



March 3, 2005

Daniel Basta, Director
NOAA National Marine Sanctuary Program
1305 East-West Highway, N/ORM-6
Silver Spring, MD 20910-3281

Dear Mr. Basta,

I am writing this letter to express my concern about the lack of progress to complete the establishment of marine protected areas in specified locations in federal waters within the Channel Islands National Marine Sanctuary (CINMS). As you know, the State of California has developed a strong partnership and working relationship with the CINMS on a variety of issues, including the Marine Reserves Working Group (MRWG) and marine reserves and conservation areas in the state waters surrounding the Islands. The California process has always envisioned companion areas that would extend this protection into federal waters. The Fish and Game Commission made its decision with this understanding when it took action to designate the reserves and conservation areas in state waters in October of 2002.

I am concerned that after almost two and a half years there has been no action to complete the reserve process in federal waters. I have reviewed the August 29, 2002 letter from NOAA's Office of the Assistant Secretary for Oceans and Atmosphere (signed by Mr. James P. Burgess, III) to the Director of the Department of Fish and Game indicating strong support for the action in state waters. This support was based on a preferred alternative of state and federally designated areas that was reached at in close consultation between NOAA and the State. In that letter Mr. Burgess notes in part,

"...NOAA supports the jointly developed alternative, i.e., the State's proposed action to establish a network of ten State Marine Reserves and two State Marine Conservation Areas in the State waters of the Sanctuary with which commercial and recreational take would be prohibited or limited."

The Fish and Game Commission made their decision on the designation of the waters in state jurisdiction based on this "jointly developed alternative" which included plans for the designation of reserves in federal waters. NOAA indicated that action would soon be taken to move forward with reserve designation. That assumption was made based, in part, on the following commitments made in the letter submitted by Mr. Burgess,

1416 Ninth Street, Suite 1311, Sacramento, CA 95814 Ph. 916.653.5656 Fax 916.653.8102 <http://resources.ca.gov>

Baldwin Hills Conservancy • California Bay Delta Authority • California Coastal Commission • California Conservation Corps • California Tanager Conservancy
Coachella Valley Mountains Conservancy • Colorado River Board of California • Delta Protection Commission • Department of Boating & Waterways • Department of Conservation
Department of Fish & Game • Department of Forestry & Fire Protection • Department of Parks & Recreation • Department of Water Resources
Energy Resources, Conservation & Development Commission • Native American Heritage Commission • San Diego River Conservancy
San Francisco Bay Conservation & Development Commission • San Gabriel & Lower Los Angeles Rivers & Mountains Conservancy • San Joaquin River Conservancy
Santa Monica Mountains Conservancy • State Coastal Commission • State Lands Commission • Wildlife Conservation Board



Mr. Basta
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"In coordination with NOAA Fisheries and the Pacific Council, the Sanctuary intends to initiate an environmental review process to complement the State's action in the Sanctuary. This federal environmental process would begin in January 2003 and be guided by the National Marine Sanctuaries Act and the National Environmental Policy Act. *It is estimated that it will take a year to complete.* (emphasis added)

Mr. Don McIsaac from the Pacific Fisheries Management Council testified at the October 2002 Fish and Game Commission meeting that a two year process would be necessary to move forward. Recently we requested a timeline from the CINMS program to determine just when this process is estimated to be complete. The most recent estimate for completion is sometime between June and August of 2006, roughly three and a half to four years following the October 2002 decision of the Fish and Game Commission.

We support the completion of this process and would like to move forward with the state-federal partnership as it was originally envisioned. However, I must tell you that I'm frustrated by the lack of progress to date on the process in federal waters. Please call me at (916) 653-7310 when you have time so we may discuss ways to move forward in a productive and timely manner. I'm committed to helping you in any way that I'm able to do so.

Sincerely,



Mike Chrisman
Secretary for Resources

COASTAL PELAGIC SPECIES ADVISORY SUBPANEL REPORT ON
CORDELL BANK, GULF OF FARALLONES, AND MONTEREY BAY
NATIONAL MARINE SANCTUARIES

The Coastal Pelagic Species Advisory Subpanel (CPSAS) heard presentations from representatives of the Cordell Bank and Monterey Bay National Marine Sanctuaries regarding individual proposals to amend designation documents to regulate fisheries:

Cordell Bank National Marine Sanctuary (NMS) proposed to amend its designation document to limit fishing gear to protect benthic habitat and invertebrates; and Monterey Bay NMS proposed a boundary expansion of approximately 500 square miles to encompass Davidson Seamount and prohibit fishing at depths below 3,000 feet.

Again reiterating prior recommendations to the Council, the CPSAS expresses concern over proposals to extend authority to the NMSs to manage fisheries. Existing authorities within the Magnuson-Stevens Fishery Conservation and Management Act are able to protect ecosystems, including submerged lands and benthic invertebrates.

Based on presentations from NMS representatives, the CPSAS understands that new fishery management authorities are requested to protect against some possible future threat. Existing fishery management practices are not impacting these areas.

The CPSAS notes that any new authorities granted to the NMSs to regulate fisheries would be precedent setting and would lead to duplicate programs and costs. The CPSAS again encourages the NMSs to strengthen communications with the Council and defer to the Council process, including scientific expertise and oversight, on matters affecting regulation of fishery resources.

The CPSAS unanimously recommends the Council approve Option 2 – no change to designation documents.

PPMC
04/07/05

ENFORCEMENT CONSULTANTS REPORT ON CHANNEL ISLANDS NATIONAL MARINE SACTUARY

The Enforcement Consultants (EC) have reviewed the information relating to the above sanctuary.

The EC have no preferred stated option, but the EC would like the opportunity to review any fishing regulations in the future for consistency and enforceability.

PFMC
04/07/05

GROUND FISH ADVISORY SUBPANEL STATEMENT ON
CHANNEL ISLANDS NATIONAL MARINE SANCTUARY

The Groundfish Advisory Subpanel (GAP) reviewed the summary of options for Council recommendations on the Channel Islands National Marine Sanctuary designation document changes (Agenda Item G.1.a, Attachment 1).

The GAP has held numerous meetings on Channel Islands issues over the course of several years. Regardless of the merits (or lack thereof) of various proposals to designate marine reserves around portions of the Channel Islands, the GAP continues to strongly support actions affecting fisheries be taken only by the Council through the processes available to it. The issue of whether or not to create marine reserves is not under debate here; rather it is how you decide to do it, if that is the fisheries management action chosen. The GAP unanimously supports Option 2, recommending no changes to the CINMS designation document.

PFMC
04/06/05

HABITAT COMMITTEE REPORT ON CHANNEL ISLANDS NATIONAL MARINE SANCTUARY

The Habitat Committee (HC) supports the goals of the Channel Islands National Marine Sanctuary (CINMS) and supports the continued analysis of these marine reserves, marine parks, and/or marine conservation areas in the federal waters of CINMS.

The mechanism with which this occurs is not within the purview of the HC, but we support whichever option is the most expeditious in providing protection for all CINMS resources.

It is unclear whether fishing regulations to accomplish specific resource protections within sanctuaries are best drafted under the National Marine Sanctuaries Act (NMSA) or under the Magnuson-Stevens Fishery Conservation and Management Act (MSA). This question should be analyzed within the CINMS Draft Environmental Impact Statement process. If the Council chooses to address this issue through MSA processes, the Council should provide the CINMS with information showing how the MSA can be effectively used to achieve CINMS goals and the associated timeline.

Many HC members supported Option 4 as appearing to best meet these protection needs, however that support was not unanimous among members.

The HC is aware of the concern of the fishing community and others regarding sanctuary-promulgated fishing regulations. It is important to emphasize that the NMSA requires that the Council will always be offered the first opportunity to draft protective regulations under the NMSA.

PFMC
04/07/05

SALMON ADVISORY SUBPANEL REPORT ON
CHANNEL ISLANDS NATIONAL MARINE SANCTUARY

At the March and April 2005 Council meetings, the Salmon Advisory Subpanel (SAS) heard comments from representatives of the Channel Islands National Marine Sanctuaries (CINMS) on their future plans that might affect or require fisheries management decisions.

The SAS makes the following recommendations:

1. CINMS should consult with the Council's technical and scientific teams.
2. Any proposed fishing regulations should be reviewed by all Council advisory bodies.
3. The SAS would strongly prefer that any fishing regulations for CINMS be developed by the Council under the Magnuson-Stevens Fishery Conservation and Management Act, rather than by the National Marine Sanctuaries Act.
4. The SAS recommends the Designation Document remain unchanged as it pertains to fishing regulations.

PFMC
04/07/05



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

Dr. Donald McIsaac
Executive Director
Pacific Fishery Management Council
7700 NE Ambassador Place, Ste. 200
Portland, Oregon 97220-1384

APR 4 2005

Dear Dr. McIsaac: *DM*

As you know, Cordell Bank National Marine Sanctuary (CBNMS), Gulf of the Farallones National Marine Sanctuary (GFNMS), and Monterey Bay National Marine Sanctuary (MBNMS), are currently conducting a joint review of their respective management plans. As a part of this review process, all three national marine sanctuaries have been coordinating with the Pacific Fishery Management Council as recommendations have been proposed regarding fishing activities in the sanctuaries. Letters from the National Marine Sanctuary Program (NMSP) requesting that the Council consider changes to these sanctuaries' respective Designation Documents and providing the Council the opportunity to prepare draft National Marine Sanctuaries Act (NMSA) fishing regulations for CBNMS and MBNMS were provided to the Council at its November 2004 meeting. The Council first discussed the issue at its November meeting and is expected to reach a decision at its April meeting. At the Council's request, the due date for a response to the NMSP was extended to April 22, 2005.

In reviewing the materials included in the Briefing Book for the April 2005 meeting, it came to our attention that the Council has laid out a range of what it considers to be possible options to the Designation Document changes and proposed fishing regulations (Agenda Item G.2 Attachment 1), and appears to reflect the discussion at the March 2005 Council meeting. Under section 304(a)(5) of the NMSA we have provided the Council with the opportunity to prepare draft NMSA fishing regulations for CBNMS and MBNMS to fulfill the goals and objectives specified in the NMSP 304(a)(5) letters. Once such draft regulations are received, the NMSP reviews them to determine if they fulfill the stated goals and objectives of the proposed actions and the purposes and policies of the NMSA. If the Council prepares draft NMSA fishing regulations that do not fulfill each of the sanctuary's site specific goals and objectives and the purposes and policies of the NMSA or if the Council determines not to prepare such draft regulations, NOAA may draft the regulations.

The Council briefing book contains a number of non-NMSA options. If the Council determines under section 304(a)(5) not to prepare draft NMSA regulations and recommends another approach, we request that the Council provide sufficient description of the regulatory process, necessary analyses (e.g., as required under the National Environmental Policy Act and Administrative Procedure Act), and the timeline requirements necessary for such non-NMSA approach. This will enable the NMSP to evaluate whether such approach fulfills each of the sanctuary's site specific goals and objectives and the purposes and policies of the NMSA.



The CBNMS, GFNMS and MBNMS have been engaged in a comprehensive multi-year public process to revise their respective management plans. Such public processes tend to take greater time than initially anticipated, but the benefits of this open process generally make for more informed decision-making. However, it is equally important to conclude these processes and move forward. Consequently, if the Council decides to recommend a new process under a non-NMSA approach, it is paramount that the timing of such approach be fully specified.

Providing clarification on the above points would greatly aid the NMSP's evaluation of whether the Council's recommendation meets the sanctuaries' goals and objectives and, thus, help expedite the completion of the Joint Management Plan Review process.

Again, we would like to express our appreciation for the time and resources the Council and Council staff have dedicated to these issues. Sanctuary staff will be available throughout the duration of the April 2005 meeting. Please feel free to call on them at anytime if you have questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Basta', with a stylized flourish extending from the end.

Daniel J. Basta
Director

National Marine Sanctuary Program

COASTAL PELAGIC SPECIES ADVISORY SUBPANEL REPORT ON
CORDELL BANK, GULF OF FARALLONES, AND MONTEREY BAY
NATIONAL MARINE SANCTUARIES

The Coastal Pelagic Species Advisory Subpanel (CPSAS) heard presentations from representatives of the Cordell Bank and Monterey Bay National Marine Sanctuaries regarding individual proposals to amend designation documents to regulate fisheries:

Cordell Bank National Marine Sanctuary (NMS) proposed to amend its designation document to limit fishing gear to protect benthic habitat and invertebrates; and Monterey Bay NMS proposed a boundary expansion of approximately 500 square miles to encompass Davidson Seamount and prohibit fishing at depths below 3,000 feet.

Again reiterating prior recommendations to the Council, the CPSAS expresses concern over proposals to extend authority to the NMSs to manage fisheries. Existing authorities within the Magnuson-Stevens Fishery Conservation and Management Act are able to protect ecosystems, including submerged lands and benthic invertebrates.

Based on presentations from NMS representatives, the CPSAS understands that new fishery management authorities are requested to protect against some possible future threat. Existing fishery management practices are not impacting these areas.

The CPSAS notes that any new authorities granted to the NMSs to regulate fisheries would be precedent setting and would lead to duplicate programs and costs. The CPSAS again encourages the NMSs to strengthen communications with the Council and defer to the Council process, including scientific expertise and oversight, on matters affecting regulation of fishery resources.

The CPSAS unanimously recommends the Council approve Option 2 – no change to designation documents.

PFMC
04/07/05

ENFORCEMENT CONSULTANTS REPORT ON
CORDELL BANK, GULF OF FARALONES, AND MONTEREY BAY
NATIONAL MARINE SANCTUARIES

The Enforcement Consultants (EC) have reviewed the information relating to the above sanctuaries.

The EC have no position on the designation documents. The EC would like the opportunity to review any fishing regulations in the future for consistency and enforceability. The EC also feels the Council process provides this opportunity. If the Council wishes to consider fishing regulations for these areas, we make the following recommendations:

The Cordell Bank needs to be identified by latitudinal and longitudinal coordinates representing the 50 fathom isobath. This would be consistent with past line enforcement strategies.

In speaking with the National Marine Sanctuary (NMS) staff, we proposed the following:

In order to eliminate confusion, the EC suggests identifying the specific kinds of gear to be excluded or included within the NMS boundary. We believe the NMS should utilize the definitions currently used in the 50 CFR Part 660. We believe their intent is to prohibit the use of bottom trawl and fixed gear with the exception of vertical hook-and-line.

For the Davidson Seamount within the Monterey Bay NMS, our recommendation is the exclusion of bottom trawl and fixed gear as defined by 50 CFR Part 660. Preferred option one would be a challenge to enforce, due to the restriction of fishing activity below 3,000 ft. In order to eliminate confusion, the EC suggests identifying the specific kinds of gear to be excluded or included within the NMS boundary. We believe the NMS should utilize the definitions currently used in the 50 CFR Part 660

It would be the EC's preference in the future to work with the NMS people to identify their goals and objectives and then use the current regulatory process to create a regulation package that would accomplish this.

PPMC
04/07/05

GROUND FISH ADVISORY SUBPANEL STATEMENT ON
CORDELL BANK, GULF OF FARALLONES, AND MONTEREY BAY
NATIONAL MARINE SANCTUARIES

The Groundfish Advisory Subpanel (GAP) reviewed the summaries of possible Council recommendations for the Cordell Bank, Gulf of Farallones, and Monterey Bay National Marine Sanctuaries (NMSs). The GAP received a brief presentation from NMS personnel and - after concluding its deliberations - received a copy of a letter to Dr. Don McIsaac from Dr. Daniel Basta, Director of the National Marine Sanctuary Program. The letter did not change the recommendations made by the GAP, as the general substance of the letter was described in the presentation from NMS personnel.

CORDELL BANK

In regard to designation document changes, the GAP supports Option 2, recommending the designation document not be changed. As we have stated before, we believe the protections desired by the NMS can be accomplished through the more open and inclusive public process used by the Council under the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Further, the Council, its advisory bodies, and NMFS have a greater degree of expertise in fisheries management than we believe is available to the NMS program.

In regard to proposed fishing regulations, we support a modified Option 4, which would provide that - *if necessary* - regulations be prepared through the fishery management plan process, including the ongoing process to identify and protect habitat areas of particular concern within designated essential fish habitat.

MONTEREY BAY

Similar to Cordell Bank, and for the same reasons, the GAP supports Option 2 (no change in the designation document) and a modified Option 4 (*if necessary*, prepare regulations through the fishery management plan process).

GULF OF FARALLONES

Again, similar to Cordell Bank and Monterey Bay, and for the same reasons, the GAP supports Option 2, recommending the designation document not be changed.

Finally, in response to Mr. Basta's concern about understanding the time-line and processes involved in fisheries regulation and designation of essential fish habitat and habitat areas of particular concern, we suggest Mr. Basta consult with his colleagues in the National Marine Fisheries Service who are co-located in Silver Spring, Maryland; peruse the Council's website (<http://www.pcouncil.org>), which contains a number of excellent explanatory documents on these issues, and perhaps even attend a Council meeting. If he does so - as the local NMS Program staff has done - we are confident that all of Mr. Basta's questions and concerns will be answered.

PFMC
04/07/05

GROUND FISH MANAGEMENT TEAM STATEMENT ON
CORDELL BANK, GULF OF THE FARALLONES, AND MONTEREY BAY
NATIONAL MARINE SANCTUARIES

The Groundfish Management Team (GMT) focused its comments on requests relating to proposed fishing regulations in the Cordell Bank National Marine Sanctuary (CBNMS) and the Monterey Bay National Marine Sanctuary (MBNMS). The GMT reiterates its support for the goals and objectives of these sanctuaries, and maintains that these goals and objectives can be achieved through the authority of the Magnuson-Stevens Fishery Conservation and Management Act and state fishery regulations. As recommended in our March 2005 statement, the GMT believes the goals and objectives can best be met through the Groundfish Essential Fish Habitat (EFH) process, where a proposal for gear restrictions at Cordell Bank and Davidson Seamount is included. The GMT recommends the final EFH option includes these areas, and staff be mindful of proposed fishery management options for each NMS.

Marine Protected Area (MPA) Proposals and EFH Environmental Impact Statement (EIS)

The GMT recommends that, if the Council decides to take the lead in drafting the proposed regulations, it be done in conjunction with the Council's groundfish EFH EIS initiative. We support dovetailing these two ongoing processes for the following reasons:

1. To review the alternatives in the two processes (i.e., the proposed closures from the NMSs could be overlaid with the proposed alternatives, specifically the Oceana trawl closure proposal, in the EFH EIS) to determine where there are areas of overlap, as well as areas that would be covered under only one initiative. This would increase efficiency and avoid having two different suites of regulations with potential differences in areas covered. Also, the action taken relative to the NMSs proposals will likely affect the analyses of the EFH and habitat areas of particular concern (HAPC) alternatives.
2. To not preclude the public comment process on the EFH EIS (i.e., if action were taken to adopt one or more of the NMS proposals, it could potentially preclude public comment through the EFH EIS process, which is on a slightly longer track and would result in an approximate six-month delay for implementation of the NMS proposals).
3. To reduce confusion on the part of the public about when and how to provide comments on the NMS proposals (i.e., with two different, but concurrent public processes occurring, there are individuals who may provide comments during the course of one process who do not realize their concerns won't be considered during the course of the other process).

To accomplish this, the GMT has previously provided a proposed course of action and timeline (Agenda Items H.1.c; H.2.c; and H.3.c; Supplemental GMT Report, March 2005).

Cordell Bank National Marine Sanctuary (CBNMS)

Under 2005-2006 groundfish regulations, commercial and recreational fishing for groundfish is prohibited in waters less than 100 fm around Cordell Bank as defined by specific latitude and longitude coordinates. This applies to all bottom-tending gear (the only exception is for vertical hook-and-line fishing for sanddabs). Because the timeline for implementation of the EFH options is May 2006, these regulations would provide the necessary protection to achieve the goals of the CBNMS until EFH measures can be implemented.

MBNMS inclusion of Davidson Seamount

The Davidson Seamount currently does not have fishing at the depths identified as of concern to the MBNMS. Therefore, similar to the Cordell Bank, the timeline for EFH implementation should not pose a risk to the goals and objectives of the MBNMS.

The GMT notes that in the Council's letter of comment to the sanctuaries, it would be helpful to include a description of how the NMS goals and objectives can be achieved through the EFH process.

Research and Management Needs

The GMT notes the value of maintaining scientific research, such as cooperative research projects and surveys conducted by NMFS NOAA Fisheries, in areas otherwise closed to fishing. This may also provide additional information for the NMSs to use in evaluating the effectiveness of the closures. For example, not only are groundfish stock assessments heavily reliant on NMFS survey data, but also the GMT routinely uses these data in consideration of groundfish stock distribution and catch projection estimates.

GMT Recommendations

As noted above, the GMT suggests that any proposed fishing regulations be considered in conjunction with the Council's groundfish EFH EIS initiative. However, if the Council decides to draft fishing regulations for either of these NMSs outside of the EFH EIS process, then the GMT suggests the regulations for the CBNMS be revised to only pertain to bottom tending gear within the 50-fm isobath surrounding Cordell Bank, as approximated by specific latitudinal and longitudinal coordinates, and that the regulations for the MBNMS be rewritten to be consistent with recommendations from the Enforcement Consultants.

PFMC

04/07/05

HABITAT COMMITTEE REPORT ON
CORDELL BANK, GULF OF FARALLONES, AND MONTEREY BAY
NATIONAL MARINE SANCTUARIES

The Habitat Committee (HC) received the letter from the National Marine Sanctuary Program (NMSP) and understands the NMSP needs specific direction from the Council regarding responsibilities and timeframes.

As noted in our March comments regarding Cordell Bank, the HC urges the Council to move forward by drafting regulations using appropriate Council authorities, as per Option 4 (Agenda Item G.2.a, Attachment 1). Under Option 4, the regulations would prohibit bottom longline gear and other bottom tending gear and meet some of the National Marine Sanctuary (NMS) objectives for habitat protection from fishing impacts. We also urge the Council to establish a timeline for this process. The majority of the HC supports change of the NMS's document to appropriately deal with non-fishing impacts.

In March, the HC supported changing the Monterey Bay National NMS's designation document to include Davidson Seamount as part of the NMS because of the NMS's ability to protect this fragile and coral rich area from non-fishing impacts.

We also supported the proposed prohibition of fishing activities below 3,000 feet, as it will not affect any current commercial or recreational fisheries. It is unclear whether fishing regulations to accomplish specific resource protections within NMSs are best drafted under the National Marine Sanctuaries Act or under the Magnuson-Stevens Fishery Conservation and Management Act (MSA). This question should be analyzed within the NMS draft environmental impact statement process. If the Council chooses to address this issue through MSA processes, the Council should provide the NMS with information showing how the MSA can be effectively used to achieve NMS goals and the associated timeline.

The HC endorses the Gulf of Farallones Islands NMS proposal to amend its designation document as per Option 4 in Agenda Item G.2.a, Attachment 1.

PPMC
04/07/05

SALMON ADVISORY SUBPANEL REPORT ON
CORDELL BANK, GULF OF FARALLONES, AND MONTEREY BAY
NATIONAL MARINE SANCTUARIES

At the March and April 2005 Council meetings, the Salmon Advisory Subpanel (SAS) heard comments from representatives of the Cordell Bank, Gulf of Farallones, and Monterey Bay National Marine Sanctuaries (NMSs) on their future plans that might affect or require fisheries management decisions.

The SAS makes the following recommendations:

1. NMSs should consult with the Council's technical and scientific teams.
2. Any proposed fishing regulations should be reviewed by all Council advisory bodies.
3. The SAS would strongly prefer that any fishing regulations for NMSs be developed by the Council under the Magnuson-Stevens Fishery Conservation and Management Act, rather than by the National Marine Sanctuaries Act.
4. The SAS recommends the Designation Documents remain unchanged as it pertains to fishing regulations.

PFMC
04/07/05

MOTION FOR
CORDELL BANK, GULF OF FARALLONES, AND MONTEREY BAY
NATIONAL MARINE SANCTUARIES

Cordell Bank National Marine Sanctuary

Request/direct PFMC staff to prepare a letter to the Director of NOAA National Marine Sanctuary Program that states that the PFMC does not at this time support the Cordell Bank National Marine Sanctuary's proposed Designation Document Revision to allow for the Promulgation of Fishery Regulations that would restrict fishing activities within a 50-fathom isobaths surrounding the Cordell Bank to vertical hook and line gear under the Sanctuary Act. This letter should state that it is the PFMC's position that such protection is already in place due to the existence of the PFMC's established Rockfish Conservation Area and that the long-term achievement of the Sanctuary's goals and objectives can best be achieved through provisions of the Council's Groundfish Essential Fish Habitat initiative. The prepared letter should then outline the specific measures of the Groundfish Essential Fish Habitat initiative that would provide for the long-term protection of the Cordell Bank's benthic habitat and pinnacles and outline the timeline for the implementation of the Groundfish Essential Fish Habitat initiative.

Monterey Bay National Marine Sanctuary

Request/direct PFMC staff to prepare a letter to the Director of NOAA National Marine Sanctuary Program that states that the PFMC supports the Monterey Bay National Marine Sanctuary's proposal to include the Davidson Seamount within the boundaries of the Monterey Bay National Marine Sanctuary, but does not at this time support the Monterey Bay National Marine Sanctuary's proposed Designation Document Revision to allow for the Promulgation of Fishery Regulations necessary to prohibit fishing at depth greater than 3,000 feet, 200 feet, or 100 feet below the sea surface around the Davidson Seamount. The letter should state that it is the PFMC's understanding that the inclusion of the Davidson Seamount within the Sanctuary's boundaries would provide for habitat protection at the Davidson Seamount from research exploration and extraction, as well as oil and gas exploration and development under the existing authority of the Sanctuary Act, but that the promulgation of fishing regulations under the Sanctuary Act is unnecessary at this time since such fishing activity is currently not occurring and is not anticipated to occur in the foreseeable future. The staff letter should further state that the Sanctuary's goals and objectives can best be achieved through provisions of the Council's Groundfish Essential Fish Habitat initiative. The prepared letter should then outline the specific measures of the Groundfish Essential Fish Habitat initiative that would provide for the long-term protection of the Davidson Seamount's benthic habitat and corals and outline the timeline for the implementation of the Groundfish Essential Fish Habitat initiative.

MOTION FOR
CHANNEL ISLANDS NATIONAL MARINE SANCTUARY

Request/direct PFMC staff to prepare a letter to the Director of NOAA National Marine Sanctuary Program that states that the PFMC does not at this time support the Channel Islands National Marine Sanctuary's proposed Designation Document Revision to allow for the Promulgation of Fishery Regulations necessary for the designation of MPAs within federal waters under the Sanctuary Act. This letter should state that the PFMC has commented previously during the scoping and planning stage of the National Environmental Protection Act's required Environmental Initial Statement preparation process that the Sanctuary must fully evaluate the available avenues to achieve their goals of establishing MPAs in the federal waters portion of the Channel Islands National Marine Sanctuary, including the designation of MPAs by means of existing authorities under, the Magnusson Stevens Sustainable Fisheries Act and as necessary, State of California statute and regulation. The letter should further state that it is recognized by the PFMC that the Sanctuary entered into a partnership with the State of California with the goal being the establishment of contiguous and/or complementary MPAs in both federal and State waters at the Channel Islands. The letter should state that this process was anticipated by the State of California to be completed in a timely manner. The letter should include a statement that should it be determined after a review of the EIS analysis that the broader State/Federal Channel Islands MPA network, can not be achieved through existing authority or that significant delays in the process would occur, the PFMC would consider a limited Designation Document change that would provide for the establishment of federal MPAs as agreed upon through the State/federal MPA partnership process.

CHANNEL ISLANDS NATIONAL MARINE SANCTUARY

The Council has been coordinating with Channel Island National Marine Sanctuary (CINMS) in their development of proposed marine reserves and marine conservation areas within CINMS. Their proposed actions seek to complete a network of reserves and conservation areas “to maintain the natural biological communities, and to protect, where appropriate, restore and enhance natural habitats, populations, and ecological processes.”

The National Marine Sanctuaries (NMSs) Program believes establishment of proposed marine reserves and marine conservation areas would require changes to the CINMS Designation Document. Currently, the CINMS Designation Document does not allow regulation of fisheries by the Sanctuary. Therefore, CINMS distributed a consultation letter dated February 16, 2005 from Mr. Daniel J. Basta, Director, National Ocean Service Office of NMSs to the Council, state, and federal government agencies, and other interested parties requesting input on the proposed changes to the Designation Document within 60 days. This 60-day review period has been timed by the CINMS to coincide with the Council’s March and April 2005 meetings, ending April 15, 2005.

The CINMS Designation Document consultation letter was reviewed by the Council and its Advisory Bodies at the March 2005 Council meeting and can be found with the March Briefing Book materials on the Council web site. At that time, the Council discussed a range of potential Council responses to the Designation Document changes and directed Council staff to summarize this range for review and comment at the April meeting (Agenda Item G.1.a, Attachment 1).

Council Task:

- 1. Review the range of Council responses to the CINMS Designation Document consultation letter and consider adopting a response.**

Reference Materials:

1. Agenda Item G.1.a, Attachment 1: Summary of Possible Options for Council Recommendations on CINMS Designation Document Changes.
2. Agenda Item G.1.d, Public Comment.

Agenda Order:

- a. Agenda Item Overview
- b. Report of the Sanctuary Staff
- c. Reports and Comments of Advisory Bodies
- d. Public Comment
- e. **Council Action:** Final Recommendations on the Designation
Document Consultation Letter

Mike Burner
Sean Hastings

PFMC
03/22/05

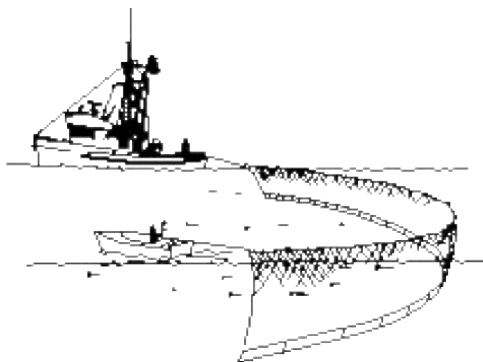
Summary of Possible Options for Council Recommendations on Channel Islands National Marine Sanctuary Designation Document Changes.

Range of Council Responses to Channel Islands NMS Decision Document Consultation Letter ^{1/}					
Option 1	Option 2	Option 3	Option 4	Option 5	Option 6
No Council Response	Recommend no change to the Designation Document	Authorize regulation of fishing in a marine reserve, marine park and marine conservation area (Marine Protected Area [MPA]). ^{2/}	Same as Option 2, except only for MPAs currently being considered (as specified by coordinates), not an open authorization for future MPA proposals or other areas.	Same as Option 3 except only for fishing not managed under MSA ^{3/} or state authority.	Council recommendations on changes to the Designation Document be delayed until later stages of the NEPA process.

1/ Options 3-5 could include recommendation to exempt scientific research activities.

2/ This language is the option described in the February 16, 2005 Designation Document Consultation letter from Mr. Daniel J. Basta: Add to Article 4, Scope of Regulation: “ *In a marine reserve, marine park and marine conservation area, harvesting, removing, taking, injuring, destroying, possessing, collecting, moving, or causing the loss of any living or dead organism, geological resource, cultural or historical resource or other Sanctuary resource, or attempting any of these activities.* ” Change the first line of Article 5, Section 1: “*Fishing, The regulation of fishing is not authorized under Article 4, **except in a marine reserve, marine park and marine conservation area.*** ”

3/ Magnuson-Stevens Fishery Conservation and Management Act authority would include species for fishing regulated under a Fishery Management Plan (FMP).



CALIFORNIA WETFISH PRODUCERS ASSOCIATION

Representing California's Historic Fishery

March 15, 2005

Mr. Don Hansen, Chair
and Members of the Pacific Fishery Management Council
7700 NE Ambassador Place #200
Portland, OR 97220-1384

RE: Agenda Items G.1.d and G.2.d – PROPOSED CHANGES TO NATIONAL MARINE SANCTUARY
DESIGNATION DOCUMENTS

Dear Mr. Hansen and Council members,

These comments are submitted on behalf of the California Wetfish Producers Association, which represents the major wetfish processors in Monterey and southern California, as well as fishermen from both regions. We appreciate this opportunity to present our views and concerns regarding the proposals by the Channel Islands, Monterey and Cordell Banks National Marine Sanctuaries to amend their designation documents to regulate fishing.

As a member of the Coastal Pelagic Species Advisory Subpanel, I fully supported statements of concern presented earlier to the Council on this issue. I've also read and concur with the advice given to the Council by the Groundfish Advisory Panel in March 2005:

"IN GENERAL – The GAP strongly opposes amendment of Sanctuary designation documents to allow regulation of fishing. While the Sanctuaries have excellent staff, they do not have the specific expertise in fisheries conservation and management, a broad familiarity with the coast-wide fisheries that the Council manages, historical perspective... or a capability to encompass the complexity of fishery management, including the use of expert advisory panels. ... "

CWPA members also concur that the Sanctuaries have neither the scientific expertise nor the public decision-making process to implement fishery management effectively, and by this letter they register their agreement with the advice provided by the CPSAS and the Groundfish Advisory Panel, encouraging the Council to oppose the proposals advanced by the Sanctuaries to amend designation documents to authorize Sanctuary regulation of fisheries in Sanctuary waters.

Re: the Channel Islands - Existing protective authorities granted to NOAA Fisheries under the Magnuson Act have already been or can be applied to address the ecosystem protections outlined in the CINMS Staff Preliminary Working Draft document. There is no need for an additional, duplicative layer of authority to regulate fishing activities beyond the strict regulations already implemented by NOAA Fisheries and the State of California. In fact, considering the budget deficit currently engulfing the federal government, we feel that Sanctuary efforts seeking to duplicate existing fishery management authorities, which would likely entail competition for funding for duplicative programs between the National Ocean Service and NOAA Fisheries, is not an efficient use of taxpayers' dollars.

Re: the boundary expansion proposed by CINMS – In light of modern advances in electronics and GIS technology, we disagree that the Sanctuary needs to modify its boundaries outside the existing Sanctuary to effect "better management".

Mr. Don Hansen
Marine Protected Areas

3-15-05

Page 2

Re: the Monterey Bay National Marine Sanctuary proposal to amend its designation document to incorporate the Davidson Seamount and prohibit fishing below 3,000 feet –
Again CWPA members support the public testimony opposing this proposal made by the Alliance of Communities for Sustainable Fisheries and the statement issued by the GAP: "...there are other means using existing authority to provide any necessary protection to Sanctuary resources without either increasing the size of the existing MBNMS by nearly 10 percent or giving fisheries management authority to MBNMS."

Re: Cordell Banks NMS – Again, there is no need to amend the Sanctuary designation document because the protections sought by the Sanctuary may be obtained through the Magnuson Act and existing Council processes.

We encourage the Sanctuaries to focus on their existing conservation mandates through education, research, and improving water quality. While the Sanctuaries should develop a cooperative relationship with the Council, fishery management is best left to the Council, with its scientific expertise, responsibility under the law, and established public processes.

Thank you very much for considering these comments.

Best regards,

Diane Pleschner-Steele
Executive Director

cc: Rod McInnis, SW Region Administrator, NMFS
Mike Burner

CORDELL BANK, GULF OF THE FARALLONES, AND MONTEREY BAY
NATIONAL MARINE SANCTUARIES

The Cordell Bank National Marine Sanctuary (CBNMS), the Gulf of the Farallones National Marine Sanctuary (GFNMS), and the Monterey Bay National Marine Sanctuary (MBNMS) are currently under a joint review of their respective management plans. As part of the process, all three National Marine Sanctuaries (NMSs) are coordinating with the Pacific Fishery Management Council (Council) as they develop revisions to their management plans and regulations to further protect benthic invertebrates and submerged lands within the NMSs. All three sanctuaries have asked the Council to consider changes to the respective NMSs Designation Documents while the CBNMS and MBNMS are requesting the Council also consider submission of proposed fishing regulations. Letters from the NMSs requesting Council recommendations and an alternatives analysis of proposed management actions were provided to the Council at the November 2004 meeting. These materials were also included in the Briefing Book for March 2005 Council meeting which is posted on the Council's web site. This agenda item focuses on matter highlighted at the March Council meeting.

The current CBNMS Designation Document exempts "normal fishing operations" from regulatory restrictions to protect benthic habitat and invertebrates within the 50-fathom isobaths surrounding Cordell Bank. CBNMS is proposing to change this exception such that it would only apply to "vertical hook and line" gear.

MBNMS is proposing to include Davidson Seamount within the boundaries of the Sanctuary and has proposed draft fishing regulations deemed necessary to protect benthic habitat at Davidson Seamount. Alternative regulations proposed by the MBNMS would prohibit fishing at depth greater than 3,000 feet, 200 feet, or 100 feet below the sea surface within the proposed area around the Davidson Seamount. Another action alternative would prohibit the take of all sanctuary resources from submerged lands within the Davidson Seamount area.

The GFNMS is not proposing fishing regulations but is requesting Council comment on Designation Document changes proposed by the sanctuary. The proposed changes include modification of the description of the area, restrictions on the discharge of harmful materials, language on introduced species, and regulations on attracting or approaching white sharks.

The NMSs materials described above were reviewed by the Council and its Advisory Bodies at the March 2005 Council meeting. At that time, the Council discussed a range of potential Council responses to the Designation Document changes and proposed fishing regulations. The Council directed staff to summarize this range for review and comment at the April meeting (Agenda Item G.2.a, Attachment 1).

The time period for Council recommendations on the NMS Designation Documents and draft NMSs fishing regulations was extended to April 22, 2005. Council recommendations on Designation Document changes and draft CBNMS and MBNMS fishing regulations are scheduled for final adoption at the April meeting.

Council Action:

1. Final Recommendations on Proposed Designation Document Changes and Fishery Regulations for each NMS

Reference Materials:

1. Agenda Item G.2.a, Attachment 1: Summary of Possible Options for Council Recommendations on Designation Document Changes and Proposed Fishing Regulations.
2. Agenda Item G.2.d, Public Comment.

Agenda Order:

- a. Agenda Item Overview
 - b. Report of the Sanctuary Staffs
 - c. Reports and Comments of Advisory Bodies
 - d. Public Comment
 - e. **Council Action:** Final Recommendations on Proposed Designation Document Changes and NMS Fishery Regulations for each NMS
- Mike Burner

PFMC
03/22/05

Summary of Possible Options for Council Recommendations on Cordell Bank National Marine Sanctuary Designation Document Changes and Proposed Fishing Regulations.

Range of Council Responses to Cordell Bank NMS Decision Document Changes ^{1/}					
Option 1	Option 2	Option 3a	Option 3b	Option 4	Option 5
No Council Response	Recommend the Designation Document not be changed	Authorize NMS proposed changes relative to the regulation of fishing. ^{2/}	Authorize NMS proposed changes relative to regulation of fishing with incorporation of recommendations of the Enforcement Consultants. ^{3/}	Authorize prohibition on benthic impacts only for fishing not managed under MSA ^{4/} or state authority.	Council recommendations on changes to the Designation Document be delayed until later stages of the NEPA process..

Range of Council Responses to Cordell Bank NMS on Proposed Fishing Regulations					
Option 1	Option 2	Option 3a	Option 3b	Option 4	Option 5
No Council Response	No proposed regulations are needed.	Adopt proposed NMS fishing regulations under the Nations Marine Sanctuary Act as recommended by CBNMS. ^{5/}	Authorize NMS proposed changes relative to regulation of fishing with incorporation of recommendations of the Enforcement Consultants. ^{3/}	Prepare regulations through the groundfish EFH process, or other FMP EFH process, or FMP fishery regulatory process. ^{6/}	No proposed fishing regulation at this time.

1/ Options 3-5 could include recommendation to exempt scientific research activities.

2/ Language proposed by the NMS to be added to Article 5: *“Under Article 4 fishing gear cannot remove, take, or injure benthic invertebrates or algae on Cordell Bank or within the 50 fathom isobath surrounding the Bank. Fishing gear also cannot alter Cordell Bank or the submerged lands within the 50 fathom isobath surrounding the Bank and cannot be placed or abandoned on Cordell Bank or within the 50 fathom isobath surrounding the Bank. These regulations do not apply to vertical hook-and-line gear (including trolling gear, but not longline gear)”* (letter from Mr. Daniel Basta, November 2004).

3/ The Cordell Bank needs to be identified by latitudinal and longitudinal coordinates representing the 50 fathom isobath. To eliminate confusion, identify the specific kinds of gear to be excluded within the coordinates for the 50 fathom isobath. Utilize definitions of bottom trawl and fixed gear currently in federal regulation at 50 CFR Part 660 (Agenda Items H.1.c, H.2.c, and H.3.c, Supplemental Enforcement Consultants Report, March 2005).

4/ Magnuson-Stevens Fishery Conservation and Management Act authority would include species for fishing regulated under a Fishery Management Plan (FMP).

5/ *“Prohibit the take of all benthic organisms except as incidental and necessary to the use of vertical hook and line fishing gear on Cordell Bank and within the 50 fathom isobath surrounding Cordell Bank. Prohibit any disturbing of the submerged lands or placing any material or matter on Cordell Bank and within the 50 fathom isobath surrounding the Bank.”* (letter from Mr. Daniel Basta dated October 22, 2004).

6/ This concept was described in the March 2005 GMT statement (Agenda Items H.1.c, H.2.c, and H.3.c, Supplemental GMT Report, March 2005)

Summary of Possible Options for Council Recommendations on Monterey Bay National Marine Sanctuary Designation Document Changes and Proposed Fishing Regulations.

Range of Council Responses to Monterey Bay NMS Decision Document Changes ^{1/}					
Option 1	Option 2	Option 3a	Option 3b	Option 4	Option 5
No Council Response	Recommend the Designation Document not be changed	Authorize NMS proposed changes relative to the regulation of fishing. ^{2/}	Authorize NMS proposed changes relative to regulation of fishing with incorporation of recommendations of the Enforcement Consultants. ^{3/}	Authorize prohibition on benthic impacts only for fishing not managed under MSA ^{4/} or state authority.	Council recommendations on changes to the Designation Document be delayed until later stages of the NEPA process.

Range of Council Responses to Monterey Bay NMS on Proposed Fishing Regulations					
Option 1	Option 2	Option 3a	Option 3b	Option 4	Option 5
No Council Response	No proposed regulations are needed.	Adopt NMS proposed fishing regulations under the Nations Marine Sanctuary Act as recommended by MBNMS. ^{5/}	Authorize NMS proposed changes relative to regulation of fishing with incorporation of recommendations of the Enforcement Consultants. ^{3/}	Prepare regulations through the groundfish EFH process, or other FMP EFH process, or FMP fishery regulatory process. ^{6/}	No proposed fishing regulation at this time.

1/ Options 3-5 could include recommendation to exempt scientific research activities.

2/ NMS proposal is to amend Article 4 to: *“Add the authority to prohibit removal, take, harvest, disturbance, or other injury by any means, including fishing, from below 3,000 feet of the sea surface in the Davidson Seamount Area.”* Other alternatives were analyzed, see foot note 5. (letter from Mr. Daniel Basta, November 2004)

3/ To simplify enforcement, identify the specific kinds of gear to be excluded within the coordinates of the Davidson Seamount Area. Utilize definitions of bottom trawl and fixed gear currently in federal regulation at 50 CFR Part 660.

4/ Magnuson-Stevens Fishery Conservation and Management Act authority would include species for fishing regulated under a Fishery Management Plan (FMP).

5/ Action alternatives for proposed regulations: *“Prohibit the take of all sanctuary resources below 3,000 feet (other alternatives specified 200 feet or 100 feet) of the sea surface within the Davidson Seamount area.”* Other Alternative: *“Prohibit the take of all sanctuary resources from submerged lands within the Davidson Seamount area.”* (letter from Mr. Daniel Basta dated October 22, 2004).

6/ This concept was described in the March 2005 GMT statement (Agenda Items H.1.c, H.2.c, and H.3.c, Supplemental GMT Report, March 2005)

Summary of Possible Options for Council Recommendations on Gulf of the Farallones National Marine Sanctuary Proposed Designation Document Changes.

Range of Council Responses to Gulf of the Farallones NMS Decision Document Consultation Letter ^{1/}				
Option 1	Option 2	Option 3	Option 4	Option 5
No Council Response	Recommend the Designation Document not be changed	Recommend the Designation Document be amended as proposed by NMS ^{2/} .	Same as Option 3 but refine definition of introduced species to specify invasive exotic species. ^{3/}	Council recommendations on changes to the Designation Document be delayed until later stages of the NEPA process.

1/ Options 3-5 include recommendations to exempt scientific research activities.

2/ Eight changes were proposed for the NMS in a letter first presented to the Council at the November 2004 meeting from Mr. Daniel Basta. The changes covered items from the description of the area to the scope of regulations and included no specific fishing regulation matters. However, changes of peripheral relevance to fishing regulation included:

- (a) introduced species
- (b) discharging or depositing material or other matter
- (c) prohibition on the take of marine mammals, marine reptiles, or birds.
- (d) prohibition on attracting or approaching white sharks.

3/ This recommendation, if adopted by the Council, should be considered for application to GFNMS, CBNMS, and MBNMS as the prohibition on the release of introduced species is a recommended change for all three Designation Documents.

Alliance of Communities for Sustainable Fisheries
256 Figueroa Street #1, Monterey, CA 93940 (831) 373-5238

March 16, 2005

RECEIVED

Don Hansen, Chair
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland OR 97220-1384

MAR 21 2005

PFMC

Dear Chairman Hansen:

Our organization, the Alliance for Communities for Sustainable Fisheries, has been organized to represent the economic, social, and cultural interests of the recreational and commercial fishing industry in the geographic region from Port San Luis (Avila Beach) to Pillar Point Harbor in San Mateo County. As the name implies, we are committed to the preservation of sustainable fisheries and link the fishing activity with the greater communities that support that industry. Resolutions supporting the efforts of the ACSF have been adopted by the City Councils of Monterey and Morro Bay, by the elected Commissions of the San Mateo County, Moss Landing and Port San Luis Harbor Districts, and the Santa Cruz Port District. We are a federally recognized 501-c-3 educational organization.

We are writing to add to our prior comments on the several proposals made by the National Marine Sanctuary Program for the four California Sanctuaries. Our organization wants to state very clearly for the record that we will value working with the National Marine Sanctuary Program on resource conservation issues wherein the result of that effort might be proposals made to the Pacific Fishery Management Council which plainly have the support of the fishing community. This would be for the Council to use its authority to adopt whatever measures are needed to best manage this nation's marine resources. As we have stated many time before, we do not support the Sanctuary gaining authority to create fishing regulations, and certainly do not support the Sanctuary potentially going over the heads of this Council to adopt their own regulations. Again, we would value the opportunity to work cooperatively with the Sanctuary Program on these issues.

Likewise, we hope and recommend to the Council that the Council stresses to the Sanctuary Program that you want to work with them to apply good science and a sound public process to the resources issues of which they have concern. We hope that this Council will decisively vote to recommend against any of the West Coast Sanctuary's changing their Designation Documents to allow them to create a fishing regulation.

Regarding the Channel Islands National Marine Sanctuary, the Council designated Cowcod Conservation and Rockfish Conservation Areas are effectively MPA's and pose great opportunities for the Sanctuary Program, the Council, and the fishing industry to

work cooperatively together to develop goals and objectives, monitoring and enforcement for these already closed areas. There is no need for the Sanctuary to create their own regulations, and there is no need for them to change their Designation Document to do so.

Regarding the Monterey Bay National Marine Sanctuary and the proposal to add an additional 10% to the already large 5,300 square mile Sanctuary, we believe that you already are aware that this Council, through its existing authority, could protect the bottom habitat and the coral and sponges which seem to be of particular concern to the Sanctuary Program. Once again there is no need for the Monterey Sanctuary to change its Designation Document or create their own regulation. In the case of the Monterey Sanctuary, you should also be aware that there has been very little public support for the addition of the Davidson-Seamount to this Sanctuary. In fact, of the approximately 11,000 comments that were received during the public scoping phase of the Sanctuary's Management Plan Review, only a handful addressed the Davidson-Seamount area. This needs to be contrasted to the widespread community message that has been delivered to the Sanctuary Program that they should not create fishing regulations. The Monterey County Board of Supervisors voted 5 to 0 to request that the Sanctuary not create fishing regulations (resolution attached). Likewise the Cities of Monterey, Morro Bay, the Port San Luis Harbor District, the Moss Landing Harbor District, Santa Cruz Port District, and the Pillar Point Harbor District -- all requested that the Sanctuary not create fishing regulations. Numerous business associations, and a petition signed by some 1,400 ocean users, all requested that the Sanctuary not create fishing regulations. The City of Monterey also specifically has opposed the Sanctuary's Designation Document change and fishing regulation proposed for the Davidson-Seamount. Lastly, Congressman Farr has requested that the Sanctuary not try to fundamentally change the understanding and the agreement that the Sanctuary Program had with the fishing community that they would not create fishing regulations.

We also must point out that the Monterey Bay National Marine Sanctuary may be violating 15 CFR, Chapter IX -- "MBNMS Regulations". This is because this rule appears to require a "consultation with industry to determine an appropriate course of action". No consultation has ever occurred, yet the National Marine Sanctuary Program has presented their preferred options to the PFMCC. A copy of this section of Monterey Bay National Marine Sanctuary Regulations is attached.

Our organization also must voice concern about any expansion of the Monterey Bay National Marine Sanctuary, for the reason that we fear that additional territory will dilute the Sanctuary's ability to meet its research, education, and water quality protection goals for the existing 5,300 square miles.

Regarding the Cordell Banks National Marine Sanctuary proposal, no new rules are needed as this area in question is within the Rockfish Conservation Area.

When our association was formed in November of 2000 we soon thereafter communicated to the National Marine Sanctuary Program of our desire to work cooperatively with them on resource issues of mutual interest. We did also say, however, that we wanted to do so not under a threat of regulation by the Sanctuary Program, but in the context of mutual respect and trust. Our letter of February 4, 2001 is attached and speaks to our initial desire to work cooperatively with the Monterey Bay National Marine Sanctuary – as long as they did not threaten regulation. We still feel this way and are willing to work towards that goal. We hope that the Sanctuary Program will realize that it is their best long term interest to not attempt to create their own regulations, but to work cooperatively with this Council, and with the State of California Department of Fish and Game.

Thank you for considering these thoughts.

Sincerely,



Kathy Fosmark
Co-Chair, ACSF



Frank Emerson
Co-Chair, ACSF

Enc.

Supporting Associations & Organizations

- Pacific Coast Federation of Fishermen's Association
- Port San Luis Commercial Fishermen's Association
- Morro Bay Commercial Fishermen's Association
- Monterey Commercial Fishermen's Association
- Fishermen's Association of Moss Landing
- Santa Cruz Commercial Fishermen's Marketing Association
- Half Moon Bay Fishermen's Marketing Association
- Fishermen's Alliance
- Western Fishboat Owners Association
- Ventura County Commercial Fishermen's Association
- Federation of Independent Seafood Harvesters
- Golden Gate Fishermen's Association
- Port San Luis Harbor District
- City of Morro Bay Harbor
- City of Monterey Harbor
- Moss Landing Harbor District
- Santa Cruz Port District
- Pillar Pt. Harbor, San Mateo County Harbor District

Alliance of Communities for Sustainable Fisheries

P.O. Box 1309, Carmel Valley CA 93924 (831) 659-2838

February 2, 2001

Stephanie Harlan
Chair, MBNMS AC
299 Foam Street
Monterey, CA 93940

Bill Douros
Superintendent MBNMS
299 Foam Street
Monterey, CA 93940

Dear Chairperson Harlan and Superintendent Douros:

Central California's fishing and marine-related communities are well aware that the review of the Monterey Bay National Marine Sanctuary's Management Plan is about to begin. To provide our leadership to this process as it pertains to fishing issues, our alliance has been meeting to evaluate the Management Plan review process occurring in the Channel Islands NMS and its potential effects on fishing, and to determine our own course of action regarding the Monterey Bay NMS Plan Review. Our organization, the Alliance of Communities for Sustainable Fisheries, includes the leaders of all the various Fishermen's Associations, plus businesses that relate to that industry, plus representatives of ports from Port San Luis to Half Moon Bay.

We first intensively discussed the promises made to our industry, and to recreational fishermen, that the Monterey Bay Sanctuary would not regulate fishing activities. The promises were made before the Sanctuary was designated and the Sanctuary Program was lobbying for local support. It was well understood that a Sanctuary could not be created without the support of the fishing community. This promise is embodied in the existing management, as published in the Federal Register. It was also re-affirmed as recently as the April 1999 Sanctuary Advisory Council (SAC) meeting, in which the SAC unanimously recommended to the Sanctuary Program that the promise be kept, both in the letter and in the spirit in which it was made. The Sanctuary Program has an ethical obligation to honor that promise, and our industry expects that it will do so. This includes any regulations, and/or recommendations or support for regulations that would alter current fishing practices and/or affect fishing sites. It is also our very strong opinion that the (Federal) Pacific Fisheries Management Council and the (State) Department of Fish and Game are the agencies empowered, and with the expertise, to create Fishery Management policy.

With that being said, our industry is well aware that there is much to be learned about sustainable fishing practices and other conditions, both man-made and natural, that affect fish stocks. To that end, our industry has organized and is in the process of identifying 5-6 study areas that will result in industry-supported recommendations that hopefully the Sanctuary Advisory Council and Sanctuary

Management will advocate, with our industry's blessing, to the State and Federal Fishery Management agencies that are lawfully empowered to regulate fishing.

All of the study areas have not yet been identified, but several likely topics could be:

1. An objective evaluation of the reasons for, feasibility of, alternatives to, and potential impacts of marine protected areas.
2. How the gap can be closed between what scientists predict for fish stocks, using limited data and mathematical modeling, and what fishermen observe.
3. The problem of by-catch.

Our study topics and the process we will use should be identified by the April 6, 2001 SAC meeting.

Since the MBNM Sanctuary is precluded from recommending regulations or directly regulating fishing, we ask the Program to assist by providing our Alliance with the advice and support of the staff, and by letting us consult with the various working groups of the Sanctuary Advisory Council as a resource during our study process. Specifically, we are hopeful that Dr. Holly Price, who did such good work with the agricultural community, will be assigned as the liaison to our organization. In this way, the Sanctuary Program would keep its promise to fishermen, yet be able to contribute to a study process that has industry support and will lead to a furthering of our shared goals of resource conservation and the facilitation of multiple uses of Sanctuary waters. I hope that you share our enthusiasm that this can truly produce a "win-win" situation for both fishermen and the Sanctuary Program.

Sincerely,

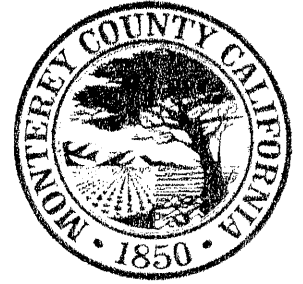


Mike Ricketts, Chair
Alliance of Communities for Sustainable Fisheries

Supporting Associations & Organizations

Pacific Coast Federation of Fishermen's Association
Port San Luis Commercial Fishermen's Association
Morro Bay Commercial Fishermen's Association
Monterey Commercial Fishermen's Association
Moss Landing Commercial Fishermen's Association
Santa Cruz Commercial Fishermen's Association
Pillar Point Commercial Fishermen's Association
Fishermen's Alliance
Institute for Fisheries Resources
Western Fish Boat Owners Association
Port San Luis
Morro Harbor
Monterey Harbor
Moss Landing Harbor
Santa Cruz Harbor
Pillar Pt. Harbor

MONTEREY COUNTY



ENVIRONMENTAL RESOURCE POLICY

(831) 755-5065 230 Church Street, Building 3, Salinas, CA 93901

August 25, 2004

Cathy Fosmark, Co-Chair
Alliance of Communities
for Sustainable Fisheries
POB 1309
Carmel Valley, CA 93924

Dear Cathy:

Attached please find the Resolution approved by the Board of Supervisors on August 3, 2004.

The resolution reaffirms the original promise made to the fishing industry that the Sanctuary would not take an active role in fisheries management and regulation. The approval of this resolution was made possible in part to the fishing community's dedication and support.

If you have any questions, please do not hesitate to contact me at 755-5065.

Sincerely,

Mary Claypool
Economic Development Coordinator
Office of Economic Development
County of Monterey

Encl.

County of Monterey, State of California

Resolution No. 04 -

Approve the OEDC's recommendation to)
 support the following two recommendations of)
 the Alliance of Communities for Sustainable)
 Fisheries: 1) adopt a resolution reaffirming the)
 original promise made to the fishing industry that)
 the Sanctuary would not take an active role in)
 fisheries management and regulation; and 2))
 endorse an review by AMBAG of the Sanctuary)
 Advisory Council's purpose and functions)

WHEREAS, commercial fishing provides full time employment for more than 400 Monterey County residents and generates \$18 - \$25 Million and,

WHEREAS, the original agreement states that existing fisheries are not being regulated as part of the Sanctuary regime and fishing is not included in the Designation Document as an activity subject to future regulation; and,

WHEREAS, the Monterey Bay National Sanctuary was designated to provide research results and recommendations to existing fishery management agencies in order to enhance the protection of fishery and other Sanctuary resources; and,

WHEREAS, it was agreed that should problems arise in the future, NOAA would consult with the State, Pacific Fisheries Management Council and National Marine Fisheries Service, as well as the fishing industry, to determine an appropriate course of action; and

WHEREAS, there are existing fishery management agencies (Department of Fish and Game, Pacific Fisheries Management Council and National Marine Fisheries Services) charged with the regulation and management of fisheries:

NOW, THEREFORE BE IT RESOLVED that the Monterey County Board of Supervisors does:

1. Reaffirm the original promise made to the fishing industry that the Sanctuary would not take an active role in fisheries management and regulation; and
2. Support the review by AMBAG of the purpose and functions of the Sanctuary Advisory Council

PASSED AND ADOPTED on this ____ day of August, 2004, upon motion of Supervisor _____, seconded by Supervisor _____, by the following vote to wit:

AYES:

NOES:

ABSENT:

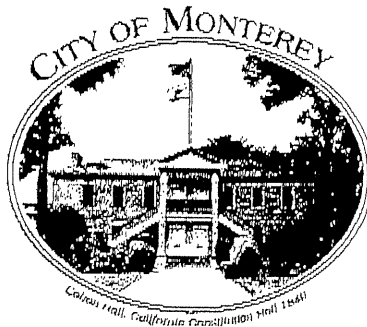
I, Sally R. Reed, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof at page ____ of Minute Book ____, on _____, 2004.

Dated:

of California.

Sally R. Reed, Clerk of the Board of Super

By _____
Deputy



Mayor:
DAN ALBERT

Councilmembers:
THERESA CANEPA
CHUCK DELLA SALA
CLYDE ROBERSON
DICK VREELAND

City Manager:
FRED MEURER

December 1, 2004

Dan Basta, Director
Office of National Marine Sanctuaries
1305 East-West Highway, Room 11523
Silver Spring, Maryland 20910

Dear Director Basta:

Thank you for your letter received October 27, 2004, asking for comments regarding MBNMS Management Plan Review Program changes. I'm writing to comment specifically about the Monterey Bay National Marine Sanctuary and the addition of the Davidson-Seamount to the Sanctuary, which would require that the Sanctuary Designation Document be changed to give the Sanctuary the authority to regulate fishing.

The City of Monterey has twice gone on record supporting that the promise made to fishermen, that the Sanctuary would not create fishing regulations, should be upheld. Therefore, as City policy, the City cannot support any such change in the Designation Document.

Thank you for requesting our view on this matter.

Sincerely,

Dan Albert
Mayor

- Attachments: 1. City of Monterey Recommendations for the Sanctuary
Management Plan Review
2. Resolution 01-58 re Alliance of Communities for Sustainable
Fisheries

SAM FARR
17TH DISTRICT, CALIFORNIA

COMMITTEE ON APPROPRIATIONS

SUBCOMMITTEES:

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND
DRUG ADMINISTRATION, AND RELATED AGENCIES

MILITARY CONSTRUCTION

CHAIR, CALIFORNIA DEMOCRATIC
CONGRESSIONAL DELEGATION

CO-CHAIR, CONGRESSIONAL TRAVEL AND
TOURISM CAUCUS

Congress of the United States

House of Representatives

Washington, DC 20515-0517

January 31, 2002

1273 LONGWORTH BUILDING
WASHINGTON, DC 20515-0517
(202) 225-2861

100 WEST ALISAI
SALINAS, CA 93901
(831) 424-2229

701 OCEAN STREET
ROOM 318
SANTA CRUZ, CA 95060
(831) 429-1976

samfarr@mail.house.gov

www.house.gov/farr

Mr. William Douros
Superintendent
Monterey Bay National Marine Sanctuary
299 Foam Street
Monterey, California 93940-1463

Dear Mr. Douros:

As you know I have had an active interest in the Monterey Bay National Marine Sanctuary that dates back to its creation. From my perspective as a long-time supporter of the sanctuary, Member of Congress, and lifetime resident of Monterey, I have tried to remain well informed of the activities surrounding the sanctuary and its management. Having witnessed a decade of impressive accomplishments, I am pleased that the sanctuary has committed to building a strong foundation for continued success through a comprehensive review of the management plan. In the spirit of support for the Sanctuary Program, and with the greatest respect for the contributions that you and your staff have made to its numerous successes, I would like to take this opportunity to suggest several areas that should be given special attention during the review process.

The establishment of the Monterey Bay National Marine Sanctuary was as significant step for California, the Federal Sanctuary Program, and especially for the coastal communities that came together in support of its creation. I firmly believe that the sanctuary has been a great benefit to the region not only by prohibiting oil exploration and development, but by providing a federally funded mechanism for central coast residents to participate in improving the stewardship of local marine resources. This process has directly resulted in improved water quality, safety, research, monitoring, education, and management. It is no coincidence that the nation's largest marine sanctuary was designated in an area of the country where public interest and active local involvement are such defining characteristics. The sanctuary could not have been established without the broad base of support from local residents and, ten years after its creation, this support continues to be the sanctuary's greatest asset.

The management plan review process that is currently underway represents an extraordinary opportunity for the Sanctuary Program to look back over ten years of success, experimentation, and growth to build on its original mandate and define its role in the future. I feel that this management plan review should place a strong emphasis on strengthening the ties between the sanctuary management and the community of user groups, local governments and agencies that have been involved in the sanctuary since its establishment. The following recommendations suggest several specific ways that this can be achieved.

The Sanctuary Advisory Council (SAC)

The Sanctuary Advisory Council is the primary link between the sanctuary and its broad-based constituency. The SAC serves both as a vehicle for local input into sanctuary management, and as a means for the sanctuary to mobilize community support and involvement in management activities. The local community has clearly demonstrated, through years of extraordinary commitment by many devoted individuals, that there is a strong willingness to invest the time and effort into making the SAC an effective mechanism for public input. This management plan review should examine ways of providing the SAC with greater independence and strengthening its role as a trusted partner in sanctuary management.

The advisory role of the SAC, as defined in its charter, creates a necessary separation between the SAC and the Sanctuary Program by giving the sanctuary management final authority to selectively implement SAC recommendations. The charter, however, is inconsistent in maintaining this separation by also providing sanctuary management with oversight over virtually all SAC activity including its membership, communication, and agenda. Because this organizational structure permits hands-on sanctuary involvement in SAC affairs, it has a tendency to diminish public confidence that there is truly a sanctuary-independent mechanism for community input. This, in turn, opens the door to greater mistrust and criticism of final management decisions.

I strongly encourage the sanctuary management to objectively evaluate their ability, under the current protocols, to maintain a relationship with the SAC that affords it the independence essential to its role as an effective liaison between the sanctuary and the community. In making this evaluation I would encourage sanctuary management to engage in a dialogue with both current and past SAC members as well as influential members of the community to obtain insights into how the SAC is perceived and how it can be strengthened to more effectively maintain the confidence of its constituency.

Collaborative management

Long-term cooperative relationships with user groups, agencies, and local governments have been and will continue to be the sanctuary's most effective tool in addressing resource protection issues. The strength of these relationships is also the key to finding a workable balance between the sanctuary's dual mandates of resource protection and maintaining compatible public use.

It is vitally important that the local Sanctuary Management create the flexibility in their new management plan to work closely with user groups to collaboratively develop common-sense management approaches that meet the goals of the sanctuary's resource protection mandate. The sanctuary should use this flexibility to avoid assuming the role of an uncompromising regulatory entity. The perception that the sanctuary is needlessly adding to the federal bureaucracy or is becoming an unresponsive or redundant permitting agency, creates frustration among groups that would otherwise be willing to make significant voluntary efforts to help the sanctuary further their goals.

It is always difficult to strike a balance between resource protection and human use, but the sanctuary should strive to maintain a functional equilibrium by working with user groups to develop appropriate regulatory measures based on a clear and common understanding of their scientific necessity. If these groups feel that the sanctuary management is unable to exercise the flexibility to find common ground in policies that impose economic or practical burdens on their activities, they will be less inclined to collaborate in resource protection efforts that would be in the long-term interest of the sanctuary.

→ *The role of the Sanctuary in regulating fisheries*

In the process of building support for the designation of the sanctuary, a clear commitment was made to the fishing community that the sanctuary would not impose any regulations directed at fishing activities or fishing vessels. This agreement is based on the understanding that the fisheries within the sanctuary are already being regulated and that there is neither the necessity nor the resources for the National Marine Sanctuary Program to take on this responsibility. This management plan review process should not be used as a means toward altering this basic agreement. The regulation of fishing in the sanctuary should remain under the jurisdiction of the California Department Fish and Game and the Pacific Fisheries Management Council. Any future reexamination of this relationship should be conducted directly with representatives of the fishing community and these two agencies.

An important issue, however, that needs clarification during this review, involves the sanctuary's role in collaborating and consulting with other agencies on matters relevant to fisheries management. There remains a considerable range of disagreement about the extent to which sanctuary staff should avoid indirect influence on fisheries regulation. Misunderstandings surrounding this issue have the potential to jeopardize the working relationship that is evolving between the fishing community and the sanctuary. I hope that sanctuary management will consider the resolution of this issue to be of primary importance during the management plan review.

Given the sanctuary's broad mandate to study and protect resources on an ecosystem-wide basis, along with their obligation to share information and coordinate efforts with other agencies, it is unrealistic to think that they can or should work in absolute isolation from these issues. I consider it a very encouraging sign that the local fishing industry, through the formation of the Alliance of Communities for Sustainable Fisheries, recognizes this reality and has been collaborating with sanctuary staff and working groups on fishing-related issues.


The sanctuary should work with the Alliance during the management plan review to define a reasonable framework within which they can investigate and provide comments on issues related to fishing. I believe that by establishing standards for openness, opportunities for comment, and a common understanding of the scope and limits of sanctuary expertise, such a framework could serve as a foundation for a much stronger working relationship between the sanctuary and the fishing industry.

Finally, I would like to commend the sanctuary staff for their excellent work in organizing the public scoping meetings that have occurred during first phase of the review. I have received a great deal of positive feedback from these meetings and understand that they were well publicized, well attended, and very productive. In the next phase of the process, as you begin to assimilate public comments, conduct issue workshops, and develop action plans, I encourage you maintain this commitment to public input by working closely with the SAC and facilitating the participation of the users, interest groups, and local governments that make up the core sanctuary constituency.

The sanctuary has a great deal to gain by using this process as a way to build a foundation for improved interaction and collaboration with the community. By making a true commitment to a functional, bottom-up management approach that emphasizes local input and outreach, I feel that the National Marine Sanctuary Program has the potential to play a significant role in shaping the future of federal resource management.

Thank you for the opportunity to provide this input, and please feel free to contact me or my staff with information and updates on the management plan review.

Sincerely,


SAM FARR
Member of Congress

CC: Dan Basta, Director, National Marine Sanctuary Program

Response: While marine mammals, migratory seabirds and endangered species are protected under these acts, IOAA believes that the higher penalties afforded under the MPRSA will provide a stronger deterrent.

The MBTA sets maximum criminal fines at either \$500 or \$2,000 per violation, depending on the violation. The MMPA sets maximum civil penalties at \$10,000 and maximum criminal fines at \$20,000. The ESA sets maximum civil penalties at \$500, \$12,000 or \$25,000 per violation, depending on the violation; maximum criminal fines are set at \$50,000. (All three statutes also provide for imprisonment for criminal violations.)

The MPRSA (under section 307) allows NOAA to assess civil penalties as high as \$50,000 for each violation. In addition, monies collected under the MPRSA are available to enhance the National Marine Sanctuary Program.

(16) *Comment:* Many commenters stated fishing should not be prohibited within the Sanctuary. Instead, fisheries resource regulation should remain under the jurisdiction of the State of California, the National Marine Fisheries Service (NMFS) and the Pacific Fisheries Management Council (PFMC). Other commenters requested NOAA to regulate harmful fishing activities such as gill-netting and shark finning. NOAA's position should be clarified in the FEIS/MP.

Response: Fishing is not being regulated as part of the Sanctuary regime and is not included in the Designation Document as an activity subject to future regulation. Fisheries management will remain under the existing jurisdiction of the State of California, NMFS and PFMC. Sanctuary prohibitions that may indirectly affect fishing activities have been written to explicitly exempt aquaculture, kelp harvesting and traditional fishing activities.

Existing fishery management agencies are primarily concerned with the regulation and management of fish stocks for a healthy fishery. In contrast, the sanctuary program has a different and broader mandate under the MPRSA to protect all sanctuary resources on an ecosystem wide basis. Thus, while fishery agencies may be concerned about certain fishing efforts and techniques in relation to fish stock abundance and distribution the Sanctuary program is also concerned about the potential incidental impacts of specific fishery technique on all sanctuary resources including benthic habitats or marine mammals as well as the role the target species plays in the health of the ecosystem. In the case of

the Monterey Bay area fish resources are already extensively managed by existing authorities.

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.

(17) *Comment:* Many commenters requested NOAA to prohibit motorized aircraft from flying over the Sanctuary. Other commenters stated Federal Aviation Regulations (FARs) already adequately protect Sanctuary resources from aircraft impacts, making additional regulations unnecessary. In addition, new regulations may hinder cooperative emergency response plans, routine helicopter operations, and rescue attempts.

Response: The regulations prohibit flying motorized aircraft at less than 1,000 feet above the Sanctuary within four zones. Generally, these zones are from Point Santa Cruz north, Carmel Bay south (overlapping the California Sea Otter Game Refuge), and around Moss Landing and Elkhorn Slough (see appendix II for specific zones).

NOAA recognizes that overflights are regulated under the FARs. Unlike the FARs, however, Sanctuary overflight regulations are intended to protect the living marine resources of the Sanctuary from disturbance by low-flying aircraft and in this case require flying at higher altitudes than normally required by the FARs. The prohibition does not apply to overflights that:

(1) Are necessary to respond to an emergency threatening life, property or the environment;

(2) Are necessary for valid law enforcement purposes; or

(3) Conducted by the Department of Defense and specifically exempted by NOAA after consultation with that Department.

(18) *Comment:* A more precise definition of "thrill craft" is needed.

Response: NOAA has changed the term "thrill craft" in the proposed regulations to "motorized personal water craft" (MPWC) in the final regulations and revised the definition to include vessels up to fifteen feet. This category of vessel was selected because of the threat posed to Sanctuary resources by their operation.

(19) *Comment:* Thrill craft should be prohibited throughout the Sanctuary. The danger these craft pose to the biological resources of the area, such as marine mammals and kelp beds, as well as other users of the area such as divers and surfers necessitates a prohibition or regulation of personal water craft. In addition, MPWC should be prohibited in "areas of biological significance,"

including those with high human-use levels such as beaches; diving, swimming and surfing areas; state parks; and reserves. Besides the potential danger to recreationists, MPWC disrupt low-intensity area uses. In addition, many commenters found the operation of MPWC to be incompatible with the existence of the Sanctuary for reasons unquantifiable.

Response: NOAA recognizes the threat posed by MPWC operation to the conservational, recreational, ecological and esthetic resources and qualities of the Sanctuary. As a result, the regulations have been revised to prohibit the operation of MPWC within the Sanctuary, except within four zones and access routes (15 CFR 944.5(a)(8)). Generally, these areas are located off the harbors of Pillar Point, Santa Cruz, Moss Landing, and Monterey. They were chosen to avoid injury to kelp beds, sea otters and other marine mammals, seabirds and other marine life and to minimize conflicts with other recreational users and because these areas are accessible from launch areas and encompass areas traditionally used by MPWC. Restriction of MPWC operation to these areas of the Sanctuary will also reduce esthetic disturbance.

A prohibition of MPWC operation in the Sanctuary except in the four areas is designed to increase resource protection while still allowing opportunities for this form of recreation in the Sanctuary. There has been at least one reported collision in the Monterey Bay area between a jet ski and sea otters. Collisions with and other disturbance of marine mammals elsewhere from MPWC have also occurred. The small size, maneuverability and high speed of these craft is what causes these craft to pose a threat to resources. Resources such as sea otters and seabirds are either unable to avoid these craft or are frequently alarmed enough to significantly modify their behavior such as cessation of feeding or abandonment of young. Also other, more benign, uses of the Sanctuary such as sailing, kayaking, surfing and diving are interfered with during the operation of MPWC. Further, as indicated above, restriction of operation of MPWC to the specified zones and access routes will reduce esthetic disturbance. The zones and access routes where the MPWC can still operate allow the MPWC operators to continue this form of recreation albeit in areas away from those other forms of recreation and beyond those areas inhabited by marine mammals and seabirds and other sensitive marine life. By establishing defined MPWC

