necessary with Sanctuary designation in accordance with section 304(b)(5). PFMC responded that no additional regulations were necessary and that management responsibilities regarding fishing activities should remain with existing authorities.” (Sec I - 31), and,

“Fishing in the Sanctuary will be regulated other than under the Sanctuary regulatory regime by Federal and State authorities of competent jurisdiction.” (“Fishing regulation” means a regulation that is directed specifically at fishing activities or fishing vessels. This does not include a regulation that is applicable to all types of vessels or activities.)

Under the status quo, (the preferred alternative) fishing would continue without any additional regulation under the Sanctuary regulatory regime. As a result of other Sanctuary regulations aimed at improving water quality and fish habitat, it is expected that the Sanctuary would have a positive impact on fishing activities.

The proposed final Sanctuary regulations include four regulations (if written without the exemption) that could potentially indirectly affect fishing activities. However, each of the four regulations specifically exempts traditional fishing activities from the scope of the prohibitions to the extent consistent with existing other State and Federal regulations.”(Sec III - 79), and,

“There are many existing regulations and restrictions on fishing activities in the Monterey Bay area that are designed to protect the long-term health of the fisheries, as well as other resources and qualities of the Monterey Bay area. Therefore, NOAA does not believe it is necessary to promulgate any additional regulations.” (Sec III - 80), and,

“In its evaluation of this issue, NOAA considered whether under the present regulatory structure sufficient protection for Sanctuary resources existed. NOAA has determined ...that fishing in the Sanctuary, including fishing for shellfish and invertebrates shall not be regulated as part of the Sanctuary management regime. Monterey Bay fish resources are already extensively managed by existing authorities and NOAA does not envision a fishery management role for the Sanctuary at this time. Instead, the Sanctuary will provide research results and recommendations to existing fishery management agencies in order to enhance the protection of fishery and other Sanctuary resources.”(Sec III - 80), and,

“Should problems arise in the future, NOAA would consult with the State, PFMC, and NMFS, as well as the industry, to determine an appropriate course of action.”

It is this last quotation that provides the basis for the Sanctuary to consult with Fishery Management Agencies and potentially adopt fishing restrictions. Many times during the MPAWG process we challenged the Sanctuary and MPA advocates to state what fishery problems have arisen that are not being dealt with by the authorized fishery management

agencies. Without such a clear problem statement, the Sanctuary has no authority, legal or moral, to advocate for or promulgate a regulation or use its zoning authority, to exclude fishing from any area. No such problem statement has been heard during the MPAWG process. In fact, it can be shown that there are far fewer commercial vessels, and about an equal number of recreational vessels, as existed ten years ago. And, even a cursory review of fishery regulations will show a far more restrictive fishing structure than existed at the time of Sanctuary designation. It is only for a few species of rockfish that limited data suggests there may be a problem. However, this has been decisively dealt with by the CDFG and the PFMC, in part through very large areas being set off limits to certain types of bottom fishing.

There have been numerous statements regarding the “mandate” of the Sanctuary Program to protect habitats and nurture increased biodiversity. No doubt that this language exists within the National Marine Sanctuary Act and our designation document. However, these concepts do not supercede the designation document’s language that so clearly states that the Sanctuary will not be in the fishery management business. In fact, there are many references in designation documents that suggest that the way in which habitat is preserved is by controlling pollutants and the disturbance of the sea bed. Some might make an argument regarding bottom trawling with reference to disturbing the sea bed, but that itself is a complex issue (please refer to Section III - 79, above), and not the topic of the MPAWG or this letter. We believe, in fact, that the Sanctuary cannot use “enhancing biodiversity” or “habitat protection” as justification for fishing restrictions, when all of the language in the designation document is considered. The role that is clearly spelled out for the Sanctuary in fishery management issues is for the Sanctuary to “provide research results and recommendations” to the proper fishery agencies – a role that we want to offer our active assistance and which we support. The indirect role for the Sanctuary Program is to provide good water quality and prevent the disturbance of the sea bed (i.e., oil drilling)

There are other areas of Federal law, including but not limited to the 1980 Regulatory Flexibility Act (RFA), the Small Business Regulatory Enforcement Act, and Executive Order #12866 (Regulatory Planning Review), that require economic impact assessments of federal actions. Additionally, National Marine Fisheries Service guidelines state that economic impact is significant under the RFA if at least 20% of the businesses within an affected fishery lose 5% of their annual gross revenue, or 2% or more of the affected parties are driven out of business, which is quite likely to be the case with any large scale use of MPAs. Various safeguards are in place to mitigate significant impacts. The Sanctuary Program cannot arbitrarily make MPA decisions. Not only will a thorough economic analysis need to occur, (a point on which there appeared to be agreement on the MPAWG), but this information must be given a very high priority in the decision making for any potential MPAs.

These concerns over Federal law are still only side issues compared to the importance that the Sanctuary Program not be perceived in this community as an indifferent Federal agency which will break its promise to fishermen. We hope by now the Sanctuary Program understands there is widespread community awareness of and appreciation for this promise, and likewise there will be widespread community dismay should the Sanctuary Program break the understanding that created the Sanctuary. The fact that the support of the fishing community was required for the

Sanctuary to come into existence is well established. If the Sanctuary Program disputes this, or has decided to break its promise, we would like to hear that clearly and publicly.

We have also heard that the Sanctuary Program will not regulate fishing, but rather will partner with CDFG and the PFMC to address fishery issues. This feels like an effort to wordsmith around the promise made to us. The role for the Sanctuary is as a stakeholder in the fishery management process. We would hope that any partnership that develops will be with the fishing community, to enable the Sanctuary Program to provide quality comments to the agencies in a way that does not feel like it is breaking its promise to us. There is no doubt but that those agencies would welcome working or coordinating with the Sanctuary Program on that basis.

The Solution

With all this being said, we do recognize that certain types of MPAs may assist the program in realizing its conservation ambitions, as well as assist the science community in their research on issues that affect fishing and other extractive activities. We also recognize that some of the public would like to see some areas set aside as being off-limits to all human activity, as long as it does not negatively affect them.

We are, therefore, still willing to partner with the Sanctuary Program and other stakeholders, to determine if MPAs may be needed, or, to determine that placing an MPA in a given area will not have adverse effects on fishery management, or create an economic hardship or safety issues that we cannot live with. If and when these determinations are made, we will support strong comments from the Sanctuary Program to the CDFG and /or PFMC, advocating for these MPAs.

What is the roadmap to get to this? Although the MPAWG did some good work on the criteria for establishing MPAs, we do not feel that it is enough. To comply with the language of our MBNMS Designation Document, the spirit in which it was written, and the principles of good science, we believe that MPA evaluation must include the following steps:

1. Develop a thorough and science-based condition report must be developed to document the existing conditions of the fishery and habitat.
2. Analyze the information in item1 with the most current understanding of natural multi-year fish population swings.
3. Develop a site specific draft problem statement based on the results of items 1 and 2 above.
4. Apply the criteria analysis developed by the MPAWG, including the socio-economic review discussed above.
5. Work with the fishing community to identify sites that we can support. We would look at all areas in good faith.
6. Has the problem that has been identified been addressed (or can be addressed) by traditional management measures? If so, is it still a problem?
7. If there is a problem that existing management cannot address, is an MPA the answer? What type of an MPA (if any) is the right tool for the problem?

8. Be patient. Identify just one, or a few, MPA sites that can be established as experimental areas and not as final solutions. Provide thorough monitoring and evaluation as to whether or not it is meeting its goals before any new MPAs are placed. This should be able to occur if items 1 through 7 have been done.
9. Accept the possibility that MPAs may cause unintended harm, or imbalance, in our ecosystem. Maintain a flexible, adaptive management attitude; do not commit to the permanency of any particular MPA if there is evidence of negative consequences.
10. Add additional MPAs only if warranted by the results of items 1 – 9.
11. For all of these steps, including the development of the science, the fishing community's knowledge and advice must be respected and used.

Any MPA that might be created under this guideline would be considered for support and respect by the fishing community.

We understand that other members of the Sanctuary's MPA Work Group may have more ambitious goals for MPAs. We do, however, hope that every person on the MPA work group can agree that AT MINIMUM, MPAs may be placed within the guidelines stated above. We respect the right of other work group members to continue to advocate for broader uses of MPAs, but again, we do hope that we can have consensus on this minimal statement.

What is Consensus?

We would also like to express concern about the definition of "consensus" that has been provided by the Program. First let us point out that we observed that despite lots of discussion, the MPAWG was never asked to reach consensus regarding MPAs or even the criteria for MPAs. We hope that the MPAWG and the Program will embrace a traditional definition of consensus, wherein all parties must agree on fundamental principles, and if there is not agreement, then the issue is either dead or there is further negotiation. The Sanctuary should **NOT** use the definition of consensus that it has put forth that if agreement is not reached, then the decision-making is simply elevated to a higher level. This would make a mockery of "stakeholder" participation. ("Stakeholder", incidentally, is defined in the dictionary as someone who has an economic interest in a position, issue, or resource.) If the decision making were elevated, the next decision would come from the Sanctuary Advisory Council.

We further respectfully submit that the topic of MPAs and marine reserves is highly complex, involving a multitude of scientific disciplines and legal issues, and therefore is really beyond the expertise of a great majority of SAC members to make an informed recommendation. This is not a topic that can be decided on by presenting a series of "sound bytes" on either side for pros and cons of this issue. We do hope the decision making will occur from highly informed stakeholders, and that the Sanctuary Program will not settle for less.

To conclude, we believe that the problem faced by MPA/Marine Reserve advocates may well be that the very quality of resources present that enabled this area to become a National Marine Sanctuary still exists, if not even to a greater degree. This presents a quandary for MPA

advocates, as sufficient problems, or even threats, do not exist to justify closing areas off to fishing. There is also a growing body of science that suggests that much of the rhetoric and energy related to MPA promotion and use is not only missing the point, but also is being misdirected toward potentially dangerous outcomes for conservation and in-the-water practitioners. We refer you to the pending publication in "Aquatic Conservation" of an article titled "Dangerous targets? Unresolved issues and ideological clashes around Marine Protected Areas", by T. Agardy, et al. Two of the authors are stated to be on the Federal MPA Advisory Committee. The report is also published online at www.interscience.wiley.com

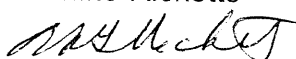
We request that a copy of this letter, and a copy of our February 27, 2003 letter to you, be forwarded with whatever recommendations come out of the Sanctuary MPA Work Group, for all those who may be in a future decision making role for this issue.

Sincerely,

Tom Canale



Mike Ricketts



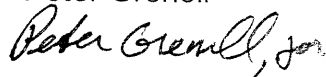
David Crabbe



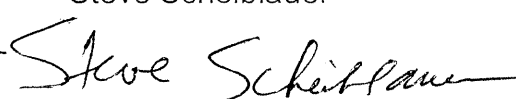
Howard Egan



Peter Grenell



Steve Scheiblaue



Don Dodson



- C: The Honorable Sam Farr, US Representative, 17th District
Dan Basta, Director, National Marine Sanctuary Program
Bill Douros, Superintendent, Monterey Bay National Marine Sanctuary
Stephanie Harlan, Chair, Monterey Bay National Marine Sanctuary SAC
Conrad Lautenbacher, Undersecretary for Oceans & Atmosphere, Dept of Commerce
Jamison Hawkins, Dept Asst. Administrator Ocean Serv & Coastal Management, NOAA
Donald McIsaac, Ex. Director, Pacific Fishery Management Council
Robert C. Hight, Director, CA Dept. of Fish and Game
William Hogarth, Asst. Administrator, National Marine Fisheries Service

CALIFORNIA MARINE PROTECTED AREA UPDATE

Marine protected areas (MPAs) are one of the strategies state and federal administrative agencies, the Legislature, and the public through the initiative process, use to manage and conserve marine resources. They are sections of the ocean set aside to protect and restore habitats and ecosystems, conserve biological diversity, provide a refuge for sea life, enhance recreational and educational opportunities, provide a reference point against which scientists can measure changes elsewhere in the environment, and help rebuild depleted fisheries.

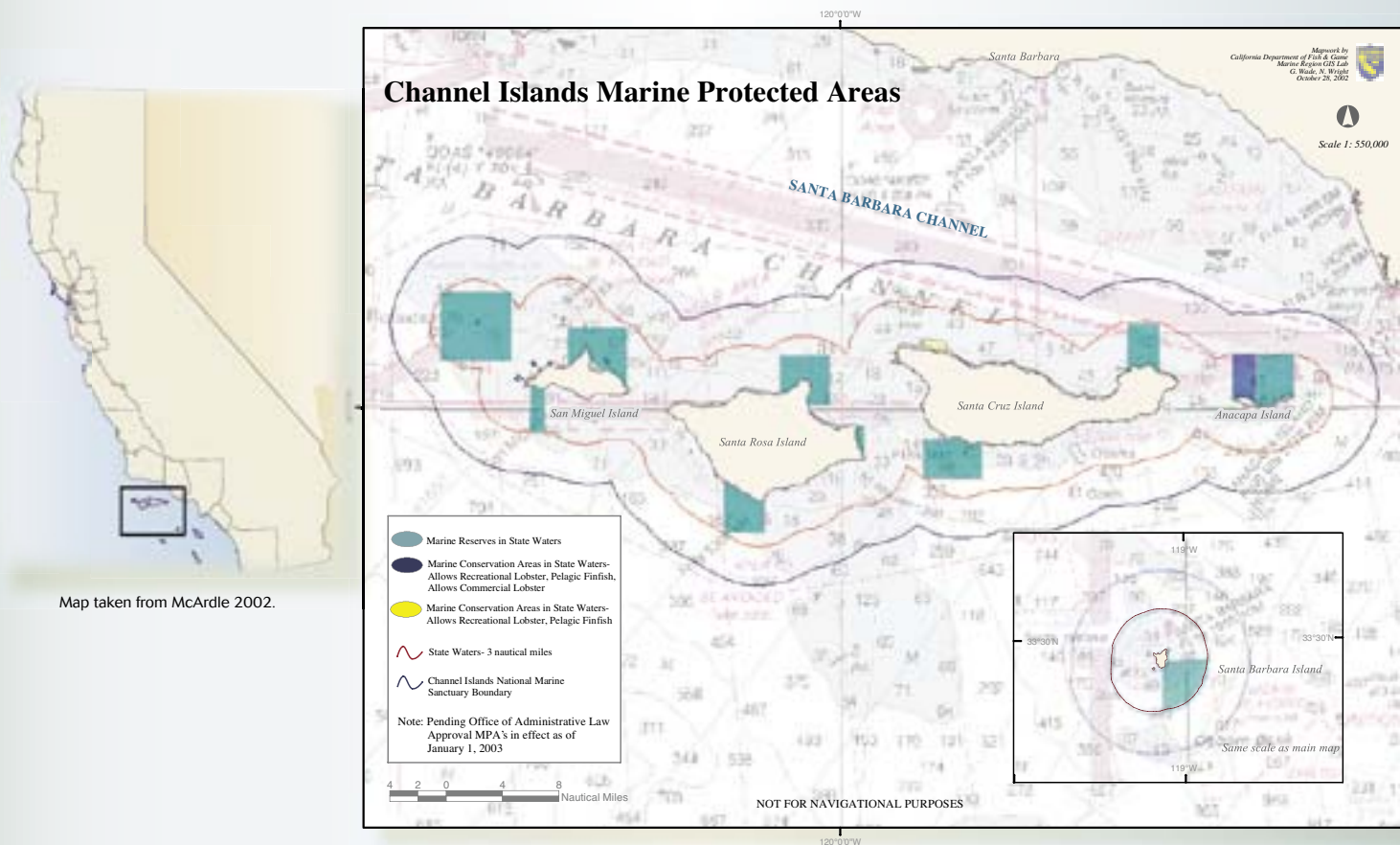
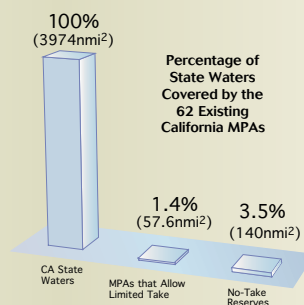
There are a variety of types of MPAs, ranging from limited to full protection. California state MPA classifications include:

- **State Marine Reserves:** Prohibit all take of living, geological, or cultural resources.
- **Marine Conservation Areas:** Prohibit specific commercial and/or recreational take of living, geological, or cultural resources on a case-by-case basis.
- **State Marine Parks:** Prohibit commercial take of living, geological, or cultural resources and allow recreational fishing although some restrictions may apply.

Non-consumptive activities, such as diving, surfing, swimming, and boating are allowed within all of the above MPA designations, so long as take restrictions are followed. Anchoring within and transit through the MPAs with catch onboard is allowed, so long as fishing gear is stowed and not in use.



Since 1950, 62 MPAs have been established in California state waters. The 62 MPAs cover 4.9% (198 nmi²) of state waters; 19 are fully protected (no-take) marine reserves that cover 3.5% (140 nmi²) of state waters (3974 nmi²). This information updates the information in the 2002 CA Sea Grant publication by D. McArdle, pp. 3,8,9.



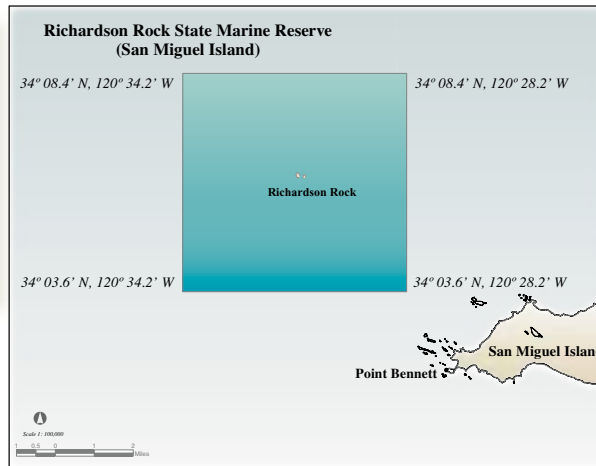
In October 2002, the California Fish and Game Commission designated the 12 newest MPAs. Three of these replace existing ecological reserves at Anacapa, Santa Barbara and San Miguel Islands. The 12 MPAs form a network that covers 142 nmi² within the Channel Islands National Marine Sanctuary. Ten (132nmi²) of the 12 MPAs are no-take “marine reserves,” where no fishing or kelp harvesting is allowed. Two (10nmi²) of the 12 areas are “conservation areas” and allow for limited recreational fishing and commercial lobster trapping. This publication is meant only to inform and educate the general public about the creation of new MPAs at the Channel Islands. For more specific information contact the Department of Fish and Game at (916) 653-7664.

MARINE PROTECTED AREAS OF THE

Site name:

Richardson Rock (San Miguel Island) State Marine Reserve*

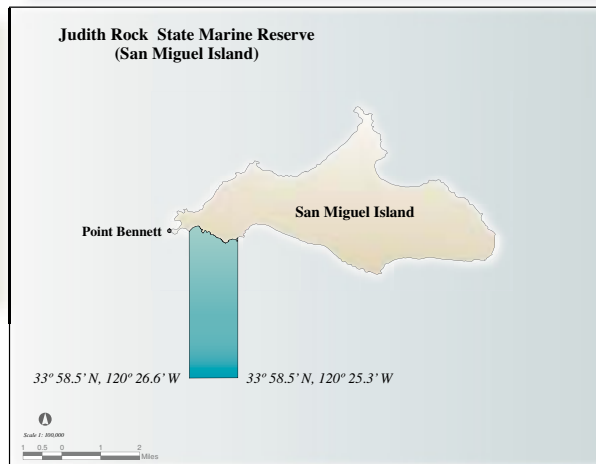
- No commercial or recreational fishing allowed.
- Shoreline length: N/A (offshore area)
- Area: 32.2 nm²
- Depth range (feet): 0 to 360



Site name:

Judith Rock (San Miguel Island) State Marine Reserve*

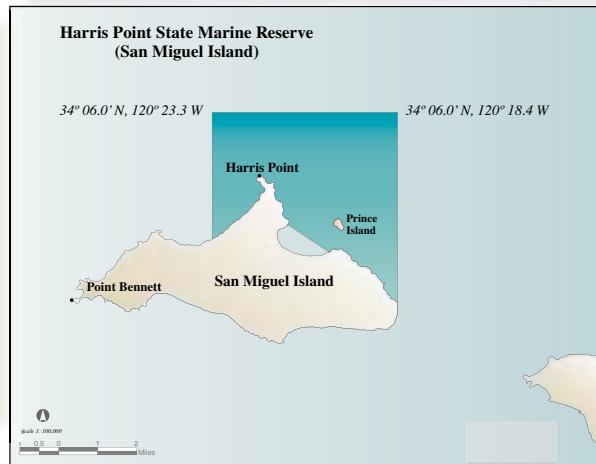
- No commercial or recreational fishing allowed.
- Shoreline length: 1.4 nm
- Area: 5.1 nm²
- Depth range (feet): 0 to 420



Site name:

Harris Point (San Miguel Island) State Marine Reserve*

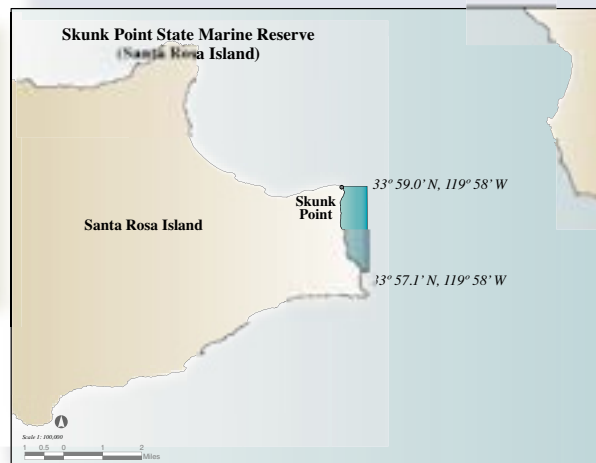
- No commercial or recreational fishing allowed.
An exemption to the reserve, where commercial and recreational take of living marine resources is allowed, exists within Cuyler harbor (see California Code of Regulations, Title 14, §632)
- Shoreline length: 6.3 nm
- Area: 18.2 nm²
- Depth range (feet): 0 to 300



Site name:

Skunk Point (Santa Rosa Island) State Marine Reserve*

- No commercial or recreational fishing allowed.
- Shoreline length: 2.7 nm
- Area: 1.4 nm²
- Depth range (feet): 0 to 60



*This map should not be used for navigational purposes. Furthermore, the restrictions described are only those imposed by this MPA designation. Additional restrictions may apply to fishing activities and other activities such as collecting, discharging and disposing of substances. Refer to the CA Code of Regulations, Title 14, §632 and the Code of Federal Regulations, Title 15, §922.70 or contact the CA Department of Fish & Game or the Channel Islands National Marine Sanctuary.

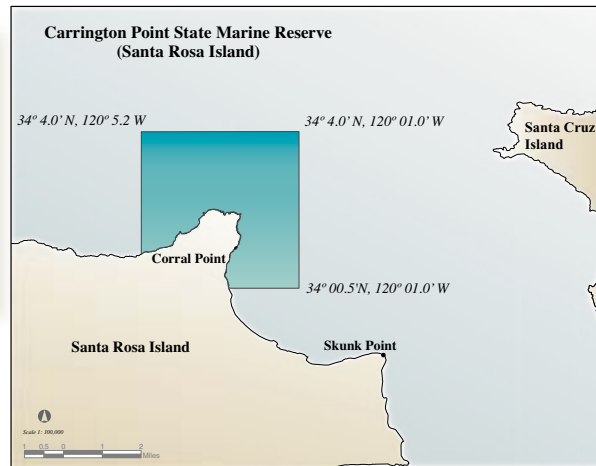
THE CHANNEL ISLANDS, CALIFORNIA

Site name:

Carrington Point (Santa Rosa Island) State Marine Reserve*

No commercial or recreational fishing allowed.

- Shoreline length: 5.3 nm
- Area: 13.3 nm²
- Depth range (feet): 0 to 180

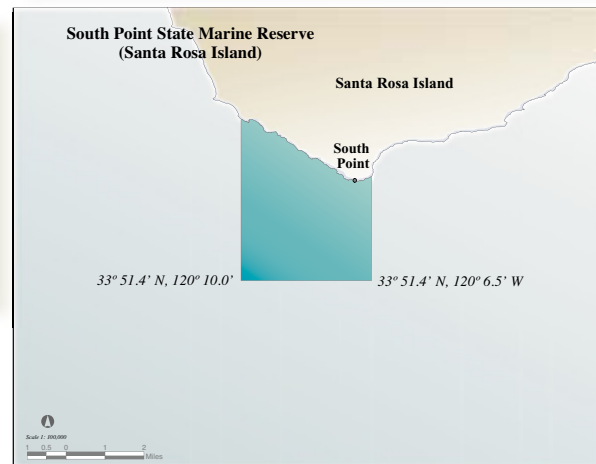


Site name:

South Point (Santa Rosa Island) State Marine Reserve*

No commercial or recreational fishing allowed.

- Shoreline length: 3.8 nm
- Area: 10.8 nm²
- Depth range (feet): 0 to 1,200

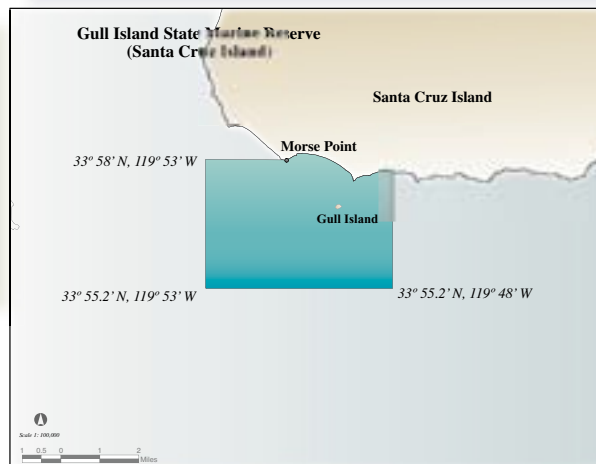


Site name:

Gull Island (Santa Cruz Island) State Marine Reserve*

No commercial or recreational fishing allowed.

- Shoreline length: 2.9 nm
- Area: 16.1 nm²
- Depth range (feet): 0 to 1,800

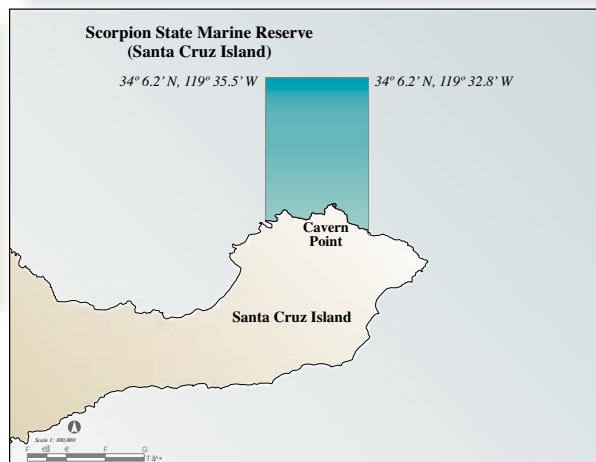


Site name:

Scorpion (Santa Cruz Island) State Marine Reserve*

No commercial or recreational fishing allowed.

- Shoreline length: 3.3 nm
- Area: 10.3 nm²
- Depth range (feet): 0 to 750



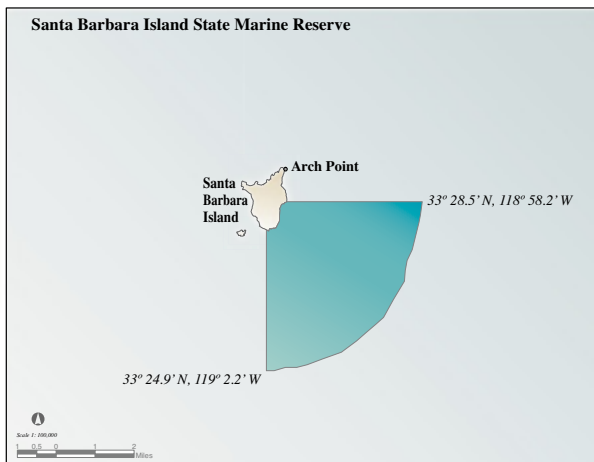
*This map should not be used for navigational purposes. Furthermore, the restrictions described are only those imposed by this MPA designation. Additional restrictions may apply to fishing activities and other activities such as collecting, discharging and disposing of substances. Refer to the CA Code of Regulations, Title 14, §632 and the Code of Federal Regulations, Title 15, §922.70 or contact the CA Department of Fish & Game or the Channel Islands National Marine Sanctuary.

Site name:

Santa Barbara Island State Marine Reserve*

No commercial or recreational fishing allowed.

- Shoreline length: 1 nm
- Area: 13.2 nm²
- Depth range (feet): 0 to 1,800

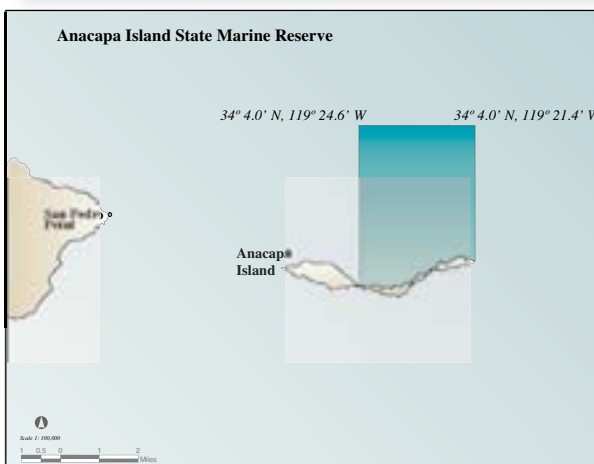


Site name:

Anacapa Island State Marine Reserve*

No commercial or recreational fishing allowed.

- Shoreline length: 3.3 nm
- Area: 11.7 nm²
- Depth range (feet): 0 to 600

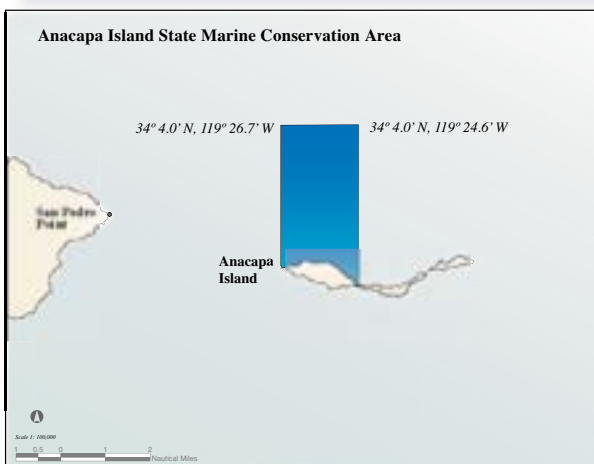


Site name:

Anacapa Island State Marine Conservation Area*

No take of living or non-living marine resources is allowed except: recreational take of spiny lobster (*Panulirus interruptus*) and pelagic finfish† and commercial take of spiny lobster.

- Shoreline length: 2.2 nm
- Area: 8.1 nm²
- Depth range (feet): 0 to 600

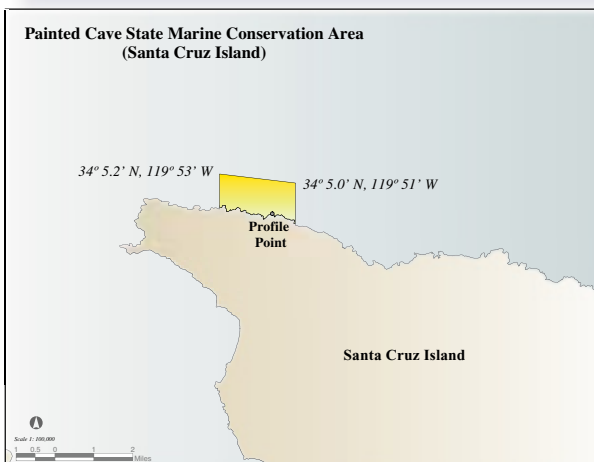


Site name:

Painted Cave (Santa Cruz Island) State Marine Conservation Area*

No take of living or non-living marine resources is allowed except: recreational take of spiny lobster (*Panulirus interruptus*) and pelagic finfish†

- Shoreline length: 2 nm
- Area: 2.1 nm²
- Depth range (feet): 0 to 300



FOR MORE INFORMATION



To learn more about the Channel Island MPA regulations, visit the California Department of Fish & Game website at: www.dfg.ca.gov/mrd/channel_islands/index.html, or call (916) 653-7664.



To learn more about the Channel Islands National Marine Sanctuary visit www.cinms.nos.noaa.gov.



To learn more about the current status and history of MPAs, see: McArdle 2002 California Marine Protected Areas, Past and Present, at the California Sea Grant publications link at: www.csgc.ucsd.edu or contact Sea Grant at (858) 534-4446 or gfrederick@ucsd.edu.

McArdle, D., S. Hastings and J. Ugoretz. 2003. California Marine Protected Area Update.

©2003 California Sea Grant
College Program
University of California,
La Jolla 92093-0232
Publication No. T-051
NOAA Grant #NA06RG0142

Publication Design by
Robert Gerson
www.bookdesigning.com

†Pelagic finfish are defined as: northern anchovy, barracudas, billfishes, dolphinfish, Pacific herring, jack mackerel, Pacific mackerel, salmon, Pacific sardine, blue shark, salmon shark, shortfin mako shark, thresher sharks, swordfish, tunas, and yellowtail. Marlin is not allowed for commercial take.

*This map should not be used for navigational purposes. Furthermore, the restrictions described are only those imposed by this MPA designation. Additional restrictions may apply to fishing activities and other activities such as collecting, discharging and disposing of substances. Refer to the CA Code of Regulations, Title 14, §632 and the Code of Federal Regulations, Title 15, §922.70 or contact the CA Department of Fish & Game or the Channel Islands National Marine Sanctuary.

PACIFIC FISHERY MANAGEMENT COUNCIL

7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384

CHAIRMAN
Hans Radtke

EXECUTIVE DIRECTOR
Donald O. McIsaac

Telephone: 503-820-2280
Toll Free: 866-806-7204
Fax: 503-820-2299
www.pcouncil.org

April 24, 2003

Mr. Chris Mobley, Manager
Channel Islands National Marine Sanctuary
113 Harbor Way
Santa Barbara, CA 93109

Subject: NOAA's Channel Islands National Marine Sanctuary Environmental Review
Process to Consider Marine Reserves

Dear Mr. Mobley:

Thank you for your letter of April 4, 2003 to the Pacific Fishery Management Council (Council) addressing the environmental review process for considering marine reserves in the federal waters of the Channel Islands National Marine Sanctuary (Sanctuary). During discussions at the Council meeting held in April in Portland, Oregon, the Council responded positively to your invitation to work in a spirit of partnership toward considering this important matter. We have received a substantial amount of public input asking the Council to consider marine reserves in the Sanctuary area that are compatible with those recently adopted by the State of California. The process you have outlined seems reasonable, and we particularly appreciate the Sanctuary's commitment to preparing the environmental analysis documents.

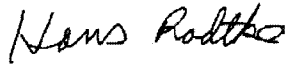
During their approval for moving forward with the proposed process, the Council discussed two other points we would like to bring to your attention:

- It is the Council's understanding that a response to engage in the process, made by the Council during the 60-day and 120-day statutory periods listed in the timeline, constitutes meeting the response period identified. The Council expressed concern these 60- and 120-day periods might not ultimately cover the entire process. We would like to confirm the understanding that these periods are provided as general guidelines, and the timeline remains flexible enough to allow full Council participation during the entire process, even if the entire process exceeds 60 and 120 days. We also presume the actual timeline and any deadlines will be cognizant of the Council meeting dates.
- As the Sanctuary analyzes changes in its designation document, Council members would like one of the alternatives to provide for extending Sanctuary authority only enough to allow the Sanctuary to create the proposed marine reserves, without extending authority over other types of fishing regulations.

Mr. Chris Mobley
April 24, 2003
Page 2

Thank you for considering these issues. We await the Notice of Intent from the Sanctuary to proceed with this effort, and look forward to working collaboratively with you during this process. Thank you again for the time Sanctuary staff spent with Council staff developing this process during the past few months.

Sincerely,

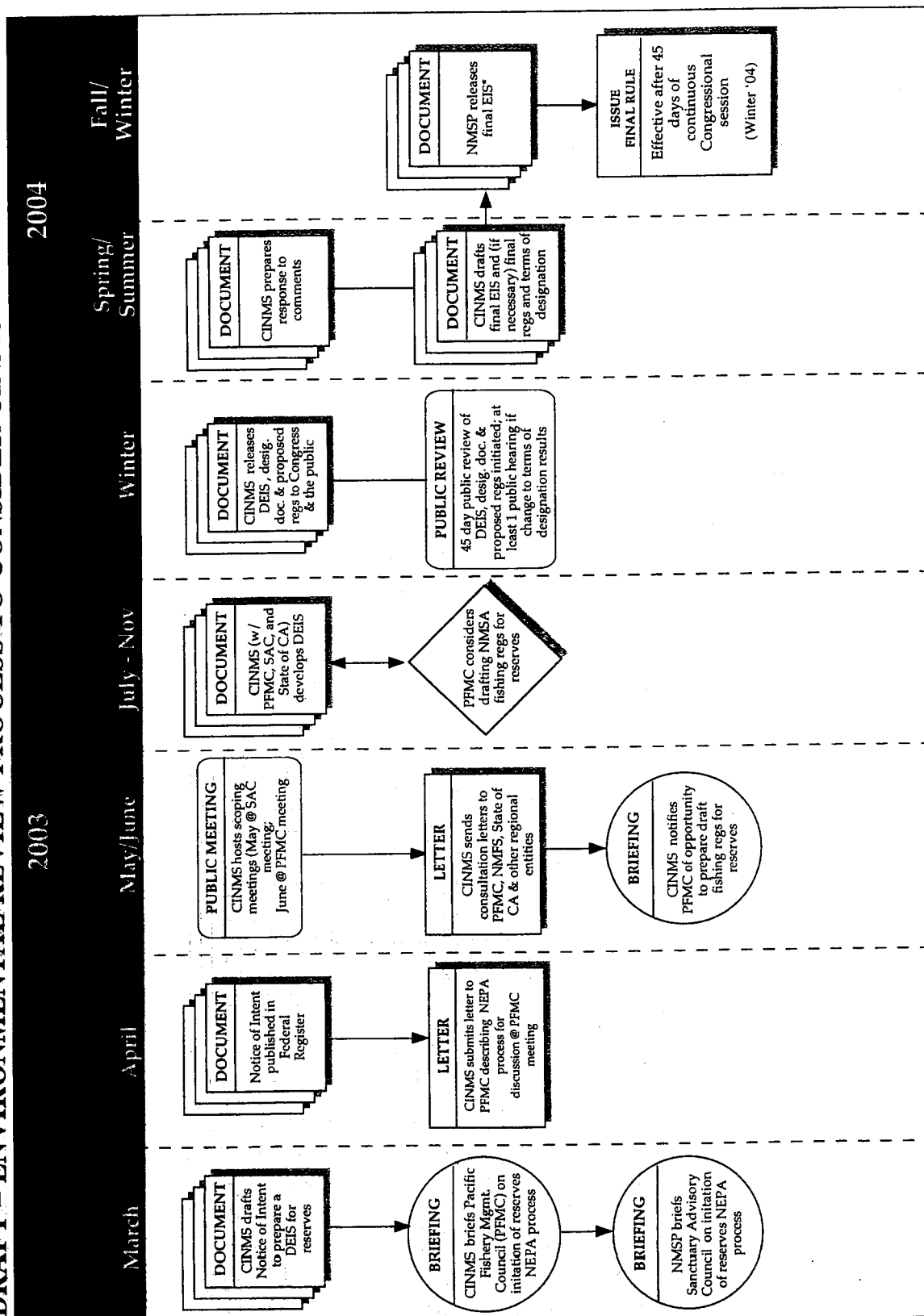
A handwritten signature in black ink, appearing to read "Hans Radtke".

Hans Radtke, Ph.D.
Chair

JDG:kla

c: Dr. Donald McIsaac
Ms. Jennifer Gilden

DRAFT - ENVIRONMENTAL REVIEW PROCESS TO CONSIDER CINMS RESERVES



Last Updated: May, 2003



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

NOAA Channel Islands National Marine Sanctuary Environmental Review Process to Consider Marine Reserves

Proposed Activities and Timeline

March 2003

- ◆ Sanctuary prepares Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS)
- ◆ Brief Pacific Fishery Management Council (PFMC) on Sanctuary initiation of Environmental Review Process (completed)
- ◆ Brief Sanctuary Advisory Council (SAC) on Sanctuary initiation of Environmental Review Process (completed)

April 2003

- ◆ Sanctuary releases Notice of Intent to prepare DEIS in Federal Register
- ◆ Sanctuary submits letter to PFMC describing Environmental Review Process for discussion at April PFMC meeting

May/June 2003

- ◆ Sanctuary hosts Scoping Meetings - contemporaneously at SAC May meeting and PFMC June meeting, additional scoping likely in Ventura County
- ◆ Sanctuary sends consultation letters to PFMC, NOAA Fisheries, State of Calif. and other entities regarding a potential change to the terms of designation¹ of the Sanctuary (*60 day response period*)
- ◆ Sanctuary notifies PFMC of opportunity to prepare draft National Marine Sanctuaries Act (NMSA) fishing regulations for the Exclusive Economic Zone portion of the Sanctuary – (*NMSA regulations allow for 120 days for PFMC response; seek PFMC resolution by the Nov. Council meeting (approx. five months)*)

June – November 2003

- ◆ Sanctuary, in cooperation with PFMC, State of Calif. and SAC, develops DEIS, appropriate proposed regulatory changes and related proposed change to the terms of designation
- ◆ PFMC considers preparing draft NMSA fishing regulations and if it chooses prepares draft regulations

¹ The terms of designation of a Sanctuary include its geographic area, the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or esthetic value, and the types of activities that are subject to regulation to protect those characteristics.





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

**NOAA Channel Islands National Marine Sanctuary
Environmental Review Process to Consider Marine Reserves**

Proposed Activities and Timeline (continued)

December 2003 / Early 2004

- ◆ Sanctuary releases to the public and Congress the DEIS, proposed regulations and related proposed change to the terms of designation
- ◆ Conduct public review of the DEIS, and proposed regulations and related proposed changes to the terms of designation. This will include an opportunity for public comment of at least 45 days and must include at least one public hearing if the rulemaking necessitates a change in a term of designation

Spring/Summer 2004

- ◆ Sanctuary prepares responses to comments

Summer 2004

- ◆ Sanctuary drafts Final EIS, and if necessary for chosen action, drafts final regulations and revises terms of designation

Fall/Winter 2004

- ◆ Sanctuary releases the Final EIS by publishing a notice of availability in the Federal Register and by providing copies to interested parties. After a 30-day “cooling off” period, the final regulations appear in the Federal Register and the Sanctuary sends the final regulations and revised terms of designation to Congress and to the governor’s office, if State waters are involved. The final regulations will take effect after the close of a review period of 45 days of continuous session of Congress. If State waters are involved, and the governor certifies that the change in terms of designation (and therefore the final regulations or portions thereof) is unacceptable, the affected final regulations will not take effect in State waters.



Commerce to issue a determination on remand consistent with the instructions set forth in the Panel's decision. The Panel instructed the DOC to provide a report within 45 days detailing how it would comply with their instructions and to complete the remand (within 60 days) not later than January 28, 2003.

The Department of Commerce issued its remand determination on January 28, 2003.

Panel Decision: The Panel, in its decision of April 28, 2003, ordered the Department to revoke the antidumping order.

Dated: May 8, 2003.

Caratina L. Alston,

U.S. Secretary, NAFTA Secretariat.

[FR Doc. 03-12883 Filed 5-21-03; 8:45 am]

BILLING CODE 3510-GT-M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcing a Meeting of the Information Security and Privacy Advisory Board

AGENCY: National Institute of Standards and Technology.

ACTION: Notice of meeting

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the Information Security and Privacy Advisory Board (ISPAB) will meet Tuesday, June 10, 2003, from 8:30 a.m. until 5 p.m., Wednesday, June 11, 2003, from 8:30 a.m. until 5 p.m. and on Thursday, June 12, from 8:30 a.m. until 3 p.m. All sessions will be open to the public. The Advisory Board was established by the Computer Security Act of 1987 (Pub. L. 100-235) and amended by the Federal Information Security Management Act of 2002 (Pub. L. 107-347) to advise the Secretary of Commerce and the Director of NIST on security and privacy issues pertaining to federal computer systems. Details regarding the Board's activities are available at <http://csrc.nist.gov/csspab/>.

DATES: The meeting will be held on June 10, 2003, from 8:30 a.m. until 5 p.m., June 11, 2003, from 8:30 a.m. until 5 p.m., and June 12, 2003, from 8:30 a.m. until 3 p.m.

ADDRESSES: The meeting will take place at the DoubleTree Hotel and Executive Meeting Center, 1750 Rockville Pike, Rockville, Maryland.

Agenda

- Welcome and Overview
- ISPAB Work Plan Updates

—One-Day Panel on e-Authentication:

- Session 1—e-Authentication Systems for Government: Understanding the Benefits and Risks of Existing and Emerging Models
- Session 2—Security and Privacy Issues in e-Authentication

—Panel Discussion on Accuracy Requirements for the FBI's National Crime Information Center (NCIC)

—Briefing on Activities of the National Science Foundation's Trusted Computing Program

—Briefing on Information Security Professionals Certification Programs

—Agenda Development for September 2003 ISPAB Meeting

—Wrap-Up

Note that agenda items may change without notice because of possible unexpected schedule conflicts of presenters.

Public Participation: The Board agenda will include a period of time, not to exceed thirty minutes, for oral comments and questions from the public. Each speaker will be limited to five minutes. Members of the public who are interested in speaking are asked to contact the Board Secretariat at the telephone number indicated below. In addition, written statements are invited and may be submitted to the Board at any time. Written statements should be directed to the ISPAB Secretariat, Information Technology Laboratory, 100 Bureau Drive, Stop 8930, National Institute of Standards and Technology, Gaithersburg, MD 20899-8930. It would be appreciated if 35 copies of written material were submitted for distribution to the Board and attendees no later than June 9, 2003. Approximately 15 seats will be available for the public and media.

FOR FURTHER INFORMATION CONTACT: Ms. Joan Hash, Board Secretariat, Information Technology Laboratory, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8930, Gaithersburg, MD 20899-8930, telephone: (301) 975-3357.

Dated: May 15, 2003.

Arden L. Bement, Jr.,

Director.

[FR Doc. 03-12786 Filed 5-21-03; 8:45 am]

BILLING CODE 3510-CN-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Announcement of Intent To Initiate the Process To Consider Marine Reserves in the Channel Islands National Marine Sanctuary; Intent To Prepare a Draft Environmental Impact Statement

AGENCY: Marine Sanctuaries Division (MSD), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice.

SUMMARY: In accordance with the National Marine Sanctuaries Act, as amended, (NMSA) (16 U.S.C. 1431 et seq.), NOAA's National Marine Sanctuary Program (NMSP) is considering the establishment of a network of marine reserves within the Channel Islands National Marine Sanctuary (CINMS or Sanctuary) to maintain the natural biological communities, and to protect, and, where appropriate, restore and enhance natural habitats, populations, and ecological processes.

Marine reserves are one of a variety of resource management tools used to manage and protect marine resources. This action is being considered to complement the State of California's recent establishment of a network of marine reserves and protected areas within the State waters of the CINMS.

The NMSP will prepare an environmental impact statement which will examine a range of management and regulatory alternatives associated with consideration of marine reserves within the Sanctuary. The NMSP will conduct three public scoping meetings during the scoping period to gather information and other comments from individuals, organizations, and government agencies on the scope, types and significance of issues related to consideration of marine reserves in the Sanctuary. The dates and locations of the public scoping meetings are listed below.

DATES: Written comments must be received on or before July 23, 2003.

ADDRESSES: Written comments may be sent to the Channel Islands National Marine Sanctuary, attn. Sean Hastings, 113 Harbor Way, Suite 150, Santa Barbara, California 93109, by fax to (805) 568-1582, or by electronic mail to reservesprocess@noaa.gov. Comments will be available for public review at the same address.

FOR FURTHER INFORMATION CONTACT: Sean Hastings, (805) 966-7107, Ext. 472.

SUPPLEMENTARY INFORMATION: The Sanctuary was designated in September 1980, and consists of 1,252 square nautical miles of open ocean and near shore habitat approximately 25 miles off the coast of Santa Barbara, California, encompassing the waters surrounding San Miguel, Santa Rosa, Santa Cruz, Anacapa and Santa Barbara Islands from mean high tide to six nautical miles offshore. The NMSP's primary goal is the protection of the Sanctuary's natural and cultural resources contained within its boundaries. The NMSP uses a variety of non-regulatory and regulatory management measures to protect its resources. The Sanctuary is an area of national significance because of its exceptional natural beauty and marine and cultural resources.

In April 1999, the Sanctuary and the California Department of Fish and Game (CDFG) developed a joint Federal and State partnership to consider establishing marine reserves within the Sanctuary. Marine reserves are one of a variety of resource management tools used to manage and protect marine resources. The Channel Islands Marine Reserves Process was initiated in July of 1999, when the Sanctuary Advisory Council (SAC) created a multi-stakeholder Marine Reserves Working Group (MRWG) to seek agreement on the potential establishment of marine reserves within the Sanctuary. Included in the Channel Islands Marine Reserves Process were a SAC designated Science Advisory Panel and a NOAA led Socio-economic Team made up of blue ribbon scientists, academics and practitioners. Extensive scientific and socioeconomic data were collected in support of the reserves process. From July 1999 to May 2001, the MRWG met monthly to receive, weigh, and integrate advice from technical advisors and the public and to develop a recommendation for the SAC. In May 2001, the results of the Channel Islands Marine Reserves Process were forwarded to the SAC, including the MRWG consensus agreements, areas of disagreement, Science Panel advice and socioeconomic analysis. A composite map with two reserve network options ranging from 12 to 29 percent of the Sanctuary was also forwarded. In June 2001, the SAC transmitted the full public record of the MRWG and the SAC to the CINMS and CDFG, and charged the agencies with crafting a final recommendation for the California Fish and Game Commission (FGC).

Sanctuary and CDFG staff continued to work with stakeholders in crafting a recommendation. On August 24, 2001 the Sanctuary and CDFG forwarded the results of the Channel Islands Reserves

Process and recommended to the FGC a network of reserves and protected areas that would include approximately 25% of the Sanctuary.

The CDFG prepared environmental review documents pursuant to the California Environmental Quality Act (CEQA), which included an analysis of a range of alternative reserves networks, including identifying the Sanctuary and CDFG recommended option as the preferred alternative. On October 23, 2002, the FGC approved the preferred alternative and the establishment of a network of marine reserves and protected areas within State waters of the Sanctuary (approximately 10%). The FGC decision was made based on the culmination of the Channel Islands Marine Reserves Process and the CDFG and NOAA supported alternative for a network of marine reserves in the Sanctuary. The State's network went into effect on April 9, 2003.

The NMSP is initiating a process to consider the establishment of marine reserves within the Sanctuary to complement the State's network of reserves and protected areas. This review process will build upon the nearly four years of work to date on this matter, including the information and analyses contained in the State's CEQA environmental documents. The NMSP anticipates completion of the environmental review process and concomitant documents will require approximately eighteen to twenty-four months.

The NMSP will prepare an environmental impact statement, proposed regulations, and any proposed modifications to the Sanctuary's designation document, as warranted. The environmental impact statement will examine a range of management and regulatory alternatives associated with consideration of marine reserves within the Sanctuary. Any change to the Sanctuary's terms of designation will be pursuant to the requirements of the National Marine Sanctuaries Act, including necessary consultations with Federal and State agencies, the Pacific Fishery Management Council (PFMC), and others, and submission of the environmental impact statement, proposed regulations and any proposed changes to the designation document to Congress, the Governor of the State of California, and the public for comment. Further, the PFMC will be provided the opportunity to prepare draft Sanctuary fishing regulations for the Exclusive Economic Zone portion of the Sanctuary for any marine reserve proposal. Finally, any change to a term of designation would not apply to State waters if the

Governor objects during the requisite review period.

For a complete history of the Channel Islands Marine Reserves Process and the State's Environmental Documents please see http://www.dfg.ca.gov/mrd/channel_islands/ and/or <http://www.cinms.nos.noaa.gov/marineres/main.html>. The same information can also be obtained by contacting John Ugoretz with California Department of Fish and Game, (805) 560-6758 and/or the contact information below.

The Sanctuary is also revising its 1983 Management Plan. A Final EIS and Management Plan are expected by the end of 2003. Please see <http://www.cinms.nos.noaa.gov/marineres/manplan.html> for more information on this independent process.

Public Scoping Meetings: Dates and Locations

The NMSP will conduct three public scoping meetings to gather information and other oral or written comments from individuals, organizations, and government agencies on the scope, types and significance of issues related to consideration of marine reserves in the Sanctuary. These meetings will be conducted in a format to maximize the opportunity for all attendees to provide public comment. The dates, times and location of the meetings are as follows:

(1) Thursday, June 5, 2003, 6:30-9 p.m., Orvene S. Carpenter Community Center, 550 Park Avenue Pt. Hueneme, CA.

(2) Thursday, June 12, 2003, 6:30-9 p.m., Santa Barbara Public Library, Faulkner Gallery, 40 E. Anapamu Street, Santa Barbara, CA.

(3) Friday, July 18, 2003, 1:30-4 p.m., Four Points by Sheraton, 1050 Schooner Drive, Ventura, CA. This meeting will be held with the Sanctuary Advisory Council.

Dated: May 16, 2003.

Jamison S. Hawkins,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 03-12815 Filed 5-21-03; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050903A]

Marine Mammals; File No. 369-1440-01

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

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;

(4) to enhance public awareness, understanding, appreciation, and wise and sustainable use of the marine environment, and the natural, historical, cultural, and archeological resources of the National Marine Sanctuary System;

(5) to support, promote, and coordinate scientific research on, and long-term monitoring of, the resources of these marine areas;

(6) to facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities;

(7) to develop and implement coordinated plans for the protection and management of these areas with appropriate Federal agencies, State and local governments, Native American tribes and organizations, international organizations, and other public and private interests concerned with the continuing health and resilience of these marine areas;

(8) to create models of, and incentives for, ways to conserve and manage these areas, including the application of innovative management techniques; and

(9) to cooperate with global programs encouraging conservation of marine resources.

(c) ESTABLISHMENT OF SYSTEM.-There is established the National Marine Sanctuary System, which shall consist of national marine sanctuaries designated by the Secretary in accordance with this title.

Sec. 302. DEFINITIONS

As used in this title, the term--

(1) "Draft management plan" means the plan described in section 304(a)(1)(C)(v);

(2) "Magnuson-Stevens Act" means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(3) "marine environment" means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction, including the exclusive economic zone, consistent with international law;

(4) "Secretary" means the Secretary of Commerce;

(5) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States;

(6) "damages" includes--

(A) compensation for--

(i) (I) the cost of replacing, restoring, or acquiring the equivalent of a sanctuary resource; and (II) the value of the lost use of a sanctuary resource pending its restoration or replacement or the acquisition of an equivalent sanctuary resource; or

(ii) the value of a sanctuary resource if the sanctuary resource cannot be restored or replaced or if the equivalent of such resource cannot be acquired;

(B) the cost of damage assessments under section 312(b)(2);

(C) the reasonable cost of monitoring appropriate to the injured, restored, or replaced resources;

(D) the cost of curation and conservation of archeological, historical, and cultural sanctuary resources; and

(E) the cost of enforcement actions undertaken by the Secretary in response to the destruction or loss of, or injury to, a sanctuary resource;

(7) "response costs" means the costs of actions taken or authorized by the Secretary to minimize destruction or loss of, or injury to, sanctuary resources, or to minimize the imminent risks of such destruction, loss, or injury, including costs related to seizure forfeiture, storage, or disposal arising from liability under section 312;

(8) "sanctuary resource" means any living or nonliving resource of a national marine sanctuary that contributes to the conservation, recreational, ecological, historical, educational, cultural, archeological, scientific, or aesthetic value of the sanctuary;

(9) "exclusive economic zone" means the exclusive economic zone as defined in the Magnuson-Stevens Act; and

(10) 'System' means the National Marine Sanctuary System established by section 301.

Sec. 303. SANCTUARY DESIGNATION STANDARDS

(a) STANDARDS.--The Secretary may designate any discrete area of the marine environment as a national marine sanctuary and promulgate regulations implementing the designation if the Secretary determines that--

(1) the designation will fulfill the purposes and policies of this title;

(2) the area is of special national significance due to--

(A) its conservation, recreational, ecological, historical, scientific, cultural, archeological, educational, or esthetic qualities;

(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.

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.

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 purpose 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.

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 6 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 traveling 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 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 and Conservation Act of 1976, 16 USC.1801 et seq., shall remain in effect. All permits, licenses and other authorizations issues 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 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 Fishery Management Council, and approval by the President of the United States.

[End of Designation Document]

Only those articles 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

April 28, 2003

KEY STEPS AND REQUIREMENTS FOR CHANGING A TERM OF DESIGNATION OF A NATIONAL MARINE SANCTUARY

- The National Marine Sanctuaries Act (NMSA) defines the terms of designation of a sanctuary as—
 - The geographic area of the sanctuary
 - The characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or esthetic value
 - The types of activities that will be subject to regulation to protect those characteristics
- When changing a term of designation NOAA follows the NMSA procedures for designation of a sanctuary, which are provided in sections 303 and 304 of the Act. Key steps in this process include—
 - Making required determinations and considering factors, as listed in the NMSA
 - Conducting required consultations with Congress, Federal, State, and local agencies, the appropriate Fishery Management Council, and other interested persons
 - Preparing appropriate designation documents which include an environmental impact statement, resource assessments, maps, revised draft management plan with the proposed changes to the term(s) of designation, basis of determinations, and any proposed regulations
 - Providing public notice and opportunity to comment on the proposed designation documents, including holding at least one public hearing
 - Providing the public notice and the proposed designation documents to Congress and the Governor of any State in which the Sanctuary is located
 - Publishing notice of the final designation documents and providing notice to Congress and the Governor
- If the change to the term(s) of designation involves fishing, the appropriate Fishery Management Council shall be provided the opportunity to prepare draft sanctuary fishing regulations within the EEZ to implement the proposed change. NOAA shall also cooperate with other appropriate fishery management authorities with responsibilities in the sanctuary at the earliest practicable stage in drafting any sanctuary fishing regulations.
- Final changes to a term(s) of designation, and implementing regulations, shall take effect and become final after the close of a review period of 45 days of continuous session of Congress.
- During this final 45-day review period the Governor has the opportunity to certify to NOAA that the change to the term of designation is unacceptable, in which case the unacceptable term of designation shall not take effect in that part of the sanctuary within the boundary of the State.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Silver Spring, Maryland 20910

APR 22 2003

RECEIVED

MAY 05 2003

PFMC

Donald McIsaac
Executive Director
Pacific Fishery Management Council
7700 NE Ambassador Pl., Ste. 200
Portland, OR 97220-1384

Dear Dr. McIsaac:

The National Oceanic and Atmospheric Administration's (NOAA) National Ocean Service's National Marine Sanctuary Program (NMSP) has initiated a process to review the management plan of the Channel Islands National Marine Sanctuary (CINMS or Sanctuary). The approximately 1,252 square nautical mile (NM) Sanctuary extends seaward to a distance of six NM offshore of 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. These islands and rocks are located offshore from Santa Barbara and Ventura Counties in California. The NMSP is conducting this process pursuant to Sec. 304(e) of the National Marine Sanctuaries Act (NMSA) (16 U.S.C. 1434(e)), which requires the Secretary of Commerce (Secretary) to evaluate at five-year intervals the substantive progress toward implementing the management plan and goals for each sanctuary, and to revise the management plan and regulations as necessary to fulfill the purposes and policies of the NMSA. As required by section 304(e), each review includes a prioritization of management objectives.

As part of this review, the NMSP is considering changes to the Sanctuary's terms of designation (as defined by Sec. 304(a)(4) of the NMSA; 16 U.S.C. 1434(a)(4); and laid out in the attached Sanctuary Designation Document). The potential changes could include clarifying that the submerged lands underlying Sanctuary waters are legally part of the Sanctuary, and updating the description of the characteristics of the area that give it particular value. Potential changes to the list of types of activities subject to Sanctuary regulation could include:

- Adding discharging or depositing from beyond the boundary of the Sanctuary any material or other matter that subsequently enters the Sanctuary and injures a Sanctuary resource or quality;
- Deleting the qualifier of "within two [NM] of any island" on alteration of, or construction on, the seabed;
- Adding placing or abandoning any structure, material or other matter on the seabed;



- Regarding Sanctuary historical resources, changing "Removing or otherwise deliberately harming cultural or historical resources" to "Moving, removing or injuring, or attempting to move, remove or injure a Sanctuary historical resource" (note: "historical resources" include cultural resources)
- Adding taking or possessing any marine mammal, marine reptile or seabird in or above the Sanctuary;
- Adding interfering with, obstructing, delaying or preventing an investigation, search, seizure or disposition of seized property in connection with enforcement of the NMSA;
- Adding marking, defacing, damaging, moving, removing or tampering with any sign, notice or placard, whether temporary or permanent, or any monument, stake, post or other boundary marker related to the Sanctuary;
- Adding introducing or otherwise releasing a member of an exotic species or genetically modified species into the Sanctuary;
- Adding lightering in the Sanctuary.

While no final decisions have been made, many of these potential changes reflect consideration of comments received from the public and the Sanctuary Advisory Council, as well as the priority issues identified during this management plan review process.

One issue that was raised during scoping was that the present Sanctuary boundary does not encompass the regional CINMS ecosystem. However, expansion of Sanctuary boundaries is not being considered at this time. Boundary change options will be studied further over the next year, and alternatives will be presented in a supplemental environmental impact statement (EIS) expected to be released in mid-2004. In the future, you will receive a separate consultation letter regarding this potential action prior to release of the supplemental EIS.

Also being addressed separately from this action is the consideration of specific marine reserves (no-take areas) within the federal waters portion of the existing Sanctuary boundary, in order to complement marine reserves recently established by the State of California within portions of the state waters of the Sanctuary. Consideration of these federal marine reserves will commence in early 2003, involving consultation with relevant management agencies, the Pacific Fishery Management Council, and the public via a National Environmental Policy Act (NEPA) process. As part of this process, you will receive a separate consultation letter regarding this potential action.

The Secretary, through the NMSP, is consulting with the Department of the Interior pursuant to Sec. 303(b)(2) of the NMSA (16 U.S.C. 1433(b)(2)). The NMSP is also consulting with other relevant Federal agencies, the heads of appropriate State government entities, the appropriate officials of the Pacific Fishery Management Council and other interested parties.

In responding to this letter, please take into account the following factors the Secretary must consider (16 U.S.C. 1433(b)(1)):

(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), and (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 the NMSA;

(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 National Marine Sanctuary System.

To ensure that any information, recommendations, or comments are considered in the preparation of the draft environmental impact statement, I would appreciate your response within sixty (60) days of receipt of this letter.

A map of the Sanctuary is enclosed for your reference. If you have any questions regarding this process, contact Sanctuary Management Plan Coordinator Michael Murray at (805) 884-1464. Please direct your response to:

Christopher Mobley, Manager
Channel Islands National Marine Sanctuary
RE: CINMS Management Plan Review Consultation
113 Harbor Way
Santa Barbara, California 93109

We appreciate your assistance in this matter.

Sincerely,

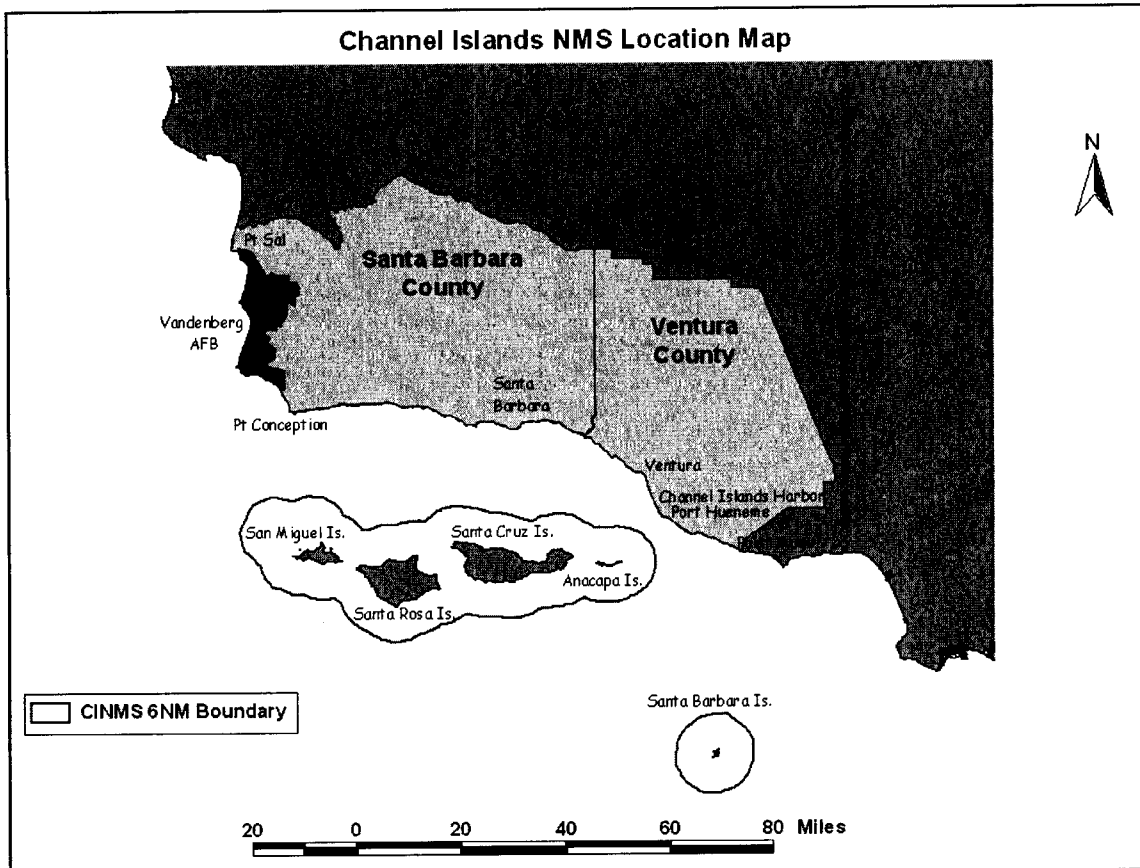
A handwritten signature in black ink, appearing to read "J. S. Hawkins".

Jamison S. Hawkins
Acting Assistant Administrator

Enclosure

Enclosure A:

Location Map of the Channel Islands National Marine Sanctuary



PLANNING FOR FEDERAL WATERS PORTION OF THE
CHANNEL ISLANDS NATIONAL MARINE SANCTUARY

Situation: On December 6, 2002, the California Fish and Game Commission voted to prohibit fishing in 132 square nautical miles (175 square miles) of state water areas within the Channel Islands National Marine Sanctuary (CINMS), creating a system of twelve separate no-take marine reserves. These marine reserves went into effect on April 9, 2003. The next step is to consider expanding the marine reserve network into federal waters. The full system of proposed marine reserves in CINMS would cover 322 square nautical miles (426 square miles).

At the April 2003 Council meeting, the Council received a letter from CINMS proposing a process for coordinating with the Council in formally considering marine reserves in federal waters of the Channel Islands and changing the sanctuary designation document. The Council reviewed the proposed process and timeline and responded positively in late April (Attachments 1 and 2).

At this meeting, Mr. Chris Mobley (Sanctuary Manager) and Mr. Sean Hastings (Policy Program Specialist) of CINMS will brief the Council on the timeline for the environmental review process, and on the process for considering marine reserves and changing the Sanctuary designation document. A Notice of Intent for preparing an environmental impact statement was published on May 22, 2003 (Attachment 3). An informational document (inserted in the briefing book mailing) provides background on current marine reserves in CINMS.

The comments received from the Council as part of this agenda item will be used by CINMS in scoping for their environmental review document. The Council has not received a formal consultation letter on the Sanctuary's proposal to modify its designation document.

Background: Change to Designation Document

Under the National Marine Sanctuaries Act (NMSA) (Attachment 4), regulation of fishing by a particular Sanctuary is allowed only if that Sanctuary's designation document allows regulation of fishing. CINMS does not currently have authority to regulate fishing, and is considering changes to its designation document to allow such regulation. (CINMS' designation document is included as Attachment 5, and a list of requirements for changing a designation document is included as Attachment 6.)

The CINMS management plan is also undergoing a review process in which the designation document may be changed with respect to the regulation of activities *other* than fishing. On May 5, 2003, the Council received a letter from the Department of Commerce describing these changes, and requesting comments on the proposed changes within 60 days (by July 4) (see Attachment 7). The proposed changes outlined in this letter relate to issues such as sanctuary boundaries, structures, historical resources, and other matters.

Background: Council Opportunity to Draft Regulations

The NMSA gives Councils the opportunity to draft regulations governing all types of fishing in the Federal waters of a national marine sanctuary (not just for fisheries covered under a Council FMP). Any recommendations made by Councils to be implemented under the NMSA must fulfill the purposes and policies of the NMSA and the goals and objectives of that particular sanctuary. It is likely that this matter will appear on the September 2003 Council agenda.

Council Action:

1. **Consider Council response for the CINMS scoping process (including commenting on changes to the designation document and the environmental review process).**
2. **Consider Council response to the letter from the Department of Commerce regarding review of the CINMS management plan and non-fishery-management changes to the designation document.**

Reference Materials:

1. Letter from the Council to CINMS dated April 24, 2003 (Attachment 1)
2. Environmental Review Process to Consider CINMS Reserves (Attachment 2)
3. Notice of Intent to Initiate the Process to Consider Marine Reserves in the Channel Islands National Marine Sanctuary; Intent to Prepare a Draft Environmental Impact Statement (Attachment 3)
4. National Marine Sanctuaries Act (Attachment 4)
5. Final Designation Document of the Channel Islands National Marine Sanctuary (Attachment 5)
6. Key Steps and Requirements for Changing a Term of Designation of a National Marine Sanctuary (Attachment 6)
7. Letter from Department of Commerce regarding review of CINMS management plan (Attachment 7)
8. Public comment (5 copies of same letter)
9. Insert: *California Marine Protected Area Update*

Agenda Order:

- a. Agendum Overview
- b. Scoping Presentation by CINMS Staff
- c. Reports and Comments of Advisory Bodies
- d. Public Comment
- e. **Council Action:** Consider and Comment on CINMS Proposals

Jennifer Gilden

PFMC
06/03/03

Melissa Guion

359 Fort Washington Ave. #2D , New York, New York 10033

May 12, 2003

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, OR 97220

RECEIVED

MAY 19 2003

PFMC

Subject: Support for Preferred Alternative Marine Reserve Network at the Channel Islands

Dear Pacific Fishery Management Council:

I write to encourage your support for the establishment of a network of fully protected marine reserves within the federal waters of the Channel Islands National Marine Sanctuary. The preferred alternative is fully supported by the CEQA document and by the California Fish and Game Commission.

Fully protecting portions of the waters around the Channel Islands within a network of marine reserves is the only real way to help the once thriving marine life around the Islands rebound and thrive. The islands receive important protections as a National Marine Sanctuary, however new measures are needed to restore declining fisheries and preserve habitat.

There is now compelling scientific evidence that an appropriately designed system of marine reserves can help restore damaged rockfish and invertebrate populations. To ignore these problems at this time simply invites a more severe crisis in the future. Our Channel Islands support diverse marine habitats and a unique ocean ecosystem. I strongly urge that you support a configuration of fully protected marine reserves, which protects the Islands' many habitats, including rocky reefs, sandy seafloor, and subsea canyons. By leaving a portion of our coastal waters undisturbed, marine reserves can restore biological diversity and prevent the extinction of individual species. The resulting protected areas can also provide tangible, long-term benefits to commercial and recreational fishermen.

Please finish the marine reserve network recently approved by the California State Fish and Game Commission, by completing the federal portion of this carefully-negotiated, science-based protection for key ecosystems at the Channel Islands.

Thank you for your attention to this pressing matter.

Sincerely,



Melissa Guion

RECEIVED
MAY 13 2003
PFMC

D.M. GORE

P.O. BOX 1782 , SAN ANTONIO, Texas 78296

May 05, 2003 03:46 AM

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, OR 97220

Subject: Support for Preferred Alternative Marine Reserve Network at the Channel Islands

Dear Pacific Fishery Management Council:

I write to encourage your support for the establishment of a network of fully protected marine reserves within the federal waters of the Channel Islands National Marine Sanctuary. The preferred alternative is fully supported by the CEQA document and by the California Fish and Game Commission.

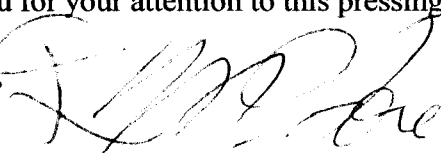
Fully protecting portions of the waters around the Channel Islands within a network of marine reserves is the only real way to help the once thriving marine life around the Islands rebound and thrive. The islands receive important protections as a National Marine Sanctuary, however new measures are needed to restore declining fisheries and preserve habitat.

There is now compelling scientific evidence that an appropriately designed system of marine reserves can help restore damaged rockfish and invertebrate populations. To ignore these problems at this time simply invites a more severe crisis in the future. Our Channel Islands support diverse marine habitats and a unique ocean ecosystem. I strongly urge that you support a configuration of fully protected marine reserves, which protects the Islands' many habitats, including rocky reefs, sandy seafloor, and subsea canyons. By leaving a portion of our coastal waters undisturbed, marine reserves can restore biological diversity and prevent the extinction of individual species. The resulting protected areas can also provide tangible, long-term benefits to commercial and recreational fishermen.

Please finish the marine reserve network recently approved by the California State Fish and Game Commission, by completing the federal portion of this carefully-negotiated, science-based protection for key ecosystems at the Channel Islands.

Thank you for your attention to this pressing matter.

Sincerely,



RECEIVED
MAY 13 2003
PFMC

Fiona Clark

3435 Burke Ave. N., #308 , Seattle, Washington 98103

May 09, 2003 01:22 PM

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, OR 97220

Subject: Support for Preferred Alternative Marine Reserve Network at the Channel Islands

Dear Pacific Fishery Management Council:

I write to encourage your support for the establishment of a network of fully protected marine reserves within the federal waters of the Channel Islands National Marine Sanctuary. The preferred alternative is fully supported by the CEQA document and by the California Fish and Game Commission.

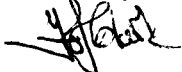
Fully protecting portions of the waters around the Channel Islands within a network of marine reserves is the only real way to help the once thriving marine life around the Islands rebound and thrive. The islands receive important protections as a National Marine Sanctuary, however new measures are needed to restore declining fisheries and preserve habitat.

There is now compelling scientific evidence that an appropriately designed system of marine reserves can help restore damaged rockfish and invertebrate populations. To ignore these problems at this time simply invites a more severe crisis in the future. Our Channel Islands support diverse marine habitats and a unique ocean ecosystem. I strongly urge that you support a configuration of fully protected marine reserves, which protects the Islands' many habitats, including rocky reefs, sandy seafloor, and subsea canyons. By leaving a portion of our coastal waters undisturbed, marine reserves can restore biological diversity and prevent the extinction of individual species. The resulting protected areas can also provide tangible, long-term benefits to commercial and recreational fishermen.

Please finish the marine reserve network recently approved by the California State Fish and Game Commission, by completing the federal portion of this carefully-negotiated, science-based protection for key ecosystems at the Channel Islands.

Thank you for your attention to this pressing matter.

Sincerely,



Fiona Clark

RECEIVED

APR 24 2003

PFMC

Danielle Goodman

3455 Table Mesa Dr. #L-237, Boulder, Colorado 80305

April 17, 2003 12:03 AM

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, OR 97220

Subject: Support for Preferred Alternative Marine Reserve Network at the Channel Islands

Dear Pacific Fishery Management Council:

I write to encourage your support for the establishment of a network of fully protected marine reserves within the federal waters of the Channel Islands National Marine Sanctuary. The preferred alternative is fully supported by the CEQA document and by the California Fish and Game Commission.

Fully protecting portions of the waters around the Channel Islands within a network of marine reserves is the only real way to help the once thriving marine life around the Islands rebound and thrive. The islands receive important protections as a National Marine Sanctuary, however new measures are needed to restore declining fisheries and preserve habitat.

There is now compelling scientific evidence that an appropriately designed system of marine reserves can help restore damaged rockfish and invertebrate populations. To ignore these problems at this time simply invites a more severe crisis in the future. Our Channel Islands support diverse marine habitats and a unique ocean ecosystem. I strongly urge that you support a configuration of fully protected marine reserves, which protects the Islands' many habitats, including rocky reefs, sandy seafloor, and subsea canyons. By leaving a portion of our coastal waters undisturbed, marine reserves can restore biological diversity and prevent the extinction of individual species. The resulting protected areas can also provide tangible, long-term benefits to commercial and recreational fishermen.

Please finish the marine reserve network recently approved by the California State Fish and Game Commission, by completing the federal portion of this carefully-negotiated, science-based protection for key ecosystems at the Channel Islands.

Thank you for your attention to this pressing matter.

Sincerely,


Danielle Goodman

RECEIVED

APR 14 2003

PFMC

Amanda Ciluffo

4910-B East Broadway , Mt. Pleasant, Michigan 48858

March 20, 2003 11:58 AM

Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, OR 97220

Subject: Support for Preferred Alternative Marine Reserve Network at the Channel Islands

Dear Pacific Fishery Management Council:

I write to encourage your support for the establishment of a network of fully protected marine reserves within the federal waters of the Channel Islands National Marine Sanctuary. The preferred alternative is fully supported by the CEQA document and by the California Fish and Game Commission.

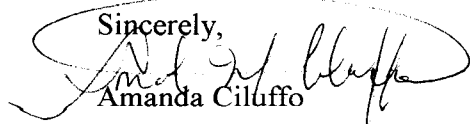
Fully protecting portions of the waters around the Channel Islands within a network of marine reserves is the only real way to help the once thriving marine life around the Islands rebound and thrive. The islands receive important protections as a National Marine Sanctuary, however new measures are needed to restore declining fisheries and preserve habitat.

There is now compelling scientific evidence that an appropriately designed system of marine reserves can help restore damaged rockfish and invertebrate populations. To ignore these problems at this time simply invites a more severe crisis in the future. Our Channel Islands support diverse marine habitats and a unique ocean ecosystem. I strongly urge that you support a configuration of fully protected marine reserves, which protects the Islands' many habitats, including rocky reefs, sandy seafloor, and subsea canyons. By leaving a portion of our coastal waters undisturbed, marine reserves can restore biological diversity and prevent the extinction of individual species. The resulting protected areas can also provide tangible, long-term benefits to commercial and recreational fishermen.

Please finish the marine reserve network recently approved by the California State Fish and Game Commission, by completing the federal portion of this carefully-negotiated, science-based protection for key ecosystems at the Channel Islands.

Thank you for your attention to this pressing matter.

Sincerely,



Amanda Ciluffo

PACIFIC FISHERY MANAGEMENT COUNCIL

7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384

CHAIRMAN
Hans Radtke

EXECUTIVE DIRECTOR
Donald O. McIsaac

Telephone: 503-820-2280
Toll Free: 866-806-7204
Fax: 503-820-2299
www.pcouncil.org

April 29, 2003

Mr. William Douros, Superintendent
Monterey Bay National Marine Sanctuary
299 Foam Street
Monterey, CA 93940

Mr. Ed Ueber, Superintendent
Gulf of the Farallones National Marine Sanctuary
Fort Mason, Building 201
San Francisco, CA 94123

Mr. Daniel Howard, Manager
Cordell Bank National Marine Sanctuary
PO Box 159
Olema, CA 94950

Gentlemen:

I am writing to express the Pacific Fishery Management Council's (Council) interest in coordinating with the Monterey Bay, Gulf of the Farallones, and Cordell Bank National Marine Sanctuaries (Sanctuaries) to address federal fisheries issues within sanctuary boundaries. This issue was discussed at the Council's March meeting in Sacramento, California. The discussion occurred in the context of an agenda segment updating the Council on the Joint Management Plan Review effort currently underway by the Sanctuaries. The Council is requesting clarification on a few matters that came up in discussion and would like to express interest in working collaboratively with the Sanctuaries on any fishery regulation matters of mutual concern.

Modification of Designation Documents

We understand the Sanctuaries' designation documents do not currently provide for the authority to regulate fisheries. In this regard, there has been some confusion created by a recently released document entitled "Regulatory Coordination Between the National Marine Sanctuaries Program and Fishery Management Agencies" (attached). There was particular discussion about the statement, "However, sanctuaries may manage fishery resources within their boundaries by imposing specific Sanctuary regulations on certain fishing methods and gear or preventing the taking of fish when it is determined to be necessary..." The process outlined in this document seems to apply to National Marine Sanctuaries that are permitted by their designation documents to regulate fisheries. However, it is not clear whether the Sanctuaries you have responsibility for are considering modification of their designation documents to allow regulation of fisheries. The process for this important step in regulatory coordination does not seem to be covered in the paper. We would appreciate some clarification about any intent of the Sanctuaries to modify designation documents, how designation documents would be modified, and the need to extend Sanctuary authority to include fisheries regulation.

Mr. William Douros, Mr. Ed Ueber, Mr. Daniel Howard
April 29, 2003
Page 2

Currently, we are not aware of any action the Sanctuaries have requested of a fishery management agency under the current designation document for which they have not received a positive response. If that understanding is not correct, please let us know.

If the Sanctuaries decide to seek a change in their designation documents in order to allow for regulation of fisheries, the Council would like to be involved. Please let us know how the Council can best participate in the process.

Fishing Regulations in Sanctuary Waters

The Council would like to work cooperatively with you to coordinate the development and implementation of any fishing regulations needed for federal waters of the Sanctuaries as a result of the Joint Management Plan Review. For example, we understand one of the working groups is considering an action plan recommendation to ban krill harvest in one of the sanctuaries. In this regard it would be helpful to have a clear statement of the goals of the Sanctuaries regarding fisheries management, the parts of the management plan revisions under current consideration that pertain to user management, any update on your process timeline, and the range of possible results (relevant to fisheries management) from this process.

Next Pacific Council Meeting

We appreciate your attention to our concerns. We have tentatively scheduled an agendum to consider these matters at our next Council meeting in Foster City, California during the week of June 16 - 20. We would like to include your response in the briefing book for our next Council meeting so as to allow for its full consideration; materials for this purpose are due in the Council office by May 28. If you would like to make a brief presentation to the Council at the June meeting, please consider this letter an invitation to do so, and contact me at your earliest convenience for logistical details.

Should you have any questions on the substance of this letter, please feel free to contact me or Ms. Jennifer Gilden at the number above.

Sincerely,



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

JDG:kla

Enclosure

c: Dr. Hans Radtke	Mr. Eric Larson	Ms. Marija Vojkovich
Mr. Donald Hansen	Mr. Duncan MacLean	Ms. Anne Walton
Mr. Daniel Basta	Mr. Sean Morton	Ms. Patricia Wolf
Dr. John Coon	Mr. Jim Seger	
Ms. Jennifer Gilden	Mr. Roger Thomas	

Dr. Daniel Basta, Chief
Office of National Marine Sanctuaries
1305 East-West Highway, 11th Floor
Silver Spring, MD 20910

Sean Morton, Management Plan Coordinator
Monterey Bay National Marine Sanctuary
299 Foam Street
Monterey, CA 93940

Anne Walton, Management Plan Coordinator
Gulf of the Farallones and Cordell Bank National Marine Sanctuaries
Fort Mason, Building 201
San Francisco, CA 94123



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

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

May 28, 2003

RECEIVED

MAY 29 2003

PFMC

Donald O. McIsaac, Ph.D.
Executive Director
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384

SUBJECT: Response to April, 29 2003 PFMC Letter to Central/Northern California National
Marine Sanctuaries

Dear Dr. McIsaac:

Thank you for your recent letter expressing interest in working collaboratively with the national marine sanctuaries on the central/northern California coast. We would also like to thank you for the support, expertise, and perspective that the Pacific Fishery Management Council staff has already contributed towards the review and revision of our management plans. As we continue to progress through the Joint Management Plan Review (JMPR) for these sanctuaries, we look forward to continued communication and cooperation.

Regulatory Coordination Document

We would like to address the specific concerns that you raised regarding the recent paper concerning regulatory coordination between the National Marine Sanctuary Program (NMSP) and fishery management agencies. This document was requested by one of the working groups associated with our management plan review, seeking clarification on the Sanctuary Program's ability to implement fishing regulations. The document is a presentation of certain sections of the National Marine Sanctuaries Act (NMSA), and not a statement of new policy of the NMSP. It does not reflect the unique regulatory, political, and social realities that are particular to each sanctuary. We are aware that by focusing primarily on the legislation, the paper fails to adequately emphasize the importance of cooperation and collaboration, which is the cornerstone of how we conduct business.

One of the Congressional mandates in the NMSA is 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." Fish species are an integral part of the marine ecosystem, and we greatly value the coastal communities dependent on them. The NMSP manages with an ecosystem perspective and we rely on effective cooperation with fishery management agencies for their fishery management expertise and resources.



Joint Management Plan Review

The NMSA includes a requirement that our program conduct periodic reviews of our site management plans. We are conducting the management plan reviews jointly for the Cordell Bank, Gulf of the Farallones and Monterey Bay National Marine Sanctuaries since the coastal waters of these three sites are contiguous off of central/northern California. Public scoping meetings were conducted, and priority-setting sessions were held last year. Advisory Councils for each of the sanctuaries helped to identify the priority areas that each site will address in their revised sanctuary management plans. Thus, the issues we are addressing reflect a broad-based consensus that these are priorities for our program. Most of the identified issues have been or are being addressed in a working group setting. This affords an opportunity for a broad spectrum of affected stakeholders, the public, and other agencies to help us review the management plans of these three sites in an efficient, comprehensive, and integrated fashion. While the JMPR is still underway, certain strategies that may intersect with fishing practices and regulatory schemes are in the early stages of development. These are identified below for each of the three Sanctuaries. (The attachment shows the priority issues for all three sites as well as priority issues that are “cross cutting” among all three sites.)

Cordell Bank National Marine Sanctuary

At the Cordell Bank National Marine Sanctuary, six working groups have been meeting for several months and site staff will begin drafting action plans based upon the group’s work this summer.

- One of its six working groups is addressing ecosystem protection, which will include fishing-related issues. The recommendations from this working group may range from making recommendations to the research group – asking it to investigate gear impacts or conduct population assessments of Sanctuary resources – to establishing a framework for assessing the need for a special marine protected area at Cordell Bank.
- As described in more detail in the Monterey Bay section, the ecosystem protection working group is also considering the need for and the potential benefit to the maintenance of biological communities from a permanent ban on krill harvesting.
- An education working group has discussed a recommendation to incorporate more fisheries information into the education programs, including discussion of sustainable fishing activities in the Sanctuary.
- An internal team is developing a strategy for evaluating the need for potential Sanctuary boundary expansion to ensure adequate protection of the CBNMS ecosystem. Any consideration would involve consultation with the Council and the National Marine Fisheries Service (NMFS).

Gulf of the Farallones National Marine Sanctuary

In the Gulf of the Farallones National Marine Sanctuary, seven working groups have also been meeting for several months and site staff will begin drafting action plans based upon their work this summer.

- A working group is addressing fishing issues with the intent to understand the impacts from fishing activities on Sanctuary resources. The goal of the fishing activities working

group is to work to maintain an abundance and diversity of native marine, estuarine, and intertidal species in the Gulf of the Farallones. The working group has divided the goal into two sub goals: 1) better understand the impacts from fishing activities on Sanctuary resources, and 2) support fishing that is compatible with Sanctuary goals and ecosystem protection.

- The ecosystem protection working group is also considering the need for and the potential benefit to the maintenance of biological communities from a permanent ban on krill harvesting.
- An internal team is developing a strategy for evaluating the need for potential boundary expansion to ensure adequate protection of the GFNMS ecosystem. Any consideration would involve consultation with the Council and NMFS.

Monterey Bay National Marine Sanctuary

Of the 16 public working groups assisting the MBNMS Advisory Council and staff with its management plan priorities, several groups may evaluate or make recommendations related to fishing activities. Since these working groups are further along than those of Cordell Bank and Gulf of the Farallones' working groups, we can provide more detail on their progress.

- As you noted, with the help of representatives from NMFS and PFMC staff, one MBNMS working group has evaluated the need for a potential ban on the harvest of krill in Sanctuary waters. The working group has recommended a permanent ban on the harvest of krill in Sanctuary waters and that recommendation may soon be brought to PFMC for its consideration within the coming year. NMFS and Council staff have been both cooperative and supportive of the effort, and we are encouraged by the effective early collaboration. Cordell Bank and Gulf of the Farallones may also consider the need for and potential benefit from a ban on krill harvest.
- Another working group, on benthic habitats, has recommended that the Sanctuary evaluate the potential impacts to the seafloor of trawling in the Sanctuary. It has also identified the need for an assessment of the level of fishing effort and an understanding of the details of federal and state closures on trawling, and the exemptions that may exist. The working group has not proposed regulatory modifications because of the need to better understand the local impacts of habitat alteration.
- Another working group is also considering special marine protected areas in federal waters, to complement the State's process for considering marine protected areas via its Marine Life Protection Act. This group has made significant progress on broad issues related to establishing the goals of a network of special marine protected areas and the criteria for their effective development. The group is not at the point of determining whether special marine protected areas need to be designated, nor has it considered their location, type, or size. That would be determined in the future as a product of a multi-stakeholder process and close coordination with fishery management agencies.
- While not directly a fishery management issue, another working group is considering whether to extend the sanctuary boundary to the Davidson Seamount, just west of the current boundary. A working group has identified the need for and benefits from designation and what kinds of protection should be afforded this special area. Such a designation would focus on protecting the benthic habitat on and immediately adjacent to the Davidson Seamount, such as the vast coral and sponge beds. The top of the seamount

is 3,750 feet below sea level, and we are not aware of any fisheries targeting bottom species, nor are any likely in the future given how rare fish are on the seamount. The working group did not propose any restrictions on fishing activity that targets species in the water column or at the sea surface, such as albacore.

- Another working group is investigating a number of ways that fishermen can become more involved in research and education activities, as well as how the Sanctuary can support and promote additional research and education related to fisheries. This will obviously involve collaboration with state and federal fishery managers.

In identifying strategies to pursue these goals, the sanctuaries have already drawn on the expertise and perspective of representatives from the Council staff, NMFS, the California Department of Fish and Game, as well as the fishing community. For all three sites, the action plans that the working groups have developed or are developing still need to be presented to the Sanctuary Advisory Councils. After that point, as the plans are further developed and our program is more certain on the direction these action plans will take, we will want to have further, detailed discussion with staff from the Council, NMFS and California Department of Fish and Game. The approximate time for such consultations would be this fall (see attached schedule/flowchart). We would like to work with you to determine the proper time to involve the Council.

Sanctuary Designation Documents

Your letter also asks about the ability of these national marine sanctuaries to regulate fishing activities under their current designation documents. Fishing is not currently an activity that is subject to regulation in any of the three sanctuaries. Although sanctuary concerns may be able to be addressed under the Council and NMFS authority pursuant to the Magnuson-Stevens Act, should the protection of sanctuary resources also benefit from fishing regulations promulgated under the National Marine Sanctuaries Act, the designation documents can be amended. Any such amendment could be narrowly tailored to achieve the stated goal. Important, however, is our assurance to you that prior to any decision whether to do so, we would work closely with the Council, the California Department of Fish and Game, NMFS, and other concerned entities. The process for changing a term of designation is the same as that for an original sanctuary designation. We have included a one-page summary that describes the key requirements of this process.

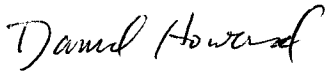
Prior Coordination with Fishery Management Agencies

You asked if any of these three sites had not received a positive response from any past requests for action from a fishery management agency. None of us could recall such an instance. We have always appreciated the shared sense of problem solving on common issues, which we hope and desire to continue as our management plan review progresses.

Thank you for the invitation to speak to the Pacific Fishery Management Council at its June meeting. Based on your conversation with Mr. Douros, we understand that the agenda for the June meeting is full and it may be better for us to make a presentation on the management plan

issues that relate to fishing at a later date. Briefing the Council at a later date would also allow us to present working group issues after we have received input from our Sanctuary Advisory Councils. We will all three try to attend the Council meeting on June 19 to be available for questions from you or Council members. Should you have any questions in the mean time, please feel free to contact us.

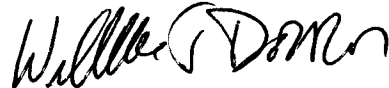
Sincerely,



DANIEL HOWARD
Acting Manager
Cordell Bank NMS
415-663-0314



MARIA BROWN
Acting Manager
Gulf of the Farallones NMS
415-561-6622



WILLIAM J. DOUROS
Superintendent
Monterey Bay NMS
831-647-4201

cc: Rod McInnis, Regional Director, NMFS
Patricia Wolf, Marine Region Director, CDFG

Attachments:

Table of JMPR Summary Issues
Process/Flow Chart with JMPR Schedule
Map of JMPR Area – CBNMS, GFNMS, MBNMS
Key Steps and Requirements to Change of Sanctuary Designation

Summary of Joint Management Plan Issues

Cross Cutting Issues to be Addressed Affecting CBNMS, GFNMS and / or MBNMS in the Management Plan Review		
Issue	Description	Process
Administration	Sanctuaries staff will develop procedures, protocols and strategies for how sites can better protect resources through coordinated education, research, and resource protection activities and improve management efficiency.	Internal Team
Boundary Issues	Issue 1: This internal team will develop criteria/protocol for proper definition of ecosystem boundaries and resolve GF/MB shared boundary issue. Issue 2: Look into whether or not to close SF Exemption zone.	Internal Team
Community Outreach	The working group will help sanctuaries to develop a regional strategic community outreach plan.	Working group
Cultural Resources	This working group will outline a program to identify and characterize cultural resources within the three sanctuaries and then identify shipwrecks that pose threats to natural resources (oil leaks, hazards).	Working group
Ecosystem Monitoring	The working group will develop recommendations for a coordinated, integrated regional ecosystem monitoring program. Fully implement existing MBNMS monitoring program - SIMoN.	Working group
Site Specific Issues to be Addressed by the Cordell Bank National Marine Sanctuary Management Plan Review		
Administration	This internal team will evaluate current administrative structure and build a plan that provides the infrastructure to effectively address priority site specific issues as identified through the management plan review process.	Internal Team
Boundary Modification	This internal team will develop a strategy for evaluating requests to modify the Sanctuary boundary.	Internal Team
Ecosystem Protection	This working group will explore activities that could negatively impact Sanctuary resources. Activities related to fishing include: impacts to benthic habitats from gear, potential impacts to higher trophic levels from harvesting lower trophic levels or forage species (i.e. krill), implications of bycatch. The need to establish a long term fishing working group to advise the Sanctuary will be explored.	Working Group
Education	This working group is developing a long term education strategy to increase public awareness and appreciation for the marine environment. Education is used as a tool to help protect the Sanctuary's resources and complement research, monitoring, and enforcement efforts.	Working group
Partnerships with Community groups	This working group will evaluate the best ways to develop community partnerships to maximize limited resources and opportunities. Partnerships can be leveraged to increase opportunities for research, public awareness, and volunteer support.	Working group
Research and Monitoring	This working group will develop a formalized research and monitoring plan to address management related issues. Current monitoring programs will be evaluated during this process.	Working group
Site Specific Issues to be Addressed by the Gulf of the Farallones National Marine Sanctuary Mgmt. Plan Review		
Administration	This team will review current infrastructure and build a plan to improve efficiency and effectiveness.	Internal Team
Ecosystem Protection		
Boundary Modification	This internal team will develop a strategy for evaluating requests to modify the Sanctuary boundary.	Internal Team
New and Emerging Issues	This team will establish a process for addressing new and emerging issues, integrating them into the management plan, and reprioritizing the management plan action plans to accommodate new activities while maintaining limited staff and financial resources.	Internal Team
Fishing Issues	This working group will seek to better understand the impacts of fishing on the Sanctuary. The need to establish a long term fishing working group to advise the Sanctuary will be explored.	Working group

Summary of Joint Management Plan Issues

Issue	Description	Process
Education	This working group is developing a long term education strategy to increase public awareness and appreciation for the marine environment. Education is used as a tool to help protect the Sanctuary's resources and complement research, monitoring, and enforcement efforts.	Working group
Exotic/Invasive Species	Introduced species are a concern for the GFNMS and a working group will identify pathways and assess the need for measures to minimize the threat they pose to Sanctuary resources.	Working group
Vessel Spills	This working group will develop an action plan to reduce the risk to Sanctuary natural resources from spills.	Working group
Water Quality	Water quality protection is high priority for the GFNMS. This working group will build a framework for a regionally based cooperative Water Quality Protection Plan to protect the resources of the Sanctuary.	Working group
Wildlife Disturbance	There is a need to assess the various adverse impacts of disturbance on Sanctuary wildlife. This working group will develop a framework to evaluate and minimize these threats.	Working group
Site Specific Issues to be Addressed by the Monterey Bay National Marine Sanctuary Management Plan Review		
Coastal Development		
Coastal Armoring	This working group will outline a framework to identify planning subregions and guidelines for review with Coastal Commission, other agencies; it will also consider inconsistency between designation document (no seawalls allowed) and past permitting practice (allow seawalls).	Working group
Desalination	This working group will involve various stakeholders to develop recommendations, and possibly regional guidelines, for new desalination plants.	Working group
Harbors and Dredge Disposal	This working group will review the Sanctuary's permit program to explore potential efficiency measures and the potential needs for additional dredge disposal options.	Working group
Submerged Cables	The internal team will identify sensitive areas of the seafloor within the Sanctuary and provide a clear policy framework with which to review future submerged cable development applications.	Internal Team
Ecosystem Protection		
Benthic Habitats	This working group will identify potential impacts to the seafloor from repetitive disturbance activities and whether further restrictions should be pursued with fishery agencies.	Working group
Big Sur Coastal Ecosystem Plan	This working group will assess the need for a framework plan that coordinates multi-agency activities and integrates resource protection, education and outreach, and research and monitoring activities specifically for the Big Sur area.	Working group
Davidson Seamount	This working group will assess the need for increased protection of the Davidson Seamount via inclusion in the Monterey Bay National Marine Sanctuary.	Working group
Emerging Issues	Sanctuary staff will develop a process to focus on long-term sustainability and look ahead to emerging resource protection issues.	Internal Team
Introduced Species	Introduced species are a concern for the MBNMS and a working group will identify pathways and assess the need for measures to minimize the threat they pose to Sanctuary resources.	Working group
Krill Harvesting	This working group will evaluate the potential for future harvesting of krill, a critical component of the marine ecosystem, and potentially recommend permanent restrictions within the Sanctuary.	Working group
Special Marine Protected Areas	This working group will identify the need for and potential criteria for considering special marine protected areas within the Sanctuary. MBNMS intends to rely on fishery agencies to designate special MPAs, if they are necessary.	Working group
Operations and Administration	This team will address administrative issues such as minor boundary and regulatory corrections, permit processing improvements, and identify staffing and infrastructure resource needs.	Internal Team

Summary of Joint Management Plan Issues

Issue	Description	Process
Partnerships and Opportunities		
Fishing Related Research and Education	This working group will address the recognized need to integrate fishing activities into the research and education activities.	Working Group
Interpretive Facilities	This team will create a plan to develop and outfit a visitor center with regional partners and further its outreach through expanded signage and kiosks throughout the Sanctuary.	Internal Team
Multicultural Outreach – MERITO	This team will integrate the implementation of the MERITO (Multicultural Education for Resource Issues Threatening Oceans) into the Management Plan and other education efforts.	Internal Team
Water Quality		
Beach Closures & Coliform Contamination	Many of the Sanctuary's beaches are regularly closed or posted by county health departments as showing elevated levels of contamination from coliform bacteria. This working group will work to outline a regional program to monitor, identify sources and causes, and reduce coliform levels in runoff.	Working group
Cruise Ship Discharges	The original designation of the MBNMS included strict prohibitions against developing new sewage outfalls. Cruise ships, whose visits to Monterey Bay are rapidly increasing, can legally discharge partially treated sewage from thousands of crew and passengers. This working group will consider regulation banning harmful cruise ship discharges in Sanctuary.	Working group
Revise MOA	The MBNMS developed a Water Quality Management Memorandum of Agreement (MOA) with key agencies as part of the 1992 Management Plan which integrates the mandates and expertise of existing coastal and ocean resource managers to protect the resources, qualities, and compatible uses of the Sanctuary. This will be updated as part of the management plan review.	Working group
Riparian Habitat	Wetlands and riparian corridors adjacent to the sanctuary suffer from degradation due to over-development, invasive species, pollution and erosion. Development of a program will be deferred, however a conceptual framework and schedule will be developed as part of the draft management plan.	Deferred
Water Quality Protection Program Implementation	The Sanctuary's Water Quality Protection Program contains multistakeholder plans for urban runoff, marinas and boating, agriculture and rural lands, and water quality monitoring. This working group will develop a program to fully implement the Water Quality Protection Program.	Working group
Wildlife Disturbance		
Marine Mammal / Seabird / Turtle Disturbance	This working group will develop a framework to review current harassment and disturbance issues involving marine mammal, sea turtle, and seabird. The framework may include development of viewing guidelines, educational and outreach strategies, and enforcement measures.	Working group
Motorized Personal Watercraft	This working group will review and make recommendations on various aspects of MPWCs in the MBNMS, such as improvements to the current MPWC definition, evaluation of existing zones, enforcement and education and other measures to protect Sanctuary resources and qualities.	Working group
Tidepool Protection	This working group will develop a framework to address tidepool degradation from high levels of visitation. It has been tasked to consider education and outreach programs, monitoring, management, and enforcement.	Working group

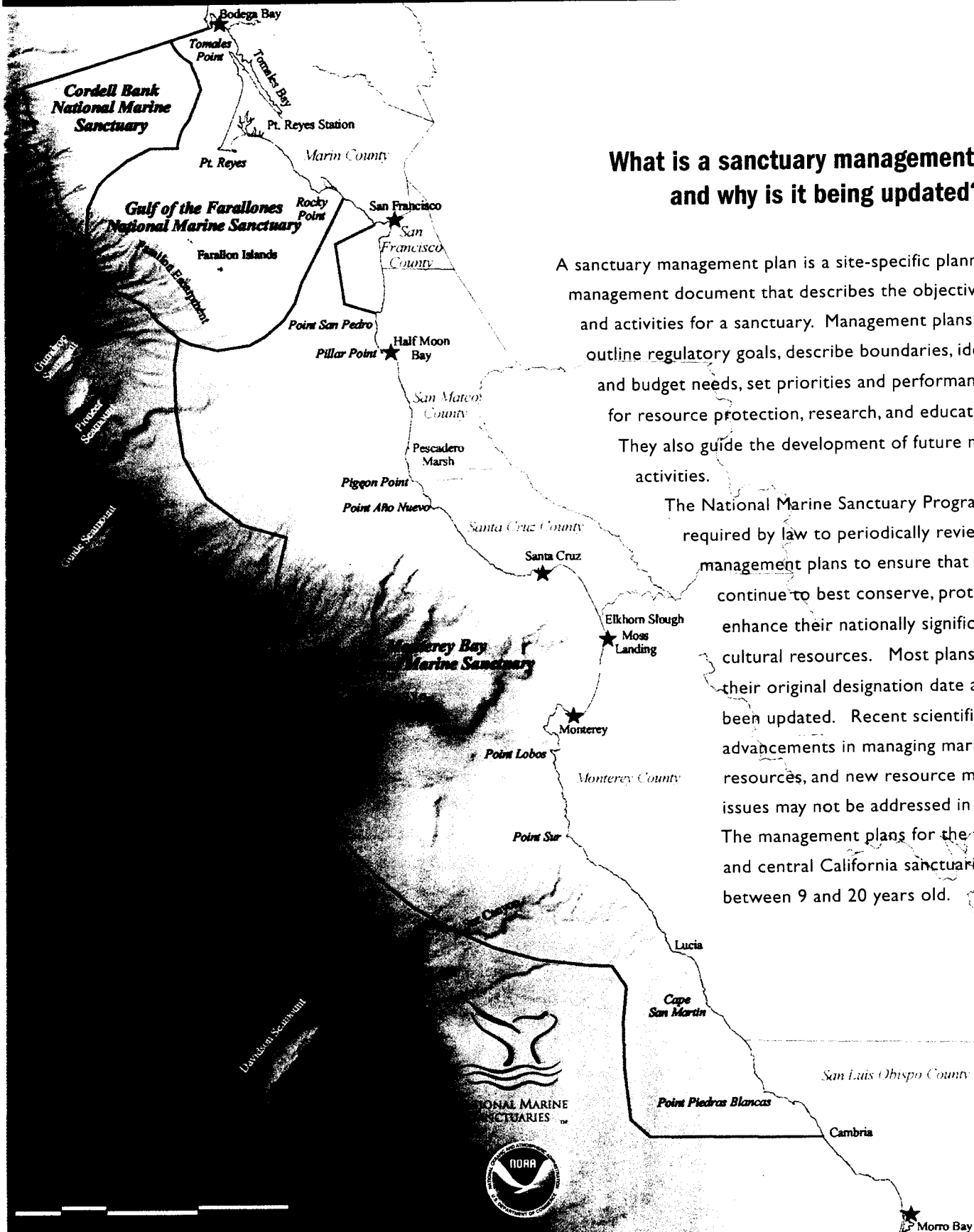
Joint Management Plan Review

Cordell Bank, Gulf of the Farallones & Monterey Bay National Marine Sanctuaries

What is a sanctuary management plan and why is it being updated?

A sanctuary management plan is a site-specific planning and management document that describes the objectives, policies, and activities for a sanctuary. Management plans generally outline regulatory goals, describe boundaries, identify staffing and budget needs, set priorities and performance measures for resource protection, research, and education programs. They also guide the development of future management activities.

The National Marine Sanctuary Program (NMSPP) is required by law to periodically review sanctuary management plans to ensure that sanctuary sites continue to best conserve, protect, and enhance their nationally significant living and cultural resources. Most plans date back to their original designation date and have not been updated. Recent scientific discoveries, advancements in managing marine resources, and new resource management issues may not be addressed in existing plans. The management plans for the three northern and central California sanctuaries are between 9 and 20 years old.





Why are we reviewing the management plans for all three sites together?

The NMSP is reviewing all three management plans jointly. These sanctuaries are located adjacent to one another, managed by the same program, and share many of the same resources and issues. In addition, all three sites share many overlapping interest and user groups. It is also more cost-effective for the program to review the three sites jointly rather than conducting three independent reviews. During the review, the sanctuaries will evaluate management and operational strategies, regulations, and boundaries. The review will look at whether the management programs at all three sanctuaries can be better coordinated.



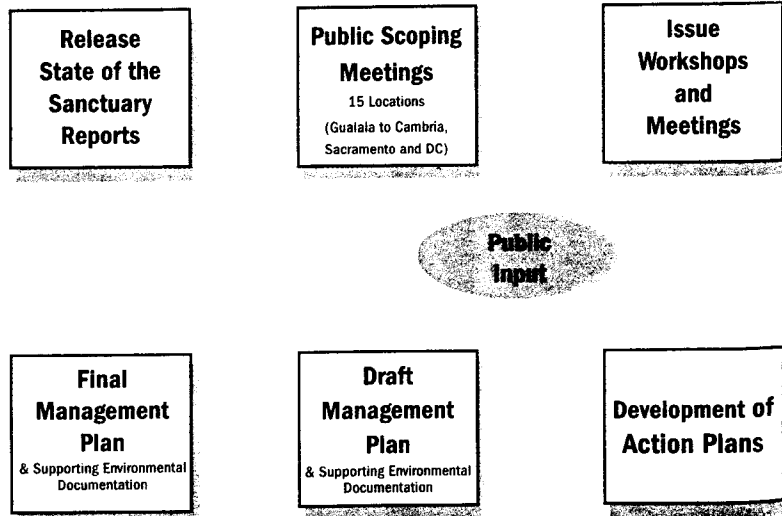
What are the steps for the review?

The NMSP periodically reviews sanctuary management plans relying on public input from both local and national communities. This process begins with the release of a "State of the Sanctuary" report that provides information to the public about the sanctuary, its accomplishments, and current resource management issues. The three reports are scheduled to be distributed this fall and will be available on the Internet or from any of the three sanctuary offices. Following the release of these reports, the sanctuaries will hold public scoping meetings, develop action plans, and prepare a draft management plan. Formal public hearings on the draft plan will help staff revise the document into a final management plan, which, once approved, will outline the sanctuaries' priorities for the next 5-10 years.

Scoping Meetings: Sanctuary staff will hold public scoping meetings in communities adjacent to the sanctuaries in late 2001 and early 2002. The meetings will allow sanctuary users, members of the public, and agencies to comment on each of the three sanctuary management strategies and provide input on what issues and problems they see as management priorities for the next 5 to 10 years. Comments may also be sent to the NMSP through the website or in writing. The final date, time, and location of scoping meetings will be posted on the website.

Action Plans: After the scoping meetings, sanctuary staff will review all comments and work with their Sanctuary Advisory Councils and the public to prioritize issues for the management plan review. If necessary, additional workshops will be scheduled to help sanctuary staff develop tailored action plans that address priority issues. These action plans will form the foundation of the draft management plan.

Draft & Final Management Plans: The revised draft management plans will contain a series of action plans that address resource protection and general management. They may also propose regulatory changes. The sanctuaries will take written comments and host a series of public hearings on the draft plans. A supporting environmental document, such as an Environmental Assessment or an Environmental Impact Statement, will be prepared to support and explain any changes. After the close of the public comment period, the NMSP will review comments and make necessary changes before issuing final management plans.



What kind of changes can I expect?

Management plan review provides an opportunity for sanctuary staff and the public to shape the future direction and management of each sanctuary. At this time, it is too early to determine the specific issues or changes that may be addressed for each sanctuary. This will, in part, depend on program priorities and comments received during the public scoping meetings. However, during the management plan review, each sanctuary will evaluate and possibly revise their operation and management framework; resource protection, education, and research programs; site-specific regulations; boundaries; and management zones. The sanctuaries will also evaluate the need to improve coordination and reduce duplication among the sites.

How will the public be involved?

Active and informed public participation is a key element of sanctuary management, particularly during management plan review. The NMSP recognizes the public as a key resource management partner and values their input in helping shape and manage marine sanctuaries. For almost 30 years, the NMSP has engaged the public in helping create new sanctuaries, develop resource protection strategies, resolve multi-stakeholder issues (i.e., water quality, vessel traffic, and marine reserves), and more recently to review existing management plans. Using the lessons learned from these experiences, the NMSP will help build community awareness of key issues affecting these sanctuaries and actively engage user and interest groups, agencies, and the public in an open dialogue about how to best shape the future direction and management of these three contiguous sites.

The public will have numerous opportunities to participate in management plan review, beginning with the scoping meetings and continuing through the development of the draft and final management plans. The NMSP will provide ample notice of each meeting through local media and the website.

Photo Credits (top to bottom):

page 2: sea lion - Jan Roletto; surfer - Gulf of the Farallones NMS

page 3 : fishing boat - Gulf of the Farallones NMS; rockfish - Channel Islands NMS

page 4 : reef fish - Cordell Bank Expedition; shark - Scot Anderson; diver - Kip Evans



How can I be involved?

You can become involved in the joint management plan review by first helping identify issues and potential solutions during the scoping phase. The NMSP will accept comments in writing, via the Internet, or in person at any of the scoping workshops. After the issues have been reviewed and prioritized, the sanctuaries will involve the public in developing action plans. These action plans will become the foundation for draft management plans, which, once completed, will be available for public review and comment. Throughout the review process, you may also attend any of the Sanctuary Advisory Council (SAC) meetings held at each of the three sanctuaries. Meeting agendas are posted on the individual site websites, and all meetings are open to the public.



Where can I get more information?

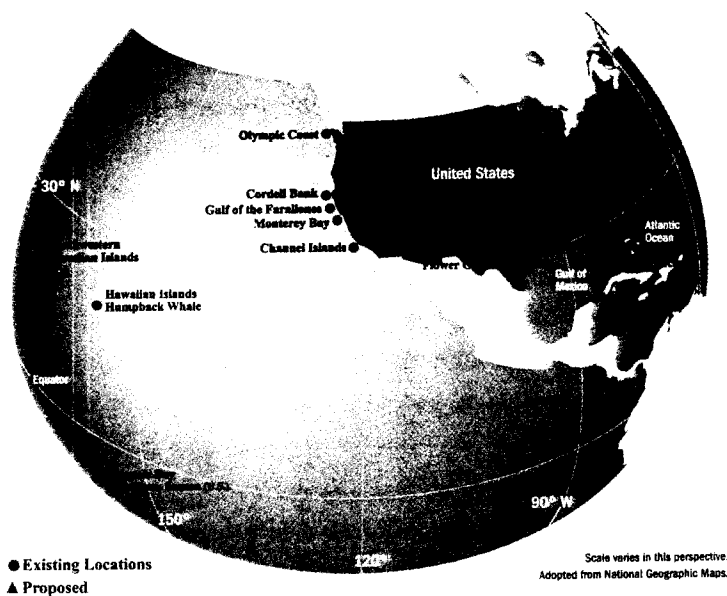
For more information, please visit the joint management plan update website at: <http://sanctuaries.nos.noaa.gov/jointplan/> or contact your local sanctuary office at:

Monterey Bay National Marine Sanctuary
Sean Morton, Management Plan Coordinator
299 Foam Street
Monterey, CA 93940
(831) 647-4217 • Sean.Morton@noaa.gov

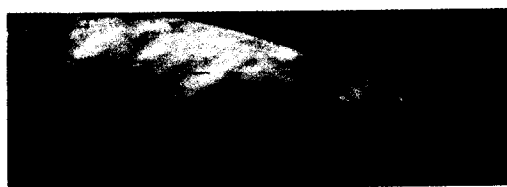
Gulf of the Farallones and Cordell Bank
National Marine Sanctuaries
Anne Walton, Management Plan Coordinator
Fort Mason, Building 201
San Francisco, CA 94123
(415) 561-6622 • Anne.Walton@noaa.gov

What is the National Marine Sanctuary Program?

The nation's National Marine Sanctuary Program (NMSP), established in 1972 by the National Marine Sanctuaries Act, is administered by the National Oceanic and Atmospheric Administration and protects a network of 13 special marine and freshwater areas. The goal of the Sanctuaries Act is to set aside and manage areas for resource protection, research, enhanced public education, and compatible and public and private uses. Today, our marine sanctuaries contain whale migration corridors, deep sea canyons, kelp forests, coral reefs, and underwater archeological sites. Off the northern and central California coast, three contiguous National Marine Sanctuaries - Cordell Bank, Gulf of the Farallones, and Monterey Bay - have been established to protect and conserve these marine ecosystems.



Cordell Bank National Marine Sanctuary, designated in 1989, encompasses 526 square miles of open ocean off Point Reyes. Cordell Bank is a submerged island that reaches within 120 feet of the ocean surface. The upwelling of nutrient rich ocean waters and the bank's topography create one of the most biologically productive areas in North America — a lush feeding ground for fish, marine mammals, and seabirds. Its depth, currents, and distance from the mainland have kept this remote and productive part of the California sea floor a mystery to most of the public. (<http://www.sanctuaries.nos.noaa.gov/oms/omscordell/omscordell.html>)

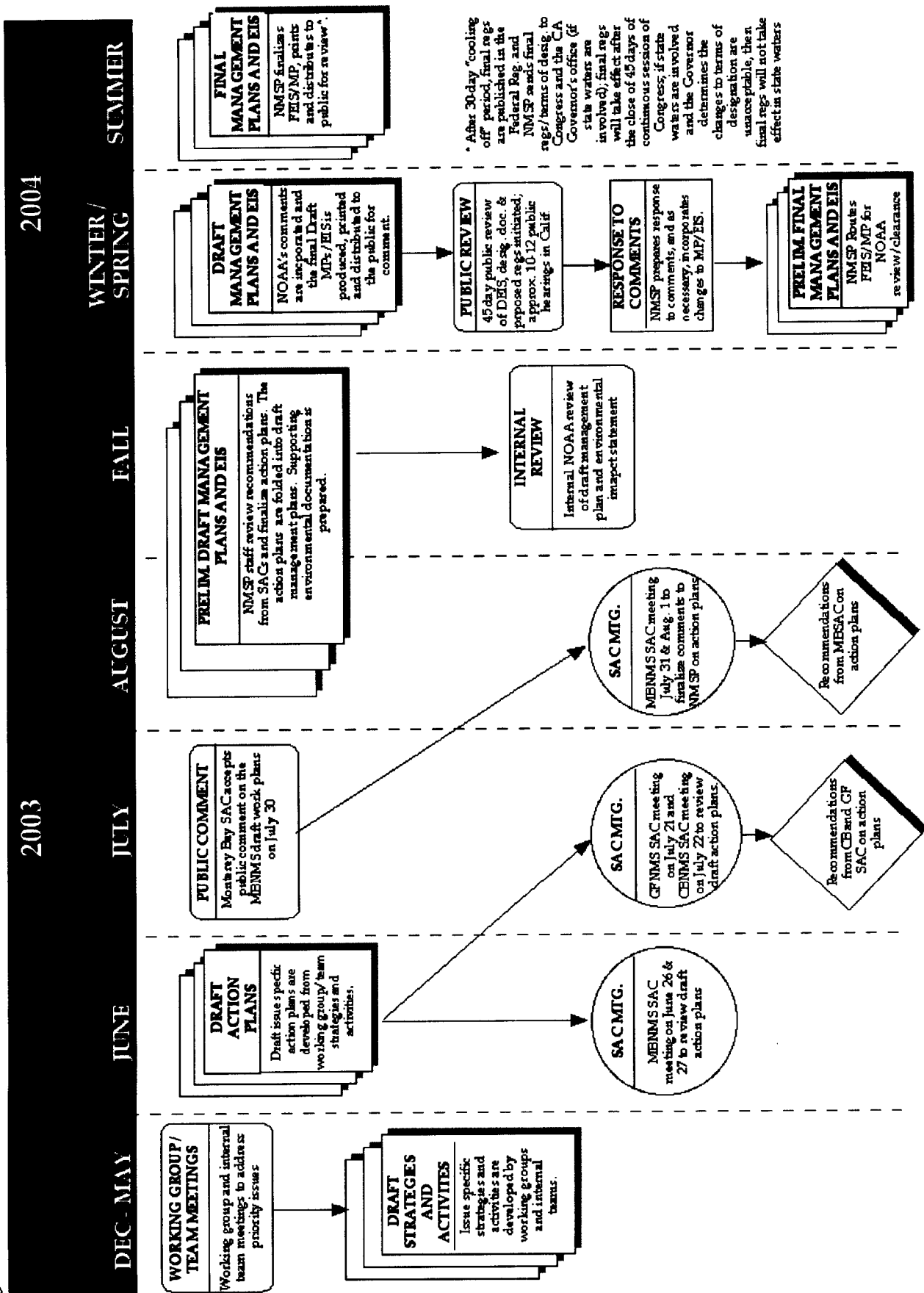


Gulf of the Farallones National Marine Sanctuary is located along the California coast west of the San Francisco Bay area. It was designated in 1981 and encompasses 1,255 square miles. The Gulf of the Farallones is rich in marine resources, including spawning grounds and nursery areas for commercially valuable species, at least 36 species of marine mammals, and 15 species of breeding seabirds. One-fifth of California's harbor seals breed within the sanctuary, and the Farallon Islands are home to the largest concentration of breeding seabirds in the contiguous United States. The Sanctuary also includes the coastline up to the mean high tide, protecting a number of accessible lagoons, estuaries, bays, and beaches. (<http://www.gfnms.nos.noaa.gov/>)



Monterey Bay National Marine Sanctuary stretches along 276 miles of the central California coast and encompasses 5,328 square miles of coastal and ocean waters. It was designated in 1992 and contains many diverse biological communities, including sandy bottom and rocky outcrop habitats, the nation's largest expanse of kelp forests, one of the deepest underwater canyons in North America, and a vast open ocean habitat. Nutrients from two upwelling centers fuel an abundance of life, from tiny plankton to huge blue whales. This diversity of habitats and marine life has made the Sanctuary a national focus for marine research and educational programs. (<http://www.mbnms.nos.noaa.gov/>)

JOINT MANAGEMENT REVIEW PROCESS FOR CBNMS, GENMS AND MBNMS (DRAFT)



KEY STEPS AND REQUIREMENTS FOR CHANGING A TERM OF DESIGNATION OF A NATIONAL MARINE SANCTUARY

- The National Marine Sanctuaries Act (NMSA) defines the terms of designation of a sanctuary as—
 - The geographic area of the sanctuary
 - The characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or esthetic value
 - The types of activities that will be subject to regulation to protect those characteristics
- When changing a term of designation NOAA follows the NMSA procedures for designation of a sanctuary, which are provided in sections 303 and 304 of the Act. Key steps in this process include—
 - Making required determinations and considering factors, as listed in the NMSA
 - Conducting required consultations with Congress, Federal, State, and local agencies, the appropriate Fishery Management Council, and other interested persons
 - Preparing appropriate designation documents which include an environmental impact statement, resource assessments, maps, revised draft management plan with the proposed changes to the term(s) of designation, basis of determinations, and any proposed regulations
 - Providing public notice and opportunity to comment on the proposed designation documents, including holding at least one public hearing
 - Providing the public notice and the proposed designation documents to Congress and the Governor of any State in which the Sanctuary is located
 - Publishing notice of the final designation documents and providing notice to Congress and the Governor
- If the change to the term(s) of designation involves fishing, the appropriate Fishery Management Council shall be provided the opportunity to prepare draft sanctuary fishing regulations within the EEZ to implement the proposed change. NOAA shall also cooperate with other appropriate fishery management authorities with responsibilities in the sanctuary at the earliest practicable stage in drafting any sanctuary fishing regulations.
- Final changes to a term(s) of designation, and implementing regulations, shall take effect and become final after the close of a review period of 45 days of continuous session of Congress.
- During this final 45-day review period the Governor has the opportunity to certify to NOAA that the change to the term of designation is unacceptable, in which case the unacceptable term of designation shall not take effect in that part of the sanctuary within the boundary of the State.

The information above is derived from the National Marine Sanctuaries Act and has been provided by the National Marine Sanctuary Program to the California Fish and Game Commission Marine Subcommittee for its May 1, 2003 meeting. This document does not pertain to a particular or proposed action. For the complete text of the statute, please refer to the NMSA 16 U.S.C. 1431 *et seq.*

CENTRAL CALIFORNIA SANCTUARY PROCESSES INCLUDING KRILL BAN

Situation: The National Marine Sanctuary Act requires that sanctuaries review their management plans at least once every five years. Three Sanctuaries – Cordell Bank, Gulf of the Farallones, and Monterey Bay – are currently reviewing their management plans and considering a wide array of issues, including marine reserves. Work groups for each of the Sanctuaries have been developing action plans that will be presented to the Sanctuary Advisory Councils and eventually folded into the revised management plans. The target for release of a final joint management plan is the summer of 2004.

On April 29, 2003, the Council sent a letter to the superintendents of the Monterey Bay, Gulf of the Farallones, and Cordell Bank National Marine Sanctuaries expressing interest in coordinating to address federal fisheries issues within Sanctuary boundaries (Attachment 1). On May 28, the Council received a letter from the three Sanctuaries (Attachment 2). The letter describes in detail the activities being undertaken at each of three Sanctuaries, and includes a timeline for implementation. The Sanctuaries have expressed a desire to work with the Council in determining the proper time to involve the Council in developing Sanctuary action plans.

Representatives of the Sanctuaries will be present at the June meeting to provide a brief overview of activities in the Sanctuaries and answer any questions the Council may have.

A ban on krill harvesting in the waters of all three Sanctuaries may be included in an action plan. Krill are not covered under Council fishery management plans, and the group evaluating the ban has questions about the degree to which the Council would like to be involved in consideration of the ban and when consultation should occur. That recommendation may soon be brought to the Council for its consideration, but there is no action item on this topic at this meeting.

Council Task:

1. Council Discussion (no action required).

Reference Materials:

1. Letter from the Council to the three Sanctuaries dated April 29, 2003 (Attachment 1).
2. Letter from the three Sanctuaries to the Council dated May 28, 2003, with attachments (Attachment 2).

Agenda Order:

- a. Agendum Overview
- b. Brief Overview and Question and Answer Session
- c. Reports and Comments of Advisory Bodies
- d. Public Comments
- e. Council Discussion

Jennifer Gilden
Sanctuary Staff

PFMC
06/03/03