



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, Suite 200
Portland, OR 97220-1384

Dear Dr. McIsaac: *Don*

This letter formally provides the Pacific Fishery Management Council (PFMC) with the opportunity to prepare draft sanctuary fishing regulations, pursuant to section 304(a)(5) of the National Marine Sanctuaries Act (NMSA), for the potential establishment of marine reserves and marine conservation areas in federal waters of the Channel Islands National Marine Sanctuary (CINMS). We are providing the NMSA section 304(a)(5) materials at this time to ensure both that the PFMC has sufficient time to review and respond, and that there is no significant delay as NOAA conducts an analysis of the feasibility of implementing marine reserves and marine conservation areas under the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

Recent and Current Actions

As you know, on April 15, 2005, the PFMC responded to the National Marine Sanctuary Program's (NMSP) section 303 consultation letter regarding possible changes to the CINMS Designation Document to authorize regulation of fishing activities to implement the possible establishment of marine reserves and conservation areas within the CINMS. The PFMC responded that it was supportive of the goals and objectives of the Sanctuary and recognized the ongoing partnership with the State of California with the goal of implementing complementary marine protected areas in federal and state waters in the CINMS. The PFMC also recommended that, at this time in the process, the CINMS not change its Designation Document to allow for the promulgation of fishing regulations necessary for the designation of marine reserves and conservation areas within federal waters of the CINMS. Rather, it suggested that CINMS complete the process "of evaluating the available avenues under existing authorities (i.e., MSA or other California State authorities) to achieve the goal of establishing marine protected areas (MPAs) in the federal waters portion of the sanctuary."

The NMSP has also received a similar letter from the State of California (enclosed), which also requested that NOAA determine if existing authorities (e.g., MSA) may be used to establish MPAs within the federal waters of the CINMS. However, the State also indicated that if the process under existing laws and authorities would not be timely, efficient, or sustainable, then it would support a limited change to the CINMS



Designation Document to establish specifically identified and designed MPAs with no further conveyance of any additional fishery management authority.

Consequently, as requested by the PFMC and the State of California, the NMSP is presently working with NOAA Fisheries and NOAA's Office of General Counsel to evaluate the legal and administrative viability, procedures and timeline necessary to establish and implement restrictions on fishing activities under the MSA necessary to establish marine reserves and marine conservation areas to achieve the CINMS goals and objectives within federal waters of the CINMS. We expect this analysis to take approximately 6-8 weeks. The results of this analysis will be used by NOAA to determine the final course of action regarding whether to continue to move forward under the NMSA or to initiate MSA procedures if they could be used to achieve the CINMS goals and objectives. Once NOAA makes a determination it will inform the Council and the State. The analysis will also be discussed in any draft environmental impact statement for the proposed action.

Need to Avoid Delays

In the interest of avoiding any further delay and to address the State's concern with the "lack of progress to complete the establishment of MPAs in specified locations in federal waters within [the CINMS]", we are providing you these materials for your June meeting to formally initiate the section 304(a)(5) process. Please note that providing the PFMC with this opportunity does not presuppose that regulations will be issued under the NMSA, but the NMSA does require this step in order to complete a DEIS, should we move forward under the NMSA. The NMSA regulations provide Councils with 120 days from the date of section 304(a)(5) notification to make recommendations and, if appropriate, prepare draft NMSA fishing regulations and submit them to NOAA. However, given the pending analysis NOAA is conducting and that the outcome of the analysis may have a bearing on the PFMC's response, we are extending the 120-day review period to allow the PFMC to have three full meetings (June, September and November) to deliberate and prepare a response. We expect to inform the PFMC no later than July 18, 2005 of NOAA's determination whether to proceed under the NMSA or under the MSA based on the results of the internal analysis presently being conducted. Consequently, extending the deadline so the PFMC has 120 days from July 18 would allow the PFMC to respond by November 16, 2005.

Pending the outcome of the MSA and NMSA analysis, the PFMC may determine that its formal response is the same as provided in response to the NMSA section 303 letter, i.e., that it recommends implementing MPAs in federal waters of the CINMS under the MSA. If this is the case, then the PFMC can simply send a written response to this effect which would satisfy the section 304(a)(5) requirement.

About NMSA Section 304(a)(5) Requirements

Specifically, the PFMC is being given the opportunity to prepare draft NMSA regulations under section 304(a)(5) of the NMSA (enclosed) to achieve the goals and objectives for a spatial network of marine reserves and marine conservation areas within the CINMS. In

the supporting document described below we have identified two individual spatial alternatives that at this time appear to achieve the stated goals and objectives, and request the Council focus on these as a starting point in considering the preparation of draft NMSA regulations. These and other alternatives will be fully analyzed in a draft environmental impact statement. The supporting document provides the CINMS goals and objectives (also described below), as well as background information, draft alternatives, summary ecological and economic information and model regulatory language to assist the PPMC. The background information also addresses comments received from the PPMC on the NMSP's *Staff Preliminary Working Draft Document for Consideration of a Network of Marine Reserves and Marine Conservation Areas within the Channel Islands National Marine Sanctuary* provided to the Council May, 2004.

Goals and Objectives

The NMSP is considering the establishment of a network of reserves and marine conservation areas within CINMS to complement the ecosystem based protection to Sanctuary resources afforded by the State of California's marine protected areas within CINMS and to further the purposes and policies of the NMSA. The goals for this proposed action are:

- To provide long-term protection of CINMS resources including natural habitats, populations of interest and ecological processes;
- To restore and enhance natural habitats and the abundance, density, population age structure and diversity of natural biological communities in the CINMS;
- To provide, for research and education, undisturbed reference areas that include the full spectrum of CINMS habitats where local populations exhibit a more natural abundance, density, diversity, and age structure;
- To set aside, for intrinsic and heritage value, representative habitats and natural biological communities; and
- To create models of and incentives for ways to conserve and manage the resources of the CINMS.

These goals are consonant with goals and objectives for marine reserves identified by the Marine Reserves Working Group and goals identified by the State of California for the Marine Life Protection Act and the Marine Managed Areas Improvement Act.

Support Document

To assist the PPMC, this letter is accompanied by a summary document that provides the following information:

- Executive Summary
- Section 1: Background and Context
- Section 2: The Federal Regulatory Phase
- Section 3: Alternatives
- Section 4: Overview of Ecological Attributes

- Section 5: Comparison of Alternatives
- Appendices
- References

We look forward to meeting with the PFMC and, as necessary, its advisory bodies, as well as any other special meetings that the PFMC may wish to convene in order to consider this matter. We look forward to receiving initial feedback from the PFMC following your June and September 2005 meetings, and the formal response after the November 2005 meeting.

We appreciate greatly the time and energy that the PFMC, California Department of Fish and Game, CINMS Advisory Council and the general public continue to invest in the CINMS marine reserves process. Please call Chris Mobley, CINMS Manager, or Sean Hastings, CINMS Marine Reserves Coordinator, at 805-966-7107, if you have any questions.

Don,

I want you to know how much we appreciate the Council's effort on this matter. Our joint work is leading the way to find "common ground" among many divergent communities.

Sincerely,



"Daniel Basta"
Director

National Marine Sanctuary Program

Cc: Donald Hansen, Chair, PFMC
Rod McInnis, Regional Administrator, SWR
Michael Chrisman, Secretary of Resources, State of California
Ryan Broderick, Director, CDFG
William Hogarth, Assistant Administrator, NOAA Fisheries
Richard Spinrad, Assistant Administrator, National Ocean Service

SUPPORTING MATERIALS

Channel Islands National Marine Sanctuary

Section 304(a)(5) Letter

May 25, 2005

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SECTION I: BACKGROUND AND CONTEXT

Section I provides background information on the National Marine Sanctuary Program (NMSP), the Channel Islands National Marine Sanctuary (CINMS), and the CINMS Marine Reserves Working Group process.

The National Marine Sanctuary Program

The National Marine Sanctuaries Act (NMSA) authorizes the Secretary of Commerce to designate and manage areas of the marine environment with special national significance due to their conservation, recreational, ecological, historical, scientific, cultural, archeological, educational, or esthetic qualities as National Marine Sanctuaries. The primary objective of this law is to protect marine resources, such as kelp forests, coral reefs, sunken historical vessels or unique habitats. The NMSA also directs the Secretary to facilitate all public and private uses of those resources that are compatible with the primary objective of resource protection. Sanctuaries are managed according to site-specific management plans prepared by the National Oceanic and Atmospheric Administration's (NOAA's) National Marine Sanctuary Program (NMSP), within NOAA's Ocean Service.

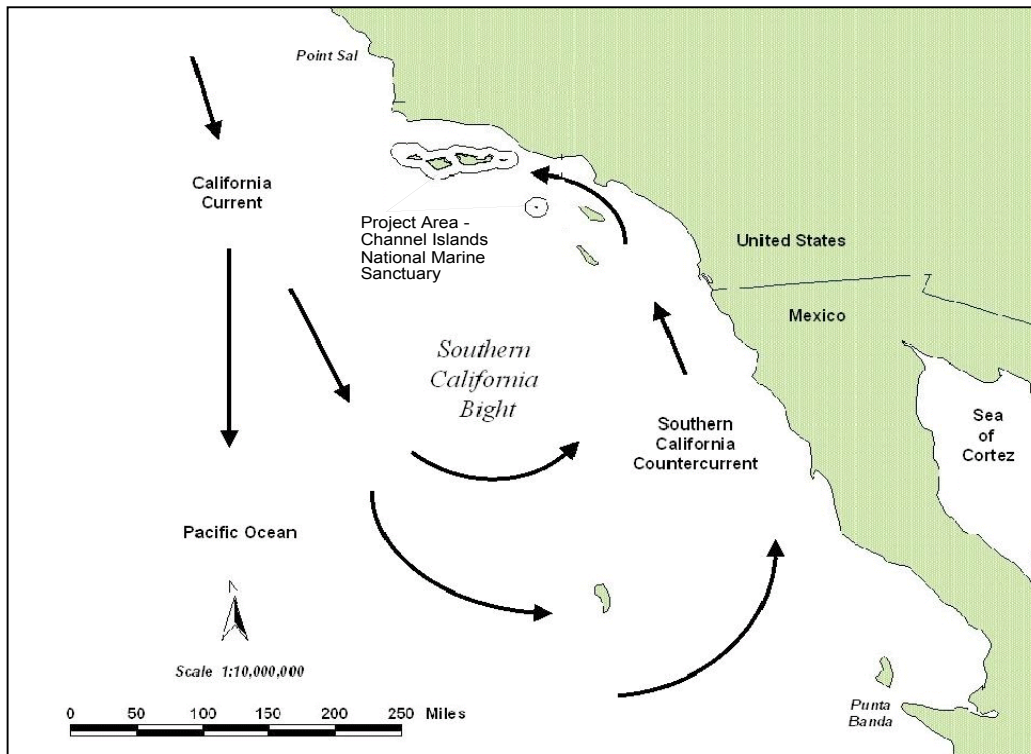
The mission of the NMSP is to serve as the trustee for the nation's system of marine protected areas, to conserve, protect, and enhance their biodiversity, ecological integrity and cultural legacy. Its goals are appropriate to the unique diversity contained within individual sites. They may include restoring and rebuilding marine habitats or ecosystems to their natural condition or monitoring and maintain already healthy areas.

The Channel Islands National Marine Sanctuary

The CINMS was established in 1980 to protect rich and diverse marine life and habitats, unique and productive oceanographic processes and ecosystems, and culturally significant resources. The Sanctuary encompasses approximately 1,252.5 square nautical miles (nm) around the following islands and offshore rocks: San Miguel Island, Santa Cruz Island, Santa Rosa Island, Anacapa Island, Santa Barbara Island, Richardson Rock, and Castle Rock (extending seaward from the mean-high water mark to a distance of 6 nm). The waters surrounding the northern Channel Islands represent a globally unique and diverse assemblage of habitats and species.

The CINMS is part of the larger ecosystem of the Southern California Bight, a marine area that includes the coastal marine ecosystems existing between Point Conception in the north and Punta Banda, Baja California, Mexico in the south (Daily et al. 1993; McGinnis 2000). The confluence of the California Current and Southern California Countercurrent creates three distinct but often inter-related biogeographic regions associated with the CINMS: 1) the cold Oregonian Province; 2) the warm California Province and 3) the transition zone between the two (Harms and Winant 1998).

Figure 1: Southern California Bight and the Project Area



San Miguel Island lies in the cold waters of the Oregonian Province while Anacapa and Santa Barbara Islands are in the warmer Californian Province. The eastern sides of Santa Rosa and Santa Cruz islands are in the transition zone between the two provinces. Point Conception is recognized as the transition zone between the Oregonian and Californian Provinces (Horn and Allen 1978).

The mixing of warmer and colder oceanographic provinces results in a high diversity of marine life as cold water species at the southern end of their range co-exist with warm water species at the northern end of their range (CDFG 2002). The CINMS supports a diversity of marine life that includes over 33 species of marine mammals, over 60 species of seabirds, hundreds of fish species, thousands of invertebrate species, and dozens of marine algae and plant species in a remarkably productive system of ecological relationships.

The CINMS is also host to human uses such as:

- marine wildlife viewing
- commercial and recreational fishing;
- boating, diving and other various recreational activities;
- research, monitoring and education activities; and
- maritime shipping.

The Channel Islands Marine Reserves Process, 1999-to Present

The marine reserves process within the Channel Islands began in 1999. Three distinct phases have characterized this process: 1) the Community Phase; 2) the State regulatory phase; and 3) the Federal regulatory phase.

The Community Phase

In 1998, the Fish and Game Commission (FGC) received a recommendation from a local recreational fishing group to create marine reserves, or “no-take” zones, around the northern Channel Islands as a response to declining fish populations. The original recommendation suggested closing 20 percent of the shoreline outward to 1 nautical mile to all fishing.

In April 1999, CINMS and the California Department of Fish and Game (CDFG) developed a joint Federal and State partnership to consider establishing marine reserves within the project area (mean high tide to the CINMS six nm offshore boundary). The CINMS Advisory Council (SAC), a Federal advisory board comprised of local community representatives and Federal, State and local government agency representatives, created a multi-stakeholder Marine Reserves Working Group (MRWG) to seek agreement on a recommendation to the SAC regarding the establishment of marine reserves within the CINMS. 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.

The MRWG identified the problems to be addressed in a consensus statement:

The urbanization of southern California has significantly increased the number of people visiting the coastal zone and using its resources. This has increased human demands on the ocean, including commercial and recreational fishing, as well as wildlife viewing and other activities. A burgeoning coastal population has also greatly increased the use of our coastal waters as receiving areas for human, industrial, and agricultural wastes. In addition, new technologies have increased the efficiency, effectiveness, and yield of sport and commercial fisheries.

Concurrently, there have been wide scale natural phenomena such as El Niño weather patterns, oceanographic regime shifts, and dramatic fluctuations in pinniped populations.

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

To protect, maintain, restore, and enhance living marine resources, it is necessary to develop new management strategies that encompass an ecosystem perspective and promote collaboration between competing interests. One

strategy is to develop reserves where all harvest is prohibited. Reserves provide a precautionary measure against the possible impacts of an expanding human population and management uncertainties, offer education and research opportunities, and provide reference areas to measure non-harvesting impacts.

The MRWG “problem statement” was supported by the best available scientific information (McGowan et al. 1998). Following the development of this problem statement, the MRWG then crafted the following goals for marine reserves:

- To protect representative and unique marine habitats, ecological processes, and populations of interest;
- To maintain long-term socioeconomic viability while minimizing short-term socioeconomic losses to all users and dependent parties;
- To achieve sustainable fisheries by integrating marine reserves into fisheries management;
- To maintain areas for visitor, spiritual, and recreational opportunities which include cultural and ecological features and their associated values; and
- To foster stewardship of the marine environment by providing educational opportunities to increase awareness and encourage responsible use of resources.

From March to May 2001, the MRWG process involved a detailed mapping of over 40 possible marine reserves networks. 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 socio-economic 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).

The State Regulatory Phase

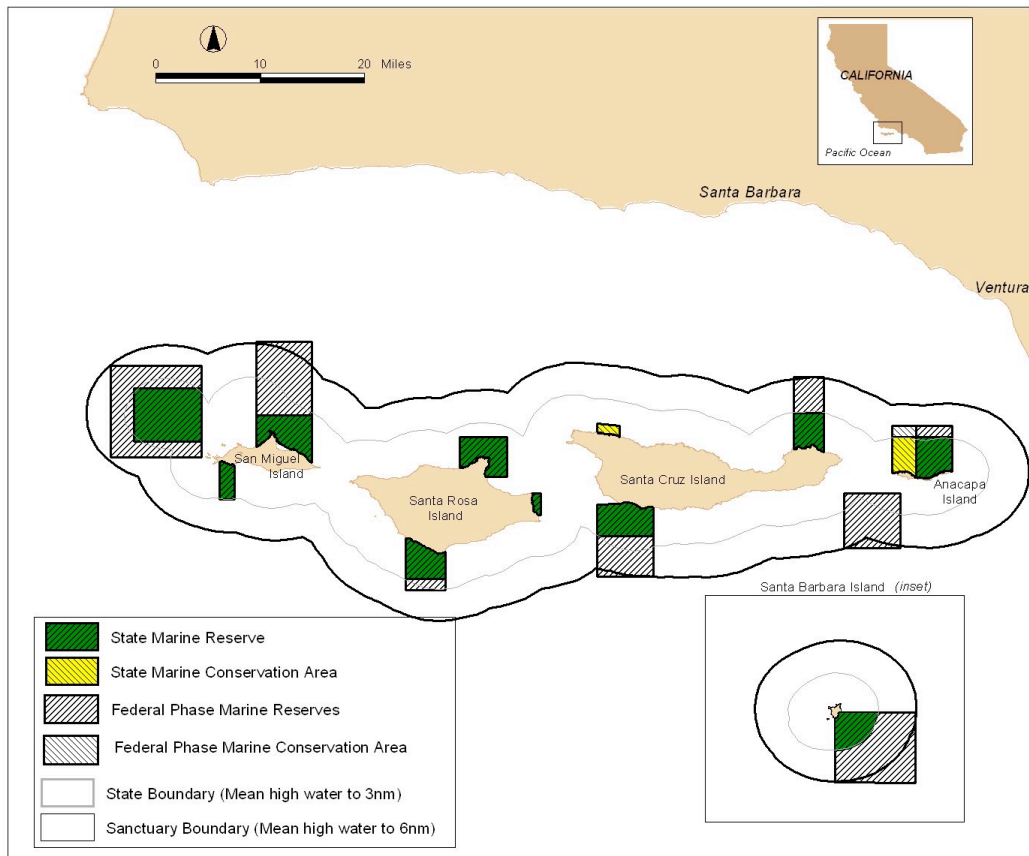
CINMS and CDFG staff continued to work with stakeholders in crafting a recommendation for the FGC and NOAA. In August 2001, CINMS and CDFG forwarded the results of the community phase and recommended to the FGC a Federal and State network of reserves and conservation areas that included approximately 25% of the CINMS. This recommendation became the preferred alternative in the State’s California Environmental Quality Act (CEQA) environmental document (CDFG 2002).

The State’s CEQA documents included an analysis of five alternative reserves networks and a no-project alternative. The Sanctuary and CDFG recommended option was identified as the preferred alternative (CDFG 2002). The network alternatives analyzed in the CEQA document were split into an initial State waters phase and subsequent Federal phase (CDFG 2002). The State’s rulemaking process and CEQA document assessed the potential cumulative effects of network alternatives in both State and Federal waters of the CINMS.

In October 2002, the FGC approved the preferred alternative in the CEQA document of 10 marine reserves and 2 conservation areas within State waters of the Sanctuary, which encompass

approximately 102 square nautical miles of the CINMS. NOAA and the National Park Service supported the State's decision. The State water portion of the Channel Islands marine reserves network went into effect in April 2003 leaving the NMSP to implement its subsequent action.

Figure 2: Existing State Network Of Marine Protected Areas Within The CINMS



For enforcement purposes, all but one of the State marine reserves and marine conservation areas were “squared off,” meaning that the seaward boundary was drawn on a straight line of latitude and longitude, well inside the State’s 3 nm jurisdiction. The Harris Point Marine Reserve off San Miguel Island and the Gull Island Marine Reserve off Santa Cruz Island illustrate this point.

California Statutes

The establishment of marine reserves in State waters was guided by State statutes including the Marine Life Protection Act (Chap. 1015, Stats. 1999) (MLPA) and the Marine Life Management Act (Chap. 1052, Stats. 1998) (MLMA). As indicated by the MLPA goals below, these laws are consonant with the goals and objectives identified for the proposed action in this 304(a)(5) letter:

- To protect the natural diversity and abundance of marine life, and the structure, function, and integrity of marine ecosystems;

- To help sustain, conserve, and protect marine life populations, including those of economic value, and rebuild those that are depleted;
- To improve recreational, educational, and study opportunities provided by marine ecosystems that are subject to minimal human disturbance, and to manage these uses in a manner consistent with protecting biodiversity;
- To protect marine natural heritage, including protection of representative and unique marine life habitats in California waters for their intrinsic value;
- To ensure that California's MPAs have clearly defined objectives, effective management measures, and adequate enforcement, and are based on sound scientific guidelines; and
- To ensure that the State's MPAs are designed and managed, to the extent possible, as a network.

In addition, the California Coastal Act (Public Resources Code §30230) requires the protection of marine and biological resources. Specifically, Section 30230 provides that:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

SECTION II: THE FEDERAL REGULATORY PHASE

To complement the State water network of reserves and protected areas, in 2003 the NMSP initiated the Federal process to consider the establishment of marine reserves and marine conservation areas in the CINMS. The Federal phase has built upon the nearly six years of work to date, including the information and analyses from the State's CEQA documents. To date the NMSP has hosted public scoping meetings, released a preliminary environmental document with a range of alternatives for public review (2004) and has consulted with local, State and Federal agencies and the Pacific Fishery Management Council (PFMC) on possible amendments to the CINMS designation document (2005). This section 304(a)(5) letter and the supporting document is the next step in the Federal phase.

Goals and Objectives For The Federal Phase

The NMSP is considering the establishment of a network of marine reserves and marine conservation areas within CINMS to complement the ecosystem based protection to Sanctuary resources afforded by the State of California's marine protected areas within CINMS and to further the purposes and policies of the NMSA. The specific goals for this proposed action are:

- To provide long-term protection of CINMS resources including natural habitats, populations of interest and ecological processes;
- To restore and enhance natural habitats and the abundance, density, population age structure and diversity of natural biological communities in the CINMS;
- To provide, for research and education, undisturbed reference areas that include the full spectrum of CINMS habitats where local populations exhibit a more natural abundance, density, diversity, and age structure;
- To set aside, for intrinsic and heritage value, representative habitats and natural biological communities; and
- To create models of and incentives for ways to conserve and manage the resources of the CINMS.

As indicated in Section II, these goals are consonant with goals and objectives for marine reserves identified by the Marine Reserves Working Group. They are also consonant with the goals identified by the State of California for the Marine Life Protection Act and the Marine Managed Areas Improvement Act.

Management Challenges Relative To the Goals and Objectives

Changes In Natural Variability

The marine life of the Southern California Bight is some of the most studied in the world (Dailey et al. 1993) and scientific information shows that the CINMS is a stressed marine ecosystem.

The evidence suggests that prior to and since the designation of the CINMS in 1980 the maintenance of community structure and patterns of species diversity have changed in accordance with hydrographic perturbations, climate-ocean variability and marine resource use (Hayward et al. 1996; McGowan et al. 1998; Jackson et al. 2001).

Roemmich and McGowan (1995a,b) document large-scale changes in primary and secondary productivity throughout the Southern California Bight between 1951 and 1993. This long-term decline in ecological productivity pre-dates the 1977 warm-water and low-nutrient regime change (McGowan et al. 1998).

Regime shifts reflect significant changes in water temperature and in the currents of marine ecosystems (Steele 1998). For thousands of years the species of the northern Channel Islands largely adapted to changes in sea temperature; major sea temperature changes did not lead to major species extinction events.

Variation in sea temperature regime is part of the ecology of the CINMS. Changes in sea temperature influence the ecology of the project area, such as the abundance and distribution of species (Roy et al. 1996; McGowan et al. 1998). Changes in ocean currents as well as the resultant changes in rain and weather patterns have a number of biological impacts, including:

- Population shifts in commercially harvested species, such as squid, rockfish and lobster;
- Transport of enormous volumes of sediments and suspended materials from the mainland to coastal and offshore waters; and
- Disturbance to critical marine habitats, notably storm and water temperature damage to kelp forests.

Ecosystem resiliency refers to the capacity of an ecosystem to withstand stress and environmental fluctuation, both natural and anthropogenic (human-caused). The system will possess ecological integrity if it retains the ability to continue its ongoing change and productive development (Noss et al. 1995).

Pressure on Fishes and Invertebrates

Changes in the function and structure of marine ecosystems from human activities, such as fishing and water pollution, are increasingly recognized by scientists (Jackson et al. 2001; Pikitch et al. 2004). CDFG data show decreases in landings for several categories of commercial and recreational fisheries (CDFG 2002). Dugan and Davis (1993) document the general decline in long-term productivity in 19 species of nearshore fishes and invertebrates (such as abalones and urchin) in California from 1947 to 1986. A study by Love et al. (1998) of long-term trends in the commercial fishing vessel rockfish fishery shows a substantial decline from 1980 to 1996, with extremely low catches from 1993 to 1996.

Table 1: Status of Certain Stocks In The Project Area (Leet et al. (2001), California's Living Marine Resources: A Status Report, and PPMC 2005 Groundfish Stock Assessments)

Species	Status
Cowcod	Overfished
Lingcod	Overfished
Bocaccio	Overfished
Squid	Unknown
Pacific sardine	Recovering
Northern anchovy	No stock assessment
Pacific mackerel	Decline
Jack mackerel	No stock assessment
Albacore	Sustainable
Swordfish	Uncertain
Pacific norther bluefin tuna	Decline
Skipjack tuna	Sustainable
Yellowfin tuna	Potential decline
Striped marlin	Sustainable
Shortfin mako shark	Unknown
Thresher shark	No stock assessment
Blue Shark	Unknown

Additional detail on the status of marine resources in the Channel Islands and the extent of human activities is provided in Leet et al. (2002) and CDFG (2002).

Managing the Issues

Ecosystem-Based Management

Previous management approaches to address the loss of ecological productivity have focused on particular threats, such as pollution, or on individual species targeted by commercial and/or recreational fisheries. The NMSA (16 U.S.C. §1431(a)(3)) states that

“...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.”

The NMSA prioritizes the protection of marine life and “maintain[enance] for future generations of the habitat, and ecological services, of the natural assemblage of living resources that inhabit these areas” (16 U.S.C. §1431(a)(4)(A), (C)). The NMSA charges NOAA to take a broad and comprehensive, ecosystem-based approach to management and marine life protection.

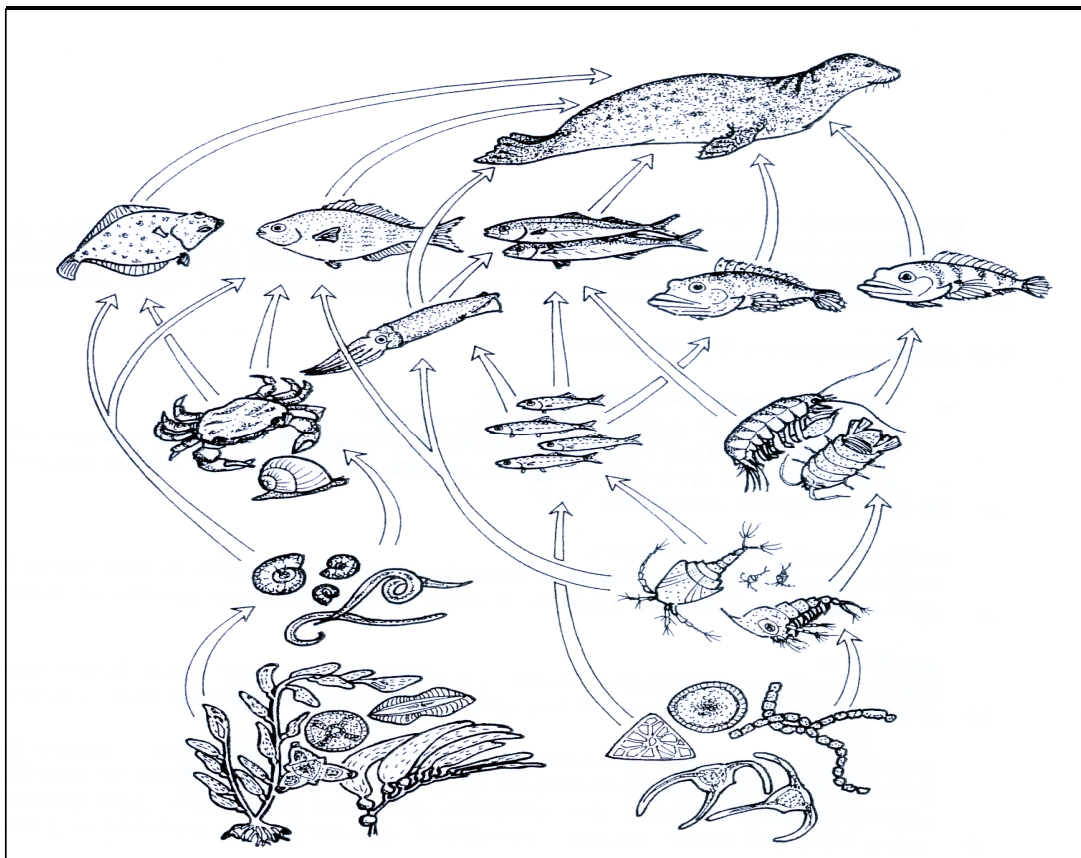
Ecosystem-based management recognizes that ecosystems and those natural and human factors that influence them are interdependent. It recognizes that marine systems are not static and acknowledges the uncertainties about biotic, abiotic, and human components of ecosystems and their interactions.

Long-term trends in seawater temperature, the abundance and distribution of indicator species, such as birds or mammals, or important habitats, such as kelp and eelgrass beds, can provide information on the general health and integrity of the marine ecosystem. Marine ecosystems must retain the ability to adjust and adapt to perturbations, and if necessary, regenerate in the event of regime shifts and ecological disturbance, such as warming of sea temperature during climate-related events or fishing activities.

As recognized by the MRWG, human behavior and activity on land and at sea can dramatically impact coastal marine ecosystems and associated species diversity. Like all national marine sanctuaries, CINMS is mandated to both “protect...the natural habitats, populations and ecological processes” (16 USC 1431(b)(3)) of the CINMS and “facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of [the CINMS] not prohibited pursuant to other authorities” (16 USC 1431(b)(6)).

Ecosystem-based management focuses on the protection of the elements of the food web – those that are consumed and those species and habitats that are not consumed. Taken together, these species are essential to the reproduction, growth, and survival of marine life. Figure 3 depicts a simplified food web common to the CINMS region showing linkages between a top predator and other marine life .

Figure 3: Food Web Typical Of The CINMS Region (US Navy 2001)



The development and implementation of an ecosystem-based approach to management requires a long-term commitment to a multi-species perspective, understanding ecosystem processes (such as major disturbance events), and monitoring the effects that consumptive activities have, not only on target species but to all components of the ecosystem. Ecosystem-based management provides safeguards against scientific uncertainties of marine resource use.

Marine Zoning

There are a variety of tools available to marine resource managers to achieve the goals of ecosystem-based management and address the management issues identified above. Since the 1980s, the NMSP has been using various forms of marine zoning to provide additional protection to sanctuary resources, ecology and/or biodiversity and to manage human uses where it is most needed to supplement existing regulations. Based on the historical circumstances identified in Section I, the goals and objectives identified in Section II, and the ecosystem-based context for managing the CINMS, marine zoning has emerged as a primary tool for achieving the specific goals and objectives identified for the proposed action in this Federal Regulatory phase.

Marine reserves (marine zones that prohibit or limit human consumptive activities) are one of a variety of resource management zones used to manage and protect marine resources. The nature of marine reserves helps ensure that at least a portion of populations in the project area will be sustained over time. They provide enhanced ecosystem protection, including habitats, populations, and ecosystem linkages by restricting all extractive human activities. They also provide insurance against population collapse and help to preserve biodiversity.

In 2001, an expert panel of the National Academy of Sciences concluded that:

- A growing body of literature documents the effectiveness of marine reserves for conserving habitats, fostering the recovery of overexploited species, and maintaining marine communities.
- Networks of marine reserves, where the goal is to protect all components of the ecosystem through spatially defined closures, should be included as an essential element of ecosystem-based management.
- Marine reserves, together with conventional fisheries management strategies, can have significant ecological benefits. Protection afforded by reserves may allow targeted species to rebound, increasing local recruitment and contributing to spillover of adults and export of larvae into fished areas (Guénette et al. 1998, Jones 2002). Additionally, reserves may protect critical life stages and spawning aggregations of targeted species (Shipp 2003).

Reserves may provide insurance and resilience in an uncertain world with unpredictable environmental fluctuations (NRC 2001). Finally, reserves can serve as reference areas for research to determine the effects of consumptive activities on marine ecosystems (NRC 2001).

The PFMC's Science and Statistical Committee (Marine Reserves White Paper, Sept 2004) recognized that among the reasons to implement marine reserves include 1) to provide insurance

against management uncertainty and error; 2) to provide ecosystem benefits (including habitat protection) 3) to address social issues; and 4) to provide opportunities to advance scientific knowledge (including establishing scientific reference sites). Specifically, marine reserves are uniquely qualified to provide a complete age structure for target species and thereby enhance persistence and they may provide the best opportunity to restore naturally functioning ecosystems and protect or restore habitats.

SECTION III: ALTERNATIVES

Development of Draft Alternatives

The following section provides a review of the basis for and criteria applied by CINMS to design a range of alternatives, including:

- Support of the CINMS' goals for comprehensive ecosystem-based protection, as stated in Section II;
- The Channel Islands Marine Reserves Process, which has included extensive input and advice from the community-based Marine Reserves Working Group, Science Advisory Panel and Socio-economic Team, agency enforcement personnel and the general public from 1999-2001;
- The State of California FGC environmental review process (August 2001-April 2003) and decision to designate the marine reserve and marine conservation areas recommended by CDFG and the Sanctuary and the suite of alternatives analyzed in CDFG (2002). The existing marine reserve and marine conservation areas established by the State are now considered part of the environmental baseline; and
- Public scoping comments submitted to the CINMS during the public scoping period from May – July 2003 and public comments on a preliminary working draft environmental review document.

Ecological criteria for marine reserve design, developed by the Science Advisory Panel and supported by the literature included: biogeographic and habitat representation (including vulnerable habitats); physical processes – such as upwelling; species of interest; reserve size and connectivity and spacing; detailed socioeconomic data on a variety of human uses updated to 2003; the administrative capacity to properly implement, administer, monitor and enforce alternatives.

Over 40 maps were developed as part of the MRWG deliberation. Slightly modified versions of these maps were used in the State's CEQA document (CDFG 2002). Over the two-year MRWG process and State CEQA process NOAA economists analyzed these community-derived marine reserve network alternatives. Six alternatives were analyzed in Leeworthy and Wiley (2002) and Leeworthy and Wiley (2003), including the alternative adopted by the State of California for the existing marine reserves and conservation areas in the CINMS. The existing State marine protected areas serve as a foundation for the alternatives proposed herein. Alternatives 2 and 3 derive from the final CEQA document (CDFG 2002) and have been modified, as necessary, to complement the nearshore existing State MPAs.

For further discussion on the above factors and review of previous MPA options, see the joint recommendations of the CDFG and Sanctuary in the 2002 CDFG CEQA document.

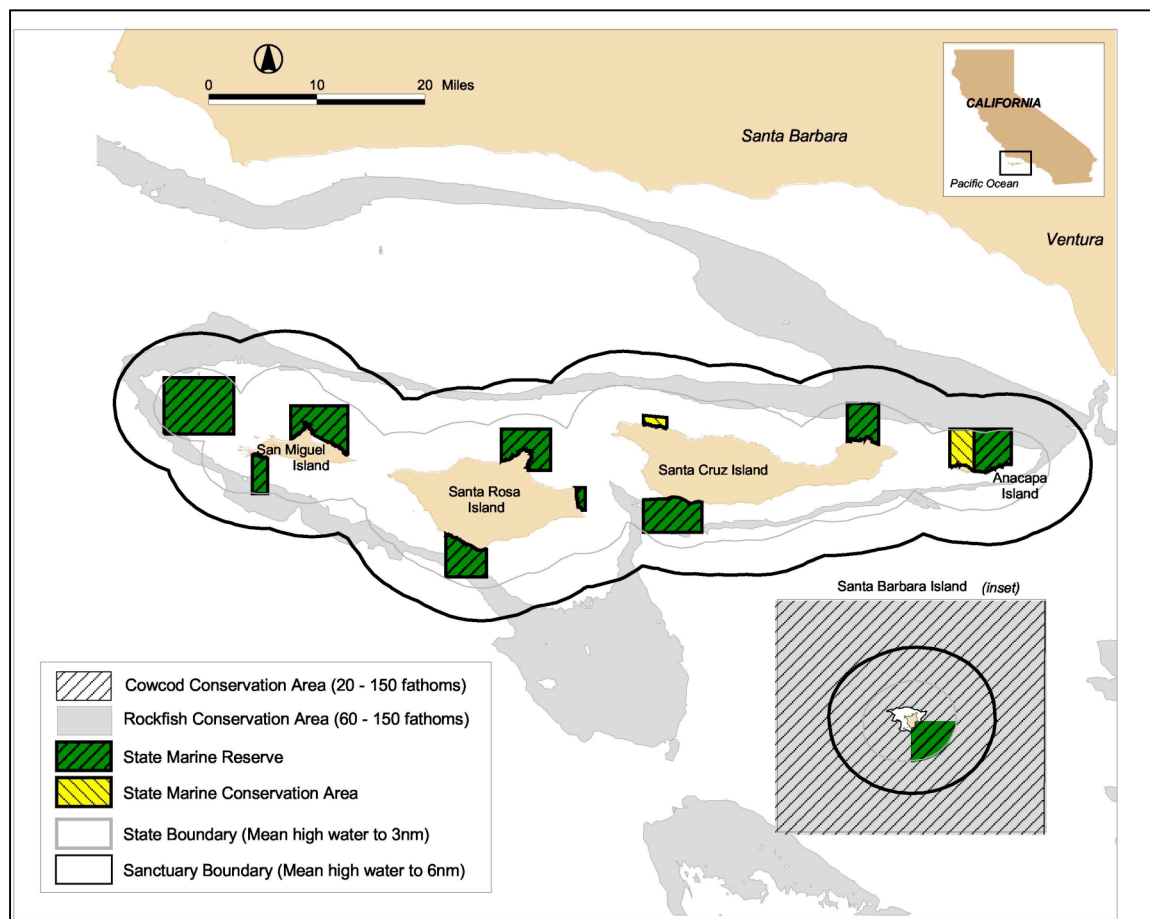
Current Alternatives

At this time, three spatial alternatives, a no-action alternative (status quo) and several regulatory options are currently under consideration. Under development is a description of whether the Magnuson Stevens Act and state statutes and regulations might fulfill the Sanctuary goals and objectives. This approach will be further described in the DEIS. The existing State marine reserves and conservation areas delineate the nearshore boundary for all of the alternatives. For all of the alternatives the existing State marine reserve and marine conservation areas and existing State and Federal management of commercial and recreational activities outside of any new Federal marine protected areas would remain unchanged. Existing sanctuary regulations would continue to apply throughout the CINMS.

No Action (Status Quo) Alternative

The no action (status quo) alternative would not add protected areas to the existing State marine reserve and marine conservation areas and would require no regulatory action. The existing State marine reserve and marine conservation areas and existing State and Federal management of commercial and recreational activities (see Appendix B) would remain unchanged. Existing sanctuary regulations (e.g., no discharge) would continue to apply throughout the CINMS.

Figure 4: No Action (Status Quo) Alternative



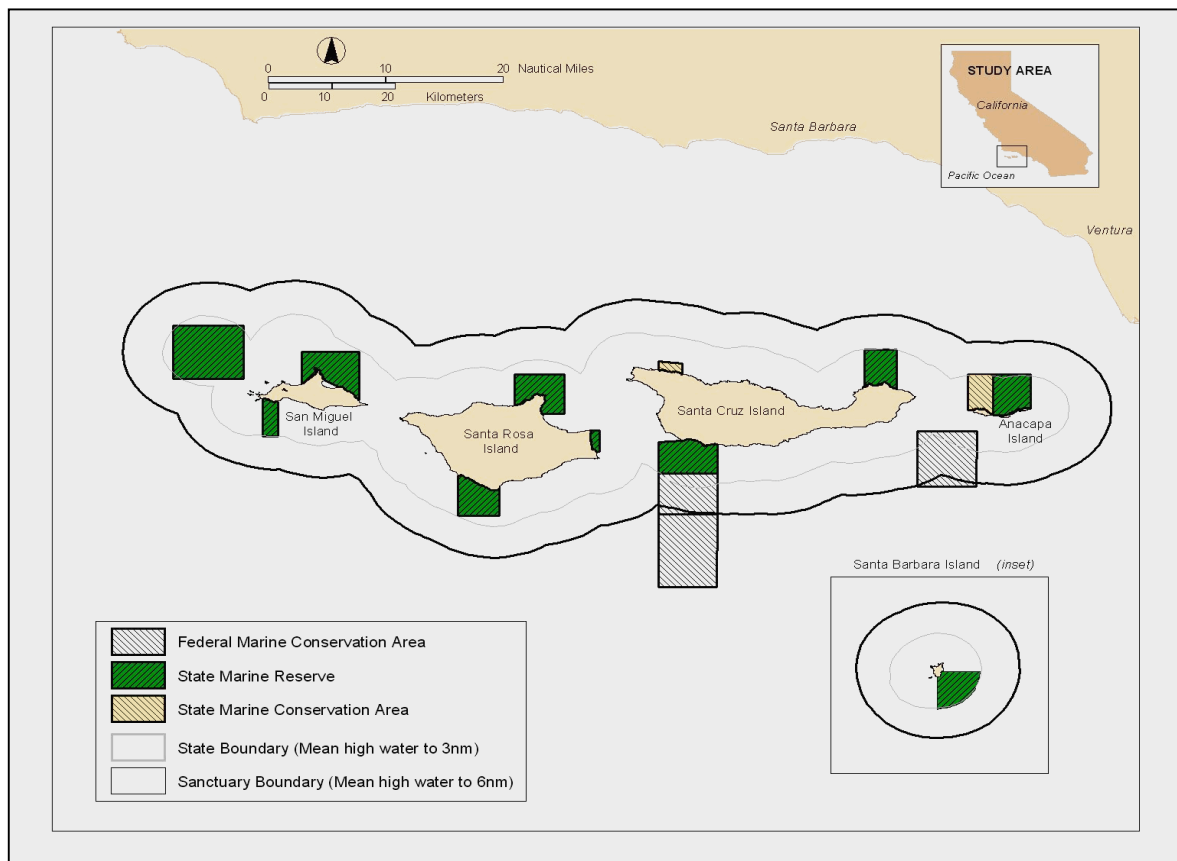
Alternative 1

Alternative 1 was submitted by a subset of the Santa Barbara and Ventura commercial fishing communities. The alternative was designed to offer an opportunity to analyze a management approach consisting of marine conservation areas, harvest controls, and existing no-take reserves. This alternative would be implemented under the MSA authority of the PFMC and NMFS and under the applicable authorities of the State. Additions to the State MPA network include Gull Island (south side of Santa Cruz Island) and the Footprint. Both proposed Federal marine conservation areas would be rockfish conservation areas that would allow all legally sanctioned pelagic fishing, spot prawn trapping, white seabass fishing and squid fishing. Any gear that targets rockfish would not be allowed.

This alternative would add an additional 69.6 nmi² of marine conservation areas to the existing State mpa network for a total of 164.6 nmi² of the CINMS. The proposed Gull Island conservation area extends approximately 30.8 nmi² outside the CINMS boundary. Additionally, the SAC's Commercial and Recreational Fishing Working Group requested the PFMC rename the Cowcod Conservation Area to the "Cowcod Conservation Marine Protected

Area” and the Rockfish Conservation Area to the “Rockfish Conservation Marine Protected Area.” Alternative 1 adds marine conservation areas in deeper water (below 100 m depth) soft and hard sediment habitat. It also includes submarine canyon habitat.

Figure 5: Alternative 1



Alternative 2

Alternative 2 is the original proposed project in the CEQA document (CDFG 2002). developed by the CDFG and CINMS in 2001, based on the extensive work of the MRWG and its advisory panels. Alternative 2 is intermediate in size when compared to Alternatives 1 and 3.

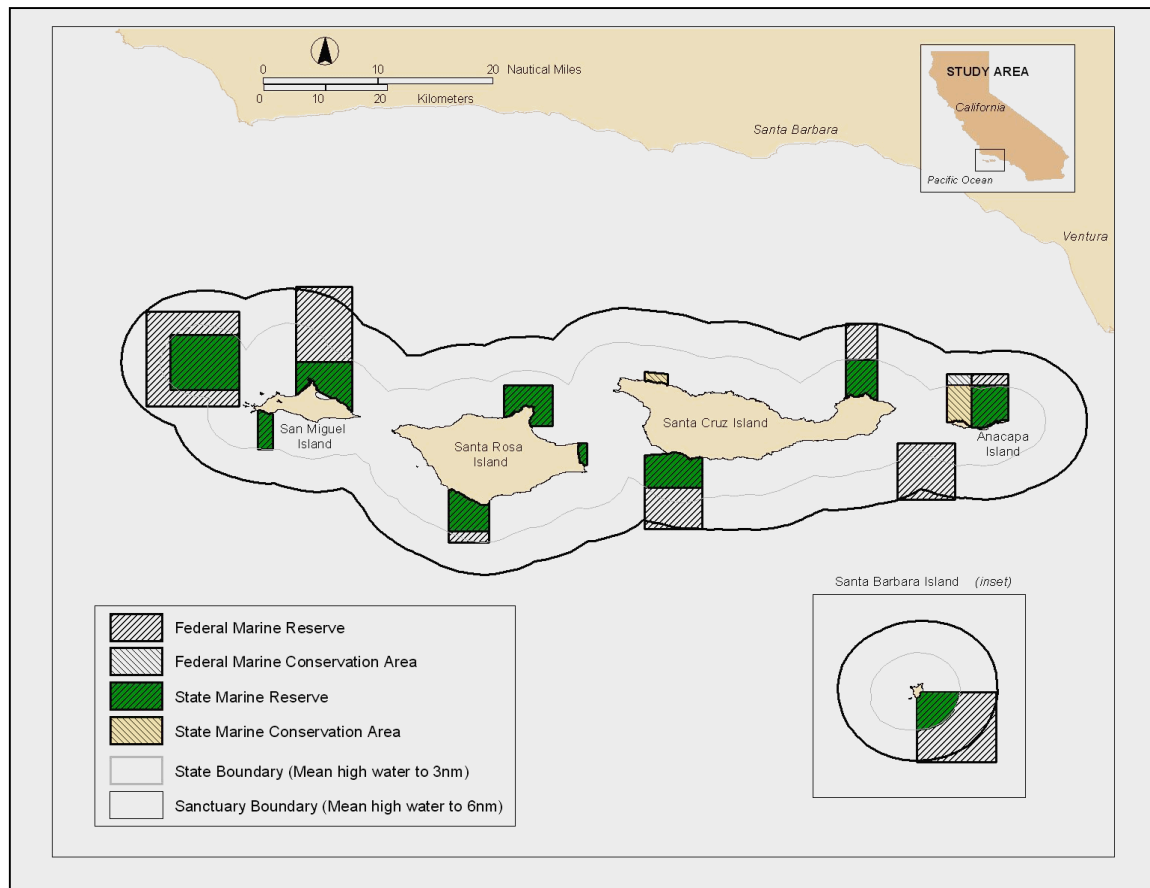
Alternative 2 would extend the State marine reserve and marine conservation areas into deeper waters in the following areas: Richardson Rock and Harris Pt. (San Miguel Island), South Point (Santa Rosa Island), Gull Island and Scorpion (Santa Cruz Island), Anacapa Island and Santa Barbara Island. The Footprint area south of Santa Cruz and Anacapa Islands would be added as a new marine reserve zone.

This alternative, including both the existing State network and proposed extensions, would include approximately 232.5 nmi² of marine reserves and 8.6 nmi² of marine conservation areas for a total of 241.1 nmi² of the CINMS. The northern boundary of the proposed Harris Pt. Marine Reserve off San Miguel Island and the southeast boundary of the proposed Santa Barbara

Island Marine Reserve would extend beyond the existing CINMS boundary. The additional area outside the current CINMS boundary is approximately 16.0 nmi². This alternative strives to satisfy the biological and ecological criteria, while also striving to minimize potential economic impacts to various commercial and recreational fisheries.

In order for this alternative to be implemented the CINMS designation document would be amended to allow for the regulation in marine reserves and marine conservation areas and a change to the outside boundary of CINMS in the Harris Point, Gull Island, Footprint and Santa Barbara Island marine reserves to recognize straight lines of latitude or longitude.

Figure 6: Alternative 2



Alternative 2 affords protection to a wide variety of habitats in all three biogeographic provinces, on each side of the islands and complements the State MPA network. It extends protection to deeper water (below 100 m depth) hard and soft sediment. The alternative also doubles the area of submarine canyon habitat relative to the amount present in the State MPA network.

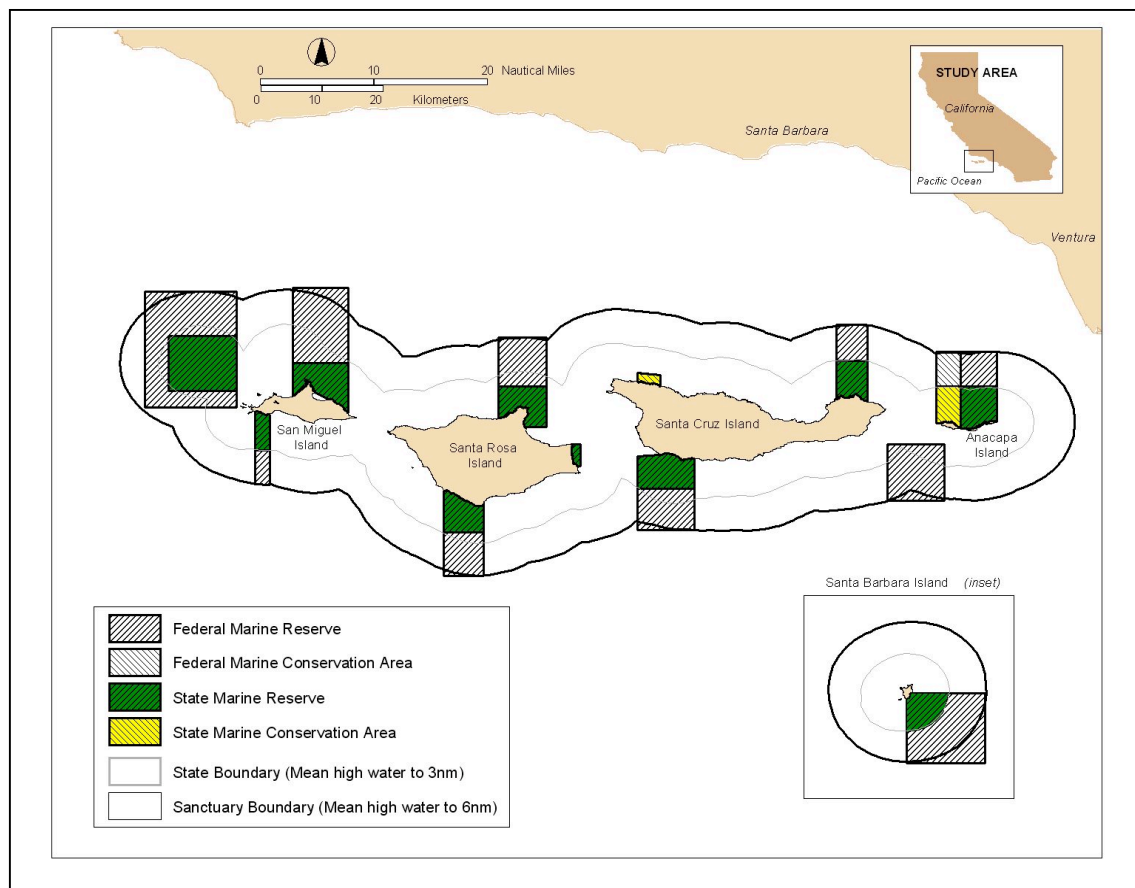
Alternative 3

Alternative 3 is based on a network of marine reserves developed during the MRWG process (Alternative 5 in the CDFG 2002). This alternative was modified to conform to the boundaries of the State MPAs. Alternative 3 is the largest of the three alternatives proposed thereby increasing protection of various habitats and species of interest, as compared to Alternatives 1 and 2.

Alternative 3 extends all of the State marine reserve and marine conservation areas zones into deeper waters, except for the Painted Cave Marine Conservation Area, Santa Cruz Island and Skunk Point Marine Reserve, Santa Rosa Island, and adds the Footprint area south of Santa Cruz

and Anacapa Islands. This alternative, including both the existing State network and proposed extensions, would encompass approximately 275.8 nmi² of marine reserves and 12.1 nmi² of marine conservation area for a total of 287.8 nmi² of the CINMS. The northern boundary of the proposed Harris Pt. Marine Reserve off San Miguel Island and the southeast boundary of the potential Santa Barbara Island Marine Reserve extend slightly beyond the existing CINMS boundary. The additional area outside the CINMS boundary is approximately 19.8 nmi². In order for this alternative to be fully implemented, the CINMS designation document would have to be amended to allow for regulating marine reserves and marine conservation areas and to change the CINMS boundary to include the additional area beyond the current boundary.

Figure 7: Alternative 3

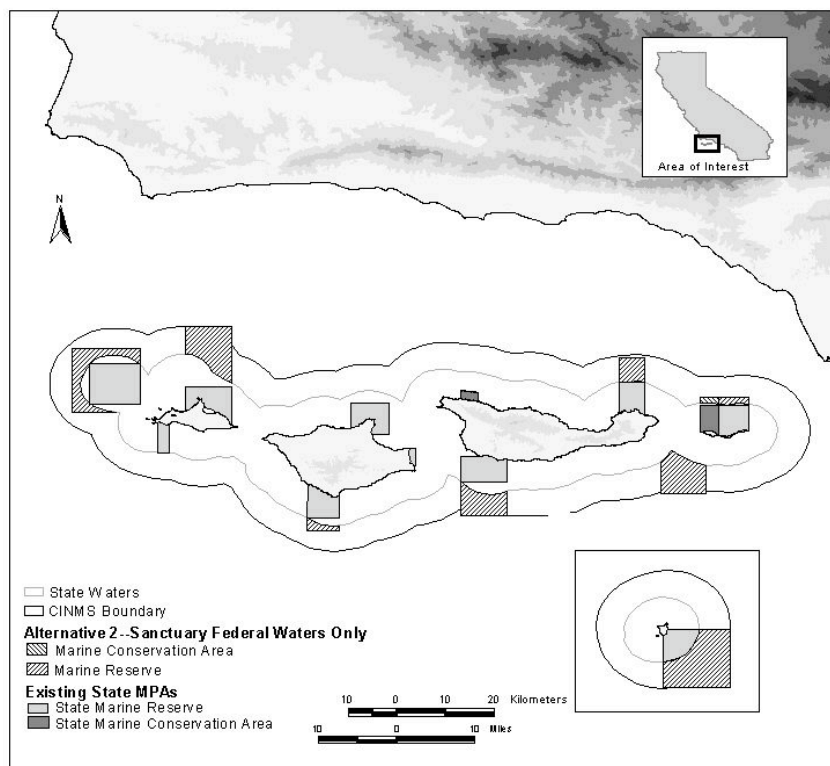


Alternative 3 provides protection to a wide variety of habitats in all three biogeographic provinces on each side of the Islands and complements the State MPA network. As with Alternative 2, it extends marine reserve protection to deeper water (below 100 m depth) hard and soft sediment. The alternative also doubles the area of submarine canyon habitat relative to the amount present in the State MPA network.

Regulatory Considerations for State and Federal Waters

Figure 8 illustrates a necessary regulatory consideration if the State MPA network is extended into deeper waters. Though the FGC choose an alternative that included an MPA network in both State and Federal waters of the Sanctuary, only the State water component was implemented and in some areas the seaward boundary was squared off well inside the State's 3 nm boundary for enforcement purposes and recognition by mariners. The FGC anticipated the deeper water MPA areas would be adopted in this Federal phase.

Figure 8: Gaps Between State And Federal Water Reserves



Three potential regulatory scenarios may be used to implement the spatial alternatives and address the gaps. 'Corresponding regulations' would overlap State regulations with sanctuary regulations to mean high water, producing no gaps in protection. 'Contiguous regulations' would abut Sanctuary regulations to State the seaward boundary of the State MPA network regulations and would also not produce gaps in protection. 'Sanctuary Federal waters only regulations' would only implement Sanctuary regulations in Federal waters, or outside of the 3 nmi State boundary line. The latter scenario would produce a gap where State MPAs that are proposed to be extended into Federal waters do not meet the 3 nautical mile State Boundary line. This gap could potentially be closed by subsequent State action.

Regulation Under The MSA And State Authorities

NMFS, the PFMC and the CDFG have recommended an analysis of utilizing their existing authorities under the MSA and State statutes and regulations to achieve the Sanctuary purposes stated above rather than using CINMS regulations under the NMSA.

Presumably, this approach would require the amendment of all existing Federal and State fishery management plans and measures in the proposed marine reserve and marine conservation areas. Under this scenario, Federal regulations under existing FMPs would be promulgated. Similarly, State regulations would be implemented to control other fishing activities deemed necessary by the State and CINMS managers.

These regulations would have to be shown to not only further State and Federal fishery objectives, but also the goals and objectives for the CINMS proposal. NMFS has stated that in this context, the State has management authority for fishing activities by its residents in the Exclusive Economic Zone (EEZ) in the absence of Federal fishery regulations for those activities. For example, the State may restrict fishing for white seabass or bonito by California registered vessels or licensed fishermen in the EEZ seaward of State waters around the CINMS; there would be no conflict with Federal regulations since the PFMC has not developed and NMFS has not implemented regulations dealing with these species to date. Full analysis of this approach requires a determination of whether those activities can be prevented or mitigated through Federal or State fishery management measures; and to compare the possibility, advantages and disadvantages of using the PFMC, State of California, or CINMS regulations to achieve the proposed action. A full discussion of these issues will be provided in the DEIS.

Appendix B lists the existing fisheries and gear, the managing agency and measures and location of activity within CINMS. Presumably, amendments to each fishery listed in the table would be necessary. Specifically, the take of each species would be prohibited within the proposed marine protected areas in Alternative 1, 2 or 3. Another option that may address at least some of the CINMS goals and objectives would be protection of CINMS habitat areas under essential fish habitat requirements in the MSA. This approach will also be discussed further in the DEIS.

SECTION IV: OVERVIEW OF ECOLOGICAL ATTRIBUTES

Ecological Setting of the CINMS

The waters around the five islands within the CINMS combine warm and cool currents to create an exceptional breeding ground for many species of plants and animals. Forests of giant kelp are home to numerous populations of fish and invertebrates. Every year over 27 species of whales and dolphins visit or inhabit the sanctuary including the rare blue, humpback and sei whales. On the islands, seabird colonies and pinniped rookeries flourish while overhead brown pelicans and Western gulls search the water for food. This section describes some of the species of marine plants and animals that inhabit the Sanctuary.

Plankton

Plankton, single celled marine plants (phytoplankton) and animals (zooplankton), form the base of the food web. Many species of plankton inhabit the Sanctuary and marine life is highly dependent on their growth and productivity. Their numbers, biomass, and production vary greatly both spatially and temporally.

Marine Plants

Marine plants of the Sanctuary are made up of algae and seagrasses. Diversity of marine plants is greater in the Southern California Bight (SCB) and the Channel Islands than along coastal central California. In the SCB, there are at least 492 species of algae and 4 species of seagrasses known to occur of the 673 species described for California (Murray and Bray 1993).

Invertebrates

Benthic invertebrates include species from nearly all phyla of invertebrates that live in (infauna) or on (epifauna) the sea floor during most of their lives, though most also have pelagic larvae. Benthic invertebrates may also be characterized as “sessile” (attached or sedentary) or “motile” (free-moving). They range in size from little known microscopic forms (micro-invertebrates) to the more common larger organisms (macro-invertebrates). Pelagic invertebrates (e.g., jellyfish and squid) also exist in the Sanctuary water column.

The Channel Islands support a wide variety of invertebrates due to their transitional location between cold and warm biogeographic provinces and diversity of substrates. The substrates include sheltered and exposed coasts at depths from the intertidal to deep slopes, canyons and basins (Thompson et al. 1993). The total number of species may well be in excess of 5,000, not including microinvertebrates (Smith and Carlton 1975; Straughan and Klink 1980).

Select invertebrates in the Sanctuary include multiple species of corals, prawns, spiny lobster, crabs, sea urchins, sea cucumbers, sea star, abalone, nudibranchs, scallops, mussels, squid, clams, barnacles, snails, salps, tunicates, jellyfish, sea slugs, and anemones. White abalone is protected by the Endangered Species Act (ESA).

Fish

About 481 species of fish inhabit the Southern California Bight (Cross and Allen 1993). The islands and nearshore areas provide a diversity of habitats for fish including soft bottom, rock reefs, extensive kelp beds, and estuaries, bays, and lagoons.

The fish species found around the Channel Islands generally are representative of fish assemblages that occur along the southern California coast, with the addition of some central California species (Hubbs 1974). Regional upwelling carries nutrient-rich waters from canyons and island shelf areas to surface waters. This results in increased primary productivity and large zooplankton populations, which support populations of small schooling species, such as the northern anchovy, Pacific saury, sardine and mackerel. Larger pelagic (open water) fish prey upon these small schooling species, and together they form a significant contribution to the diet of marine mammals and birds. Island-associated pelagic fish are commonly consumed by pinnipeds and tooth whales.

Fishes commonly found in the Sanctuary include: albacore, anchovy (northern), barracuda (Pacific), bass (various species), bat ray, blacksmith, bocaccio, bonito (Pacific), brown smoothhound, butterfly (Pacific), California scorpionfish, cabezon, California sheephead, California moray, California flyingfish, California halibut, croaker, (various species), eel, monkeyface, garibaldi, goby (various species), greenling (various species), grunion, gunnel, hake, Pacific half moon, horn shark, jacksmelt, kelpfish (various species), mackerel (various species), northern ronquil, ocean sunfish, opah, opaleye, orangethroat pikeblenny, queenfish, reef perch, rock wrasse, rockfish (various species), ronquil, stripedfin, salmon (king), sanddab, sarcastic fringehead, sardine (Pacific), sargo, saury, Pacific sculpin, seaperch (various species), señorita, shark (various species) silversides, sole (various species), spotted cusk-eel, surfperch (various species), swordfish, thornback, topsmelt, tube snout, turbot (various species), white sea bass, whitespotted greenling, yellowfin fringehead, and zebra perch.

Seabirds

Over 195 species of birds use open water, shore, or island habitats in the Southern California Bight (Baird 1990). The diversity of habitats provided both on- and offshore also contributes to the high species diversity in the region. Several bird species within Sanctuary region have special status (of concern, threatened or endangered) under Federal or State law. The Sanctuary provides important habitat for eight seabirds that have special status under Federal or State law: Ashy storm-petrel, Black storm-petrel, California brown pelican, California least tern, Double-crested cormorant, Rhinoceros auklet, Western snowy plover, Xantus' murrelet.

Marine Mammals

The abundance and distribution of marine mammals is an important indication of the general health and ecological integrity of the Sanctuary. Marine mammals feed on fishes and invertebrates, which feed on other marine life of the Channel Islands region. The distribution and abundance of marine mammals depend on healthy marine habitats, such as kelp forests and associated rocky reef ecosystems.

Whales Dolphins And Porpoises

At least 33 species of cetaceans have been reported in the Sanctuary region (Leatherwood et al. 1982; Leatherwood et al. 1987). Common species found in the Sanctuary include: long-beaked common dolphin, short-beaked common dolphin, Bottlenose dolphin, Pacific white-sided dolphin, Northern right whale dolphin, Risso's dolphin, California gray whale, Blue whale, and Humpback whale. In winter and spring during the gray whale migrations, orcas are frequently reported in the region.

Seal and Sea Lions

The productive waters and relatively undisturbed environment of the Sanctuary provides vital habitat for pinnipeds, offering important feeding areas, breeding sites, and haul outs. Historically seven species of pinnipeds have been found throughout or in part of the Sanctuary: the California sea lion (common), northern fur seal (uncommon), northern elephant seal (common), Pacific harbor seal (common), Guadalupe fur seal (rare), Steller sea lions (extremely rare), and ribbon seal (extremely rare).

Offshore Subtidal Habitat

Beyond nearshore subtidal depths are deep-water habitats extending from 30 to >200 meters deep and the continental slope. Over 90 percent of deep-water benthic habitats in the Channels Islands consist of fine sands in shallower portions, grading into silt and clay-dominated sediments in deeper portions (SAIC 1986; Thompson et al. 1993).

Deep rock bottoms often are located offshore from major headlands and islands. Most of the deep-water hard bottom substrates are low-relief reefs less than 1 meter in height; some reefs have 1- to 5-meter high features. Boulders and bedrock outcrops are the predominant rocky substrates. Higher relief pinnacles and ridges occur in some areas, such as off the northwest end of San Miguel Island.

Light disappears rapidly below 50-meter depths, thus offshore benthic habitats do not support marine plants. Offshore deep-water communities have few species in common with nearshore communities, due especially to the cold temperatures and lack of light. The composition of deep assemblages depends particularly on sediment composition, water depth, vertical relief, and extent of siltation (SAIC 1986; Thompson et al. 1993). For a given depth, deep assemblages tend to be more similar over broad geographic ranges than shallow-water communities because the physical environment (e.g., temperature, salinity, darkness) is fairly stable. Most deep muddy-bottom invertebrates are detritus feeders while rocky-substrate invertebrates are predominantly suspension-feeders. Low-relief deep reefs often are heavily silted, with greatly reduced species diversity. Increasing siltation smothers attached invertebrates, gradually changing the habitat to soft bottom. Scour from deep-water currents also influences the distribution of abrasion-sensitive marine life.

The stability of most deep-water soft-bottom habitats permits greater diversity of infaunal (life within the substrate) and epifauna (life on or just above the substrate) compared to shallow particulate substrates disturbed by waves and surge. Typical infaunal on deep fine-sediment

habitats include sea pens, polychaete worms, echiuran worms, amphipods, brittle stars, and small snails and clams. Epifauna include shrimp, octopus, sea cucumbers, seastars, heart urchins, and flatfishes.

Common invertebrates on deep hard substrates include sponges, anemones, cup corals, sea fans, bryozoans, feather stars, brittle stars, sea stars, and lamp shells. Demersal fishes can be common, especially various species of rockfishes. In the northern Santa Barbara Channel, three principal hard bottom assemblages were described for outer shelf-upper slope depths (105-213 meter) in MMS surveys (SAIC 1986): (1) a low-relief assemblage dominated by anemones, brittle stars, and lamp shells; (2) a medium relief assemblage characterized by the anemone *Corynactis californica* and deep-water coral *Lophelia californica*; and (3) a broadly distributed community composed of the anemone *Metridium senile*, cup corals, and the feather star *Florometra serratissima*.

SECTION V: COMPARISON OF ALTERNATIVES

Ecological Comparison of Alternatives

The three spatial alternatives vary in the amount of various benthic and pelagic habitats and the level of protection that they afford. Because they build off the existing State MPA network, all alternatives include the same level protection for shallow subtidal habitats (such as giant kelp, eelgrass and surfgrass). Alternatives 2 and 3 add soft sediments in depths >200 m, as well as hard sediment in depths > 100 m to the existing State marine reserves

For Alternatives 2 and 3, the amount of soft bottom habitat included in proposed State and Federal marine reserves increases with depth, and at each depth interval, more soft bottom habitat is included in Alternative 3 than Alternative 2. These alternatives were developed to specifically complement the existing State marine reserves that were established in April 2003 by adding adjacent deepwater areas to create a marine protected area network that more fully represents the diversity of habitats found within the CINMS.

The proposed marine reserve alternatives (2 and 3) are proposing to add very little hard bottom habitat at depths above 100 m. Since the existing network of State marine reserves already includes 73.4 km² of shallow hard bottom habitat. In contrast, the existing State marine reserves include a small amount (21.1 km²) of hard bottom habitat at depths below 100 m. The additional State and Federal marine reserves proposed in Alternatives 2 and 3 include some hard sediment at depths below 100 m. Alternative 2 includes 8.7 km² of hard bottom habitat on the deep continental shelf (100-200 m) and 12.3 km² on the continental slope (<200 m). Alternative 3 includes 13 km² of hard bottom habitat at 100-200 m and 12.6 km² at depths greater than 200 m.

Potential Ecological Impacts

Based on the analyses conducted to date, the extension of the State marine reserves and marine conservation areas in Alternatives 1-3 are not expected to result in any significant long-term adverse ecological impacts.

It is possible that displacement of consumptive activities to areas outside the proposed marine reserves and marine conservation areas could potentially impact the environment by causing these users to fish in nearby areas. This could cause increases in the relative fishing pressure on certain species, which may cause a short-term negative environmental impact outside marine reserve and marine conservation areas. The proposed alternatives attempt to limit this potential impact by avoiding key fishing areas identified in the Channel Islands Reserve Process to the maximum extent possible.

Table 2: Total New Proposed Area for Each Alternative (sq. nautical mile)

	Status Quo ^{1,2}	Alternative		
		1 ³	2 ⁴	3 ⁵
Total Area (nmi ²)	121.2	54.0	147.1	195.2
Soft sediment	78.7	49.4	140.8	187.5
Hard sediment	30.6	4.6	6.3	7.6
Breakdown by depth and habitat				
Soft sediment (0-30m)	7.4	0.0	0.1	0.1
Hard sediment (0-30m)	12.0	0.0	0.1	0.1
Soft sediment (30-100m)	43.6	0.0	13.2	20.2
Hard sediment (30-100m)	12.5	0.1	0.1	0.1
Soft sediment (100-200m)	15.3	3.3	28.2	40.2
Hard sediment (100-200m)	4.4	2.8	2.5	3.8
Soft sediment (>200m)	12.5	46.1	99.3	127.1
Hard sediment (>200m)	1.7	1.7	3.6	3.7
Submarine canyon	5.8	4.1	4.1	4.1

1. The areas shown in the "Status Quo" column include State Marine Reserves and State Marine Conservation Areas
2. The "Status Quo" areas includes coastal habitats such as: sandy coast, protected rocky coast, exposed rocky coast, nearshore emergent rocks, offshore emergent rocks, California kelp area (DFG 2002), California kelp composite (DFG), Islands kelp composite (CCP), eelgrass, and surfgrass. The total area for the "Status Quo" includes these coastal habitats even though they are omitted from the table.
3. Alternative 1 consists of Marine Conservation Areas only.
4. Alternative 2 consists of both Marine Reserves and Marine Conservation Areas
5. Alternative 3 consists of both Marine Reserves and Marine Conservation Areas

Potential displacement of effort also may be offset by the potential for long term beneficial effects caused by increased production and spillover from the proposed marine reserve and marine conservation areas. In addition, existing harvest controls (e.g., size limits, bag limits, seasons) will continue to control take outside marine reserve and marine conservation areas, and other regulatory processes limiting total effort of fisheries in the area are underway.

Conversely, the alternatives are expected to have varying levels of beneficial effects on the ecosystem, resulting from the establishment of no take or limited take areas in deeper waters adjacent to and complementary of the network of State reserves within the Sanctuary.

Alternative 1

Alternative 1 proposes the extension of the two marine conservation areas located along the south side of Santa Cruz Island and the footprint region. The two marine conservation areas would add 62.7 nm² to the existing State MPA network. It differs from the other two alternatives in that it does not include no-take marine reserves. Marine conservation areas allow some type of fishing activities to occur.

The objective of this alternative is to protect specific species or habitats, such as the benthos. It does not provide full ecosystem protection in that it still allows some harvest to occur.

Alternative 1 includes some areas where specific species are likely to benefit from exclusion of fishing effort. The two proposed marine conservation areas are expected to reduce damage from fishing gear and may provide protection to certain groundfish species. The level of protection is dependent upon impacts of currently allowed fishing effort in these areas on groundfish species and enforcement of regulations. However, from the socioeconomic analysis it appears there has been very little groundfish fishing in the proposed areas.

Alternative 1 does not include habitat representation across all three biogeographic regions within the project area. The two conservation areas are located in the Transition and Californian biogeographic regions.

Alternative 2

This alternative provides more protection to populations and habitats relative to Alternative 1. It contains a network of 10 marine reserves and 2 marine conservation areas. Alternative 2 includes areas where species of interest may benefit by exclusion of fishing effort. Within the proposed marine reserve areas, this alternative is expected to provide comprehensive ecosystem protection, including the habitats, species and seamless ecological linkage with the existing adjacent network of shallower water State marine reserves.

Alternative 2 provides habitat representation in each of the three biogeographic regions. At least two marine reserves are located in the Oregonian, Transition and California provinces. The network provides connectivity potential because of the distribution of multiple reserves in each biogeographic region and protected areas on both the north and south sides of each island.

Alternative 3

This alternative offers the greatest level of protection to populations and habitats. It contains a network of ten marine reserves and two conservation areas. The marine reserves constitute an additional 169 nmi² and the marine conservation areas constitute an additional 17 nmi² to the existing State MPA network.

Similar to Alternative 2, Alternative 3 includes areas where the species of interest (Airame, 2000) may benefit by exclusion of fishing effort and/or other extractive uses. The alternative also provides full ecosystem protection, including the habitats, species and seamless ecological linkage with the existing adjacent network of State marine reserves. It includes more soft bottom habitat than Alternative 2 at each depth, with the difference between the two alternatives increasing with depth.

The primary difference between Alternatives 2 and 3 is even larger (78.3 km² of soft bottom habitat) in marine reserves on the continental slope (<200 m depth). The notable differences between Alternatives 2 and 3 are: a) the deep continental shelf at depths of 100-200 m where Alternative 3 includes 4.3 km² more hard bottom habitat in marine reserves than Alternative 2, and b) Alternative 3 includes 17.1 km² more soft bottom habitat in marine conservation areas than Alternative 2.

Socioeconomic Comparison of Alternatives

This section provides a general summary of the socioeconomic baseline for the project area and analyses of the alternatives. Socioeconomic information was gathered through 2003. This section does not provide detailed comprehensive analyses of the consumptive and non-consumptive uses of the project area but, rather, focuses on describing a brief summary of potential costs and benefits from alternatives. A more detailed analyses and documentation of the approach, methods, data and comparative analyses with respect to designated marine reserves in State waters is available in CDFG (2002) and for the whole CINMS in Leeworthy and Wiley (2005). Comprehensive socioeconomic analyses will be included in the Draft Environmental Impact Statement.

Approach

The socioeconomic analyses are based on a two-step approach. Step 1 analyses describe the potential impacts of each alternative and a comparison of impacts of alternatives for commercial fisheries, and for consumptive recreational and commercial activities (Leeworthy and Wiley 2005). The analyses also provide an aggregate consumptive impact assessment. The Step 1 analyses add all the activities displaced from marine reserve and conservation areas, with the assumption that all is lost, i.e., there is no mitigation or off-sets through behavioral responses.

The Step 1 analyses describe maximum potential loss of income for consumptive activities for the additional State waters, for Federal waters, and in the total of new reserves and conservation areas. Additionally, Leeworthy and Wiley (2005) provide analyses of the existing State reserves and the cumulative impacts for each alternative. In light of the stated purpose of this document, a detailed cumulative assessment of impacts per alternative is not provided here.

Step 2 analyses qualitatively describe factors that contribute to potential costs and, when possible, the benefits of the establishment of marine reserves within the project area (Leeworthy and Wiley 2005). It is impossible to forecast all of the human and ecological responses and their interactions which may result from a designation of a network of marine reserves in State and Federal waters of the CINMS. All the benefits and costs of marine reserves cannot be quantified, and so a formal benefit-cost analysis was not conducted by Leeworthy and Wiley (2005). However, a “benefit-cost framework” is used; all potential benefits and costs are listed and quantified where possible in Leeworthy and Wiley (2005). Those benefits and costs that cannot be quantified are qualitatively discussed in the analyses.

Substitution/ relocation, replenishment effects, the effects of other regulations, the current and future status of fishing stocks, and the benefits of marine reserves are not addressed in Step 1 analyses. The Step 1 analyses therefore generally represent the expected maximum potential loss. However, in cases where congestion effects occur due to displacement and relocation of fishing effort, losses could exceed estimates of maximum potential loss.

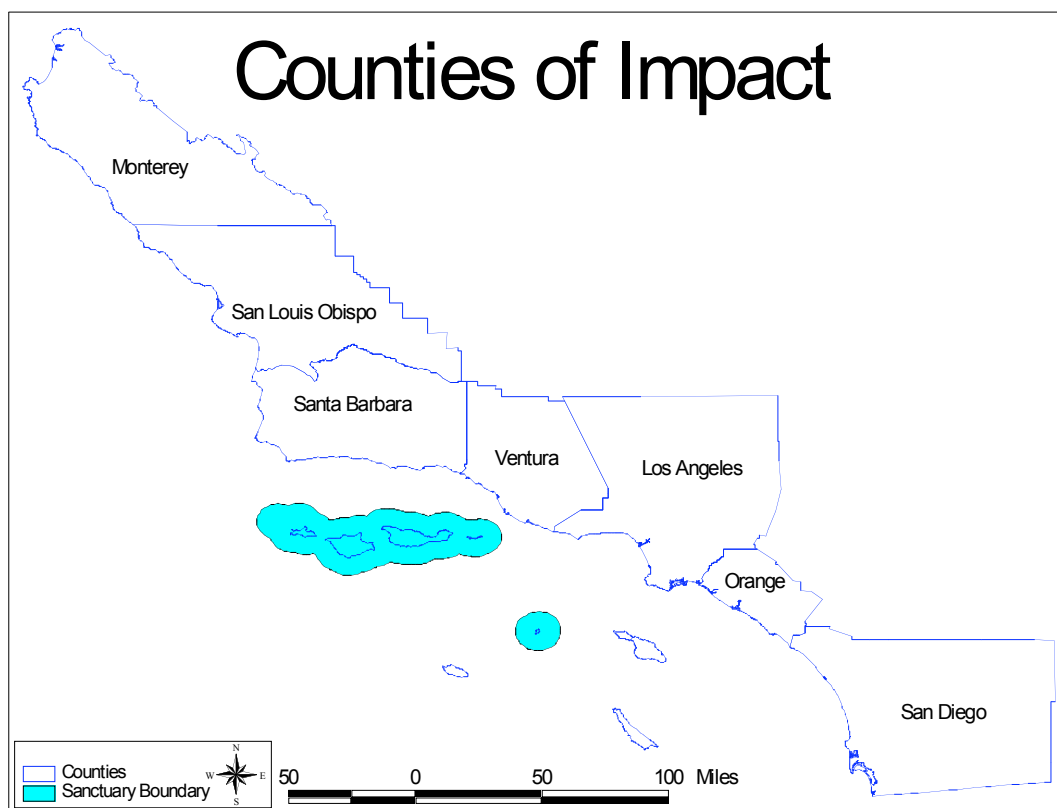
Overall, Leeworthy and Wiley (2005) profile the potential costs to commercial and recreational fishers and non-consumptive users for each county within the seven-county study area

Study Areas and Economic Dependence on the CINMS

Figure 9 shows a map of the seven-county area defined as the area of socioeconomic impact. All seven counties are impacted by commercial fishing activities and five counties (e.g., Santa Barbara, Ventura, Los Angeles, Orange and San Diego) are impacted by recreational activities.

The economic baseline estimate for the Leeworthy and Wiley (2004) study is depicted in Table 3. Table 4 depicts an aggregate for the average ex vessel value of the commercial fisheries in the CINMS for years 1996-2003 for 10 species/species groups, 2003 ex vessel value for rockfish, tuna and prawn, and the 2000-2003 average for CA Sheephead; and consumptive and non consumptive recreational activities including person days of activities, total income generated by the activity in the seven county economy and the number of full and part time jobs. These estimates serve as the baseline from which the impacts of marine reserve and conservation areas are assessed. In the baseline, the top 14 species/species groups accounted for 99.47 percent of the commercial landings from the CINMS. Abalone fishing was halted in 1997, so for the baseline, abalone ex vessel value is zero.

Figure 9: Counties of Impact



Most of the percentages presented in the tables below for ex vessel revenue, income or employment are the amount of impact as a percent of the CINMS baseline. By definition, the no action alternative described in this document has zero incremental or cumulative economic

impact on existing commercial and recreational fisheries

Table 3: Baseline Local/Regional Economic Dependence On CINMS					
Measurement	Kelp & Commercial Fishing	Consumptive Recreation	Total Consumptive Activities	Non-consumptive Recreation	All Activities
Ex Vessel Revenue ¹	\$24,233,406	N/A	N/A	N/A	N/A
Person-days ²	N/A	448,054	448,054	42,008	490,062
Income ³	\$71,649,959	\$26,416,557	\$98,066,505	\$3,738,223	\$101,804,728
Employment ⁴	1,956	1,138	3,094	223	3,317

1. Includes revenue to fishermen plus processed value of kelp from ISP Alginates.

2. Measure of recreation activity. One person doing an activity for any part of a day or a whole day.

3. Total income generated by activity in seven-county local/regional economy, including multiplier impacts

4. Number of full and part time jobs generated in seven-county local/regional economy, including multiplier impacts.

General Summary of Spatial Alternatives - Step 1 Analyses

Given the three alternatives, 14 species/species groups, two jurisdictions (State and Federal waters), 12 ports of landing and seven counties in the impact area, the Step 1 analyses include many tables with a great deal of detail in Leeworthy and Wiley (2005). Summary results of this analysis are provided here, rather than a complete characterization of the economic analyses of impacts. Note that there is a disproportional impact by jurisdiction (State versus Federal waters) since density of recreational and commercial activity increases as one moves towards the islands. More detailed tables and documentation can be found in Leeworthy and Wiley (2005).

Commercial Fishing

Alternative 1 has the lowest potential impact on the commercial fisheries since the two areas added are marine conservation areas, which allow legally sanctioned fishing for pelagics, spot prawn, white seabass and squid. In addition, for the species/species groups prohibited (rockfish and bottom fish, primarily flatfish) the data indicated that there was zero catch for these species/species groups in the two proposed areas. The only impact is therefore the existing impact already occurring from existing regulations (Leeworthy and Wiley 2005).

The potential impacts of Alternative 2 lie between those of Alternative 1 and Alternative 3. There is very little difference between Alternatives 2 and 3. The new proposed areas of Alternative 2 potentially impact an additional 1.18% of ex vessel value of catch in the CINMS, while Alternative 3 potentially impacts 1.63% of ex vessel value in the CINMS. Estimated potential impacts, measured in terms of income and employment in the local county economies, also show slightly higher impacts for Alternative 3.

Table 4: Commercial Fishing & Kelp: Summary of Impacts by Alternative - Step 1 Analysis

Alternative	Additional State	% ¹	Federal	%	Total New Proposal	%	Existing State	%	Cumulative Total	%
Ex Vessel Revenue²										
1	\$0	0	\$0	0	\$0	0	\$2,729,295	11.32	\$2,729,295	11.32
2	\$159,955	0.66	\$123,725	0.51	\$283,680	1.18	\$2,729,295	11.32	\$3,012,975	12.50
3	\$195,851	0.81	\$196,732	0.82	\$392,584	1.63	\$2,729,295	11.32	\$3,121,879	12.95
Income³										
1	\$0	0	\$0	0	\$0	0	\$8,544,396	11.93	\$8,544,396	11.93
2	\$499,787	0.70	\$439,661	0.61	\$939,448	1.31	\$8,544,396	11.93	\$9,483,844	13.24
3	\$658,443	0.92	\$649,618	0.91	\$1,308,061	1.83	\$8,544,396	11.93	\$9,852,457	13.75
Employment⁴										
1	0	0	0	0	0	0	246	12.58	246	12.58
2	15	0.77	13	0.66	28	1.43	246	12.58	274	14.01
3	20	1.02	19	0.97	39	1.99	246	12.58	285	14.57

1. Percents are the percent of total baseline.

2. Exvessel revenue received by fishermen and processed value of kelp, Baseline is equal to \$24,103,965.

3. Income is total income, including multiplier impacts. Baseline is equal to \$71,649,948.

4. Employment is total employment, including multiplier impacts. Baseline is 1,956 full and part-time jobs.

Leeworthy and Wiley (2005) provide detailed analyses of impacts by jurisdiction (State versus Federal waters) and cumulative impacts for each regulatory alternative for the entire CINMS. Note the total income impact associated with each alternative is only a tiny fraction of one percent of the income and employment in each county within the seven-county region.

Recreational Consumptive Activities

As with the commercial fisheries, Alternative 1 has the lowest impact on consumptive recreational activities because of the exemptions to fishing in the marine conservation areas. Unlike the case for the commercial fisheries, there was some potential impact of Alternative One on the recreational consumptive activities, but the impacts are still the lowest potential impact across all alternatives.

As with the commercial fisheries, the potential impacts of Alternative 2 on consumptive recreation activities lie between those of Alternative 1 and Alternative 3. There is more of difference between Alternatives 2 and 3 for consumptive recreational activities than for commercial fisheries. Alternative Three potentially impacts an additional 1.4% of all consumptive recreation activity in the CINMS than Alternative 2 (Table 2).

Table 5: Consumptive Recreation: Summary of Impacts by Alternative - Step 1 Analysis

Alternative	Additional State	% ¹	Federal	%	Total New Proposal	%	Existing State	%	Cumulative Total	%
Person-Days ²										
1	647	0.1	1,405	0.3	2,052	0.5	61,651	13.8	63,703	14.2
2	7,361	1.6	15,005	3.3	22,365	5.0	61,651	13.8	84,016	18.8
3	7,562	1.7	21,075	4.7	28,637	6.4	61,651	13.8	90,288	20.2
Income ³										
1	\$37,713	0.1	\$97,360	0.4	\$135,072	0.5	\$3,275,128	12.4	\$3,410,200	12.9
2	\$452,604	1.7	\$935,292	3.5	\$1,387,895	5.3	\$3,275,128	12.4	\$4,663,023	17.7
3	\$465,200	1.8	\$1,318,509	5.0	\$1,783,709	6.8	\$3,275,128	12.4	\$5,058,837	19.2
Employment ⁴										
1	2	0.2	3	0.3	5	0.4	138	12.1	143	12.6
2	20	1.8	42	3.7	62	5.4	138	12.1	200	17.6
3	21	1.8	59	5.2	79	6.9	138	12.1	217	19.1

1. Percents are the percent of total baseline.

2. Person-days of consumptive recreation activity is equal to 448,054.

3. Income is total income, including multiplier impacts. Baseline is equal to \$26,416,557.

4. Employment is total employment, including multiplier impacts. Baseline is 1,138 full and part-time jobs.

Total of All Consumptive Activities

Alternative 1 has the lowest potential impact on all consumptive activities since the marine conservation areas allow for most consumptive uses. Alternative 1 has an estimated additional potential impact of about \$135,000 in lost income and a reduction of 5 full and part-time jobs in the local county economies. This represents 0.13% of the total income and 0.2% of the employment generated by consumptive activities in the CINMS. Alternative 2 has an estimated additional potential impact of about \$2.3 million in lost income compared to almost \$3.1 million in additional lost income by Alternative 3. Alternative 2 potentially impacts an additional 1.3% of all the income generated by consumptive activities in the CINMS compared to 1.86% for Alternative 3. Results are similar for employment (Table 6).

Table 6: All Consumptive Activities: Summary of Impacts by Alternative - Step 1 Analysis

Alternative	Additional State waters	% ¹	Federal waters	%	Total New Proposal	%	Existing State MPAs	%	Cumulative Total	%
Income ²										
1	\$37,713	0.04	\$97,360	0.10	\$135,072	0.14	\$11,819,524	12.1	\$11,954,596	12.2
2	\$952,391	0.97	\$1,374,953	1.40	\$2,327,343	2.37	\$11,819,524	12.1	\$14,146,867	14.4
3	\$1,123,643	1.15	\$1,968,127	2.01	\$3,091,770	3.15	\$11,819,524	12.1	\$14,911,294	15.2
Employment ³										
1	2	0.1	3	0.1	5	0.2	384	12.4	389	12.6
2	35	1.1	55	1.8	90	2.9	384	12.4	474	15.3
3	41	1.3	78	2.5	119	3.8	384	12.4	503	16.3

1. Percents are the percent of total baseline.

2. Income is total income, including multiplier impacts. Baseline is equal to \$26,416,557.

2. Employment is total employment, including multiplier impacts. Baseline is 1,138 full and part-time jobs.

General Summary of Spatial Alternatives - Step 2 Analyses

The Step 2 analysis is more comprehensive, but also much less quantitative since all the benefits and costs of marine reserves cannot be quantified. The following section briefly discusses several factors considered in the Step 2 analyses, including mitigating and offsetting factors. A complete characterization of the factors considered in the Step 2 Analysis is found in Leeworthy and Wiley (2005).

Summary Finding

A time dimension is separated by the category of short-term (1 to 5 years) and long-term (5 to 20 years) impacts (Leeworthy and Wiley 2005). For the short-term, the net assessment for commercial fishing and kelp ranges between neutral impacts to an increase in costs beyond Step 1. The most important factors influencing this assessment are the current status of stocks (neutral except for rockfish and spot prawn), regulated inefficiency (which may decrease costs) and the Scientific Advisory Panel's recommendation that catch and/or effort be held constant in the remaining open areas is not implemented (increases cost). The Scientific Advisory Panel's recommendation requires that the effort displaced must exit the fisheries, i.e., the assumption of the Step 1 analysis. If warranted, there is uncertainty about whether such catch and effort recommendations will be included in current and future fishery management plans. If not, the problem of crowding and congestion may result in increased costs (beyond Step 1 costs) in the short-term. In addition, the social costs of not accepting regulations, which might result in increased enforcement costs, may increase costs beyond those estimated in Step 1.

For the long-term, assuming replenishment effects (benefits), substitution/relocation (decrease costs), cowcod closure (benefits) and regulated inefficiency (may decrease costs) leads to a conclusion that impacts in Step 1 were likely overestimated and that there are reasonable possibilities of net benefits.

Alternative 1

This regulatory alternative has no additional impact in the Step 1 analysis, since the only added areas are marine conservation areas that exempt all fisheries currently with reported catch in those areas. In the short-term, there is no additional impact from the new proposed marine conservation areas. In the long-term, the potential for marine reserves is not likely since fishing is not curtailed. Continuation of the current management regime in these areas gives up the benefits that would be expected from marine reserves, and so this alternative may have higher costs to commercial fisheries than we estimated in Step 1.

Alternative 2

In Step 1 analysis, this regulatory alternative impacted an additional 1.18% of the ex vessel value of catch in the CINMS. Leeworthy and Wiley (2005) expect that there will be short-term losses to the commercial fisheries from this alternative, but that they will be less than what is estimated in Step 1 Analyses. In the long-term, it remains to be seen whether replenishment effects are greater than crowding or congestion effects. This will determine if this alternative's long-term cost can be transformed into long-term benefits. The impacts are small from this alternative and net cost or benefits to commercial fisheries are likely to be small.

Alternative 3

In Step 1 Analysis, this regulatory alternative impacted an additional 1.63% of the ex vessel value of catch in the CINMS. Leeworthy and Wiley (2005) expect that there will be short-term losses to the commercial fisheries from this alternative, but that they will be less than what is estimated in Step 1 analyses. In the long-term, it remains to be seen whether replenishment effects are greater than crowding or congestion effects. This will determine if this alternative's long-term cost can be transformed into long-term benefits. But overall the impacts are small from this alternative and net cost or benefits to commercial fisheries are likely to be small.

Recreation: Consumptive Activities

This section summarizes possible mitigating factors on estimated Step 1 losses to consumptive users. It is generally not possible to quantify mitigating factors and benefits, thus the analysis is qualitative. Unlike the commercial fisheries, there is very little in the literature that addresses recreational fishing or other consumptive recreation and the impact of marine reserves once recreation behavior is modeled (Leeworthy and Wiley, 2005).

Alternative 1

This alternative is the smallest of those being considered, both in terms of area and impact to recreational consumptive users. In Step 1, it was estimated that only about one-half of one percent (0.5%) of the person-days of consumptive recreation would potentially be impacted by the proposed action. The small impact was due to the many exemptions of the marine conservation areas proposed under this alternative. The success of relocation effort and substituting to alternative sites has a high probability for this alternative. The potential for crowding/congestion effects would be minimal because of the relatively small size and the location of the alternative. In the short-term, impacts should be less than estimated in the Step 1 Analysis.

In the long-term, the proposed marine conservation areas in this alternative do not provide much in the way of additional protection and so there may be additional costs associated with this alternative. The potential added cost is the opportunity cost or lost benefits by not extending protection, i.e. the failure to take advantage of the possible benefits of marine reserves.

Alternative 2

This alternative was estimated to potentially impact an additional five percent (5%) of the consumptive recreation activity in the CINMS. This alternative is more heavily weighted towards adding to the existing State marine reserves than to marine conservation areas, and therefore displaces more consumptive recreation than alternative 1. Five percent of all consumptive recreation is a relatively low amount of activity and there would be a fairly high probability that adequate substitute areas could be found and significantly mitigate the short-term impacts. There may be little loss in total activity and the associated impacts on the local county economies; however, there will be some loss in consumer's surplus, but much less than estimated in Step 1 Analysis. The main costs in the short-term will most likely come from added search costs in locating substitute sites.

In the long-term, losses will be further mitigated once adequate substitute sites are located. The size of the displacements is not large enough to result in crowding or congestion effects. This conclusion must be tempered with respect to rockfish, since the Rockfish Conservation Area and Cowcod Conservation Area areas include CINMS waters there may be fewer places to find adequate substitutes. Recent regulations have relaxed some of the restrictions on the recreational fisheries and allow more recreational fishing. These actions will allow greater opportunities for recreational fishermen to find adequate substitute sites and mitigate any losses. There is a higher probability under this alternative than alternative 1 for there to be benefits from "edge effects" and/or spillover/replenishment effects from marine reserves. Of course, whether there are net benefits to consumptive recreation users depends on the complex mix of ecological and socioeconomic responses. If there are losses, Leeworthy and Wiley (2005) expect they will be much smaller than estimated in Step 1 Analysis, and there is a possibility of net long-term gains to consumptive recreation.

Alternative 3

This alternative was estimated to potentially impact an additional 6.4% of the consumptive recreation activity in the CINMS. This alternative has the greatest potential impact because of its increased size over the other alternatives. The alternative is also more heavily weighted towards adding to the existing State marine reserves than to marine conservation areas, and, therefore, displaces more consumptive recreation than either alternatives 1 or 2. Regardless, 6.4% percent of all consumptive recreation is a relatively low amount of activity and there would be a fairly high probability that adequate substitute areas could be found and significantly mitigate the short-term impacts. There may be little loss in total activity and the associated impacts on the local county economies. However, there will likely be some loss in consumer's surplus, but much less than estimated in Step 1 analysis.

In the long-term, losses will be further mitigated once adequate substitute sites are located. The size of the displacements is likely not large enough to result in crowding or congestion effects. This conclusion must be tempered with respect to rockfish, since the RCA and CCA include

CINMS waters, which may affect adequate substitute fishing sites within CINMS. Recent regulations have relaxed some of the restrictions on the recreational fisheries and allow more recreational fishing. These actions will allow greater opportunities for recreational fishermen to find adequate substitute sites and mitigate any losses. There is a higher probability under this alternative than alternative 1 or alternative 2 for there to be benefits from “edge effects” and/or spillover/replenishment effects from marine reserves. If there are losses, Leeworthy and Wiley (2005) expect they will be much smaller than estimated in Step 1 analysis and there is actually a reasonable possibility of net long-term gains to consumptive recreation.

Recreation Non-consumptive Users – Step 2 Analysis

In addition to potential benefits to marine ecosystem services, the establishment of marine reserves may result in benefits to non-consumptive recreational users of the CINMS (Leeworthy and Wiley 2005). These increased benefits take the form of increases in diversity of wildlife, viewing opportunities from increased abundance of fish and invertebrates, water quality, etc. Benefits may also be derived from the decrease in the density of users or in the reduction in conflicts with consumptive users.

There is no data currently available to directly estimate the magnitude of these benefits. In light of this fact a “benefits transfer policy simulation”¹ is conducted for each alternative using a range of increases in quality and of quality elasticities (Leeworthy and Wiley 2005). Quality elasticities show the percentage change in consumer’s surplus for a percentage change in quality. For each alternative Leeworthy and Wiley (2005) conducted a “benefits transfer/policy analysis simulation” to estimate a range on the possible benefits of the additional marine reserves. Estimates of aggregate benefits tend to underestimate true benefits due to the lack of data on private boat non-consumptive use in the calculations.

Vessel Use Analysis of Alternatives

SAMSAP

The Sanctuary Aerial Monitoring and Spatial Analysis program (SAMSAP) is used to analyze vessel use of each alternative and characterize potential congestion. SAMSAP is designed to monitor and analyze the physical and anthropogenic phenomena within the Sanctuary such as sanctuary users, commercial and recreational vessel traffic, using a GIS and aerial GPS collection strategy.

Surveys of vessel traffic and vessel type allow anthropogenic use patterns to be studied, e.g., displacement of fishing effort due to marine reserves and marine conservation areas. Data downloaded into the Sanctuary’s GIS are used to analyze historical trends and detect correlations across data types.

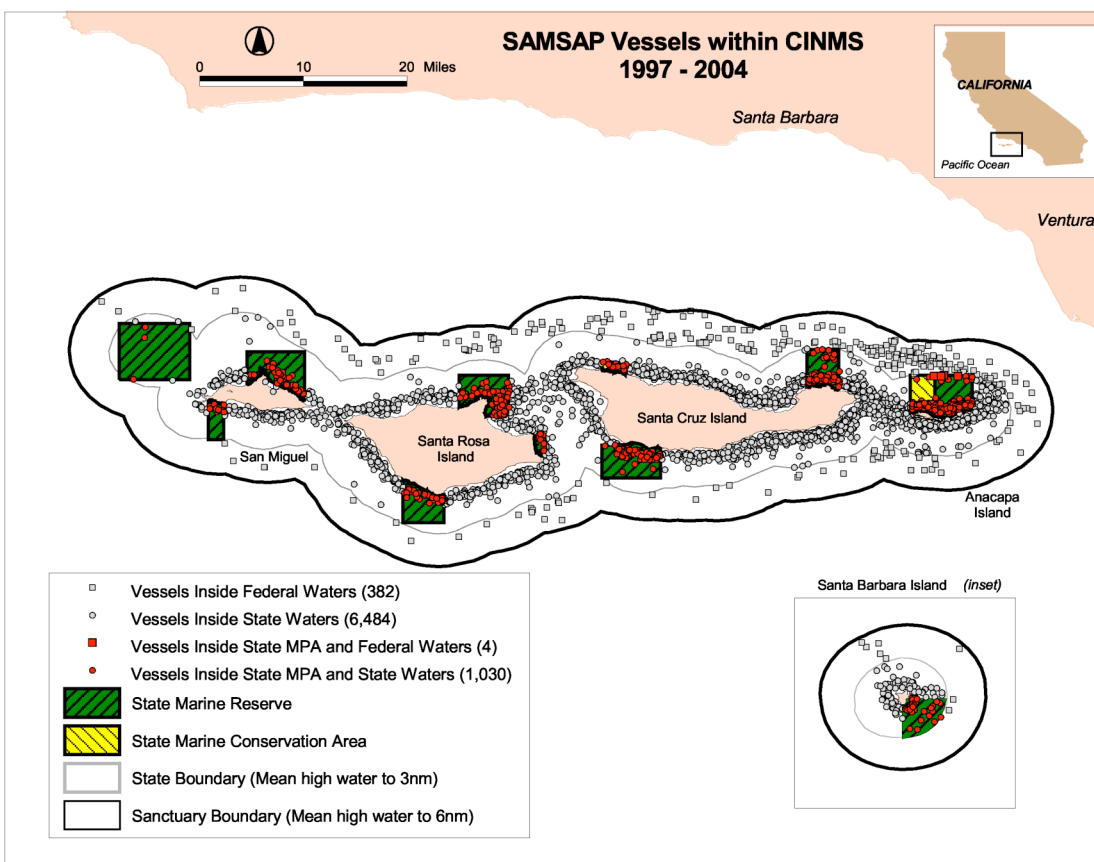
¹ The ‘benefits transfer/policy analysis simulation’ addresses four different measurements: 1) Consumer’s surplus, 2) Income generated in the local county economies, 3) Employment generated in the local county economies and 4) Person-days of activity.

The following anthropogenic use analysis utilizes vessel sightings to examine human use within CINMS and the potential impact of the NEPA alternatives. The sightings span between July 1997 and August 2004. Vessel types are classified into four categories: (1) consumptive, commercial (2) consumptive, recreational (3) nonconsumptive, commercial (4) non-consumptive, recreational.

Vessels Within CINMS

Figure 7 shows the distribution vessels within CINMS regions. The majority of vessels were observed within CINMS' State waters as compared to CINMS' Federal waters. Of the 7,094 total observed vessels during the period of 1997-2004, 91.4% were observed in State waters and 5.4% were observed within CINMS Federal waters, and 3.2% were observed outside of the CINMS boundary.

Figure 10: Vessels Within CINMS, 1997 – 2004

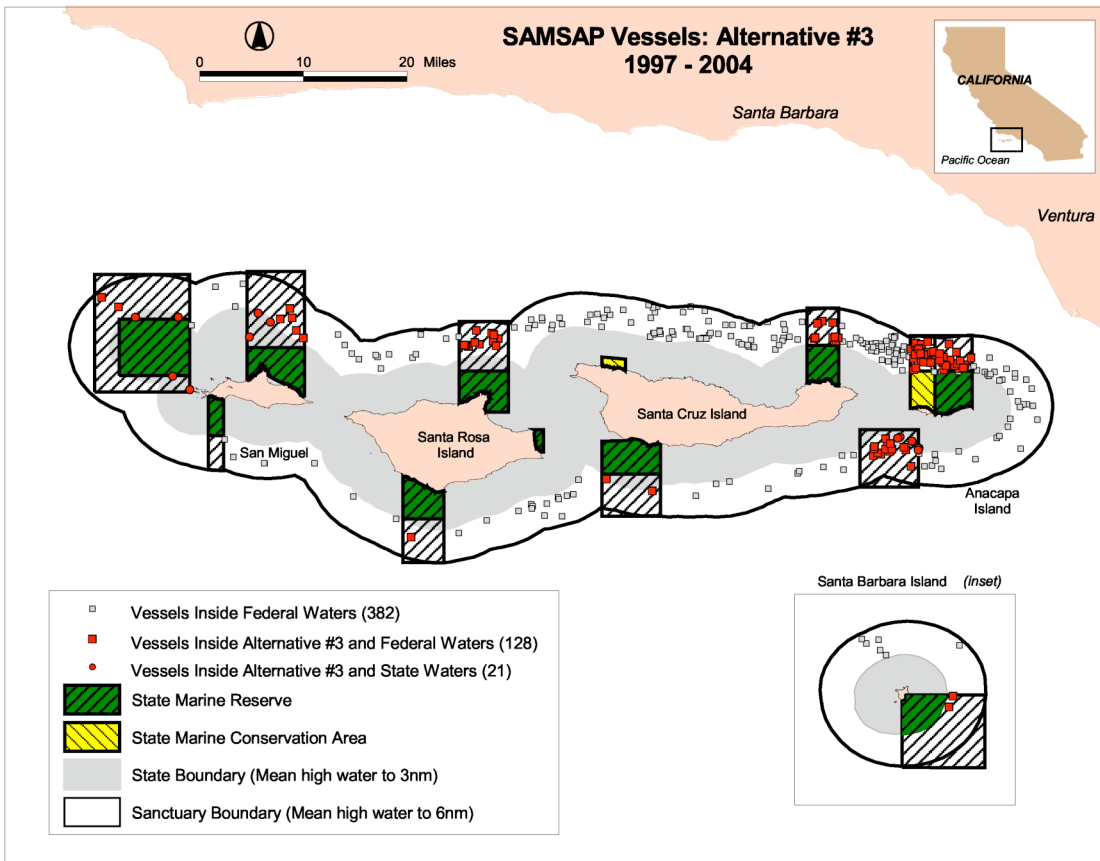


The spatial distribution of vessel sightings shows that 1,034 of sightings occurred within the existing State MPA network, comprising 15.1% of all observations made within CINMS State and Federal waters.

Activity In The Proposed Alternatives

Of the 382 vessels sighted within Federal waters, 22 were sighted within the Federal waters of Alternative 1; 76 were sighted within the Federal waters of alternative 2; and 128 vessels were sighted within the Federal waters of Alternative 3. Of the 6,484 vessels sighted within State waters, 14 were sighted in Alternative 1; 21 vessels were sighted in alternative 2; and 21 vessels were sighted in Alternative 3. Figure 9 demonstrates the number of vessels sighted within Alternative 3, which is currently the largest spatial alternative.

Figure 11: Vessels Within Alternative 3



SECTION VI: MODEL REGULATORY LANGUAGE AND COORDINATES

The following model regulations and coordinates are provided as a guide to assist the PFMC in its consideration of providing draft NMSA regulations. Sanctuary permit criteria would continue to apply. The model language is intended to be as consistent as practicable with the State of California marine protected area regulatory language. Consistency in regulatory language and intent will foster greater understanding by the public and agencies, consistent enforcement and a seamless integration of the state and sanctuary administration and implementation of a Channel Islands MPA network.

*In a **marine reserve** it is unlawful to harvest, remove, take, injure, destroy, possess, collect, move, or cause the loss of any living or dead organism, geological resource, cultural or historical resource or other Sanctuary resource, or attempt any of these activities.*

*In the **marine conservation area** specified, it is unlawful to harvest, remove, take, injure, destroy, possess, collect, move, or cause the loss of any living or dead organism, geological resource, cultural or historical resource or other Sanctuary resource, or attempt any of these activities, except that commercial and recreational fishing for lobster and recreational hook-and-line fishing for pelagic finfish are allowed.*

*Pelagic finfish are defined as: northern anchovy (*Engraulis mordax*), barracudas (*Sphyraena* spp.), billfishes* (family *Istiophoridae*), dolphinfish (*Coryphaena hippurus*), Pacific herring (*Clupea pallasii*), jack mackerel (*Trachurus symmetricus*), Pacific mackerel (*Scomber japonicus*), salmon (*Oncorhynchus* spp.), Pacific sardine (*Sardinops sagax*), blue shark (*Prionace glauca*), salmon shark (*Lamna ditropis*), shortfin mako shark (*Isurus oxyrinchus*), thresher sharks (*Alopias* spp.), swordfish (*Xiphias gladius*), tunas (family *Scombridae*), and yellowtail (*Seriola lalandi*). *Marlin is not allowed for commercial take.*

Anchoring. *Vessels shall be allowed to anchor in any marine protected area with catch onboard. Fishing gear shall be stowed and not in use while anchored in a marine reserve or the marine conservation area.*

Transit. *Vessels shall be allowed to transit through marine protected areas with catch onboard. Fishing gear shall be stowed and not in use while transiting through a marine reserve. Fishing gear, except legal fishing gear used to fish for lobster or pelagic finfish, shall be stowed and not in use while transiting through the marine conservation area.*

Proposed Boundaries. *Please see the coordinates for the alternatives below.*

Please note that draft sanctuary fishing regulations under the NMSA can address all living and non-living marine resources. In other words, the PFMC is not restricted to the species or activities regulated under its current FMPs or by other limitations of the Magnuson-Stevens Act in drafting these NMSA regulations.

Proposed Coordinates for Alternatives

Alternative 2

Below are the coordinates for CINMS regulations in the federal waters of the Sanctuary. CINMS will coordinate with the State of California to determine how to fill the spatial gaps where the existing state MPA boundaries are inside the State and federal 3 nm border.

Richardson Rock (San Miguel Island) Marine Reserve. This area is bounded by the 3 nautical mile State boundary and the following points:

Latitude	Longitude
34.14000 °N	-120.56313 °W
34.14000 °N	-120.57000 °W
34.13342 °N	-120.57000 °W
34.06978 °N	-120.57000 °W
34.06000 °N	-120.57000 °W
34.06000 °N	-120.55860 °W
34.03685 °N	-120.51538 °W
34.03685 °N	-120.60485 °W
34.17333 °N	-120.60485 °W
34.17333 °N	-120.47000 °W
34.14000 °N	-120.47000 °W
34.14000 °N	-120.47795 °W

Harris Point (San Miguel Island) Marine Reserve. This area is bounded by the 3 nautical mile State boundary and the following points:

Latitude	Longitude
34.15542 °N	-120.38833 °W
34.20833 °N	-120.38833 °W
34.20833 °N	-120.30667 °W
34.10374 °N	-120.30670 °W
34.15542 °N	-120.38833 °W

South Point (Santa Rosa Island) Marine Reserve. This area is bounded by the 3 nautical mile State boundary and the following points:

Latitude	Longitude
33.84136 °N	-120.10833 °W
33.85482 °N	-120.16667 °W
33.84000 °N	-120.16667 °W
33.84000 °N	-120.10830 °W

Gull Island (Santa Cruz Island) Marine Reserve. This area is bounded by the 3 nautical mile State boundary and the following points:

Latitude	Longitude
33.92147 °N	-119.88330 °W
33.86043 °N	-119.88330 °W
33.86043 °N	-119.80000 °W
33.90439 °N	-119.80000 °W

Scorpion (Santa Cruz Island) Marine Reserve. This area is bounded by the 3 nautical mile State boundary and the following points:

Latitude	Longitude
34.10417 °N	-119.59170 °W
34.15590 °N	-119.59170 °W
34.15590 °N	-119.54670 °W
34.10417 °N	-119.54670 °W

Footprint Marine Reserve. This area is bounded by the 3 nautical mile State boundary and the following points:

Latitude	Longitude
33.95831 °N	-119.51667 °W
33.90189 °N	-119.51667 °W
33.90189 °N	-119.43333 °W
33.95240 °N	-119.43333 °W

Anacapa Island Marine Conservation Area. Commercial and recreational fishing of lobster and recreational fishing for pelagic fin fish with hook and line only would be allowed. This area is bounded by the 3 nautical mile State boundary and the following points:

Latitude	Longitude
34.06670 °N	-119.44500 °W
34.08333 °N	-119.44500 °W
34.08333 °N	-119.41000 °W
34.06670 °N	-119.41000 °W

Anacapa Island Marine Reserve. This area is bounded by the 3 nautical mile State boundary and the following points:

Latitude	Longitude
34.06670 °N	-119.41000 °W
34.08333 °N	-119.41000 °W
34.08333 °N	-119.35670 °W
34.06670 °N	-119.35670 °W

Santa Barbara Island Marine Reserve. This area is bounded by the 3 nautical mile State boundary and the following points:

Latitude	Longitude
33.47500 °N	-118.97000 °W
33.41500 °N	-119.03670 °W
33.36301 °N	-119.03670 °W
33.36301 °N	-118.90897 °W
33.47500 °N	-118.90897 °W

Alternative 3

Sanctuary regulations for federal waters (3 nm to the edge of the Sanctuary boundaries). Note this would leave gaps where the existing state MPA boundaries are inside the State and federal 3 nm border.

Richardson Rock (San Miguel Island) Marine Reserve. This area is bounded by the 3 nautical mile State boundary and the following points:

Latitude	Longitude
34.14000 °N	-120.56313 °W
34.14000 °N	-120.57000 °W
34.13342 °N	-120.57000 °W
34.06978 °N	-120.57000 °W
34.06000 °N	-120.57000 °W
34.06000 °N	-120.55860 °W
34.03685 °N	-120.51538 °W
34.03685 °N	-120.60485 °W
34.20369 °N	-120.60485 °W
34.20369 °N	-120.47000 °W
34.14000 °N	-120.47000 °W
34.14000 °N	-120.47795 °W

Harris Point (San Miguel Island) Marine Reserve. This area is bounded by the 3 nautical mile State boundary and the following points:

Latitude	Longitude
34.15542 °N	-120.38833 °W
34.20833 °N	-120.38833 °W
34.20833 °N	-120.30667 °W
34.10374 °N	-120.30670 °W
34.15542 °N	-120.38833 °W

Judith Rock (San Miguel Island) Marine Reserve. This area is bounded by the 3 nautical mile State boundary and the following points:

Latitude	Longitude
33.97500 °N	-120.44330 °W
33.97500 °N	-120.43730 °W
33.97500 °N	-120.42170 °W
33.92579 °N	-120.42170 °W
33.92579 °N	-120.44330 °W

Carrington Point (Santa Rosa Island) Marine Reserve. This area is bounded by the 3 nautical mile State boundary and the following points:

Latitude	Longitude
34.08211 °N	-120.08667 °W
34.08159 °N	-120.01670 °W
34.13710 °N	-120.08667 °W
34.13710 °N	-120.01670 °W

South Point (Santa Rosa Island) Marine Reserve. This area is bounded by the 3 nautical mile State boundary and the following points:

Latitude	Longitude
33.85482 °N	-120.16670 °W
33.84136 °N	-120.10833 °W
33.79465 °N	-120.10833 °W
33.79465 °N	-120.16670 °W

Gull Island (Santa Cruz Island) Marine Reserve. This area is bounded by the 3 nautical mile State boundary and the following points:

Latitude	Longitude
33.92147 °N	-119.88330 °W
33.86043 °N	-119.88330 °W
33.86043 °N	-119.80000 °W
33.90439 °N	-119.80000 °W

Scorpion (Santa Cruz Island) Marine Reserve. This area is bounded by the 3 nautical mile State boundary and the following points:

Latitude	Longitude
34.10417 °N	-119.59170 °W
34.15590 °N	-119.59170 °W
34.15590 °N	-119.54670 °W
34.10417 °N	-119.54670 °W

Footprint Marine Reserve. This area is bounded by the 3 nautical mile State boundary and the following points:

Latitude	Longitude
33.95831 °N	-119.51667 °W
33.90189 °N	-119.51667 °W
33.90189 °N	-119.43333 °W
33.95240 °N	-119.43333 °W

Anacapa Island Marine Conservation Area. Commercial and recreation take of lobster and recreational pelagic fin fish with hook and line would be allowed. This area is bounded by the 3 nautical mile State boundary and the following points:

Latitude	Longitude
34.06670 °N	-119.44500 °W
34.11722 °N	-119.44500 °W
34.11722 °N	-119.41000 °W
34.06670 °N	-119.41000 °W

Anacapa Island Marine Reserve. This area is bounded by the 3 nautical mile State boundary and the following points:

Latitude	Longitude
34.06670 °N	-119.41000 °W
34.11722 °N	-119.41000 °W
34.11722 °N	-119.35670 °W
34.06670 °N	-119.35670 °W

Santa Barbara Island Marine Reserve. This area is bounded by the 3 nautical mile State boundary and the following points:

Latitude	Longitude
33.47500 °N	-118.97000 °W
33.41500 °N	-119.03670 °W
33.36301 °N	-119.03670 °W
33.36301 °N	-118.90897 °W
33.47500 °N	-118.90897 °W

APPENDICES

Appendix A: Existing Commercial Fishing Prohibitions In The Southern California Area

Species	Gear Type	Regulated Season	Regulations
Abalone			Abalone may not be taken, possessed, or landed for commercial purposes.
All Groundfish (some exceptions)	All Gear Types	March 1 – April 30	Closed Season
All Groundfish (some exceptions)	Non-trawl (Fixed)	Jan 1 – Dec 31	Fishing is prohibited in waters greater than 60 fathoms and less than 150 fathoms south of Point Conception.
All Groundfish (some exceptions)	Trawl	Jan 1 – Feb 28 and Nov 1 – Dec 31	Fishing is prohibited in waters greater than 75 fathoms and less than 150 fathoms along the mainland, and from the shoreline to 150 fathoms around the islands.
All Groundfish (some exceptions)	Trawl	Mar 1 – Oct 31	Fishing is prohibited in waters greater than 100 fathoms and less than 150 fathoms along the mainland, and from the shoreline to 150 fathoms around the islands.
Sheephead	All Gear Types	March 1 – April 30	Closed Season
All Species – Marine Resources Protection Zone	Gill Nets and Trammel Nets		Prohibited in waters less than 70 fathoms or within 1 nautical mile, whichever is less, around all of the Channel Islands ²
Rockfish	Gill Nets and Trammel Nets		Use Prohibited in State waters for the take of rockfish.
Rockfish & Lingcod	Gill Nets and Trammel Nets		Prohibited in waters less than 70 fathoms in depth south of Point Sal, except drift and set gill nets shall not be used in waters less than 100 fathoms in depth at Sixty-Mile Bank. Prohibition on the take of rockfish in State waters applies.
Swordfish & Shark	Drift Gill Nets	Feb 1 – April 30	Closed Season
Swordfish & Shark	Drift Gill Nets	May 1 – Aug 14	Use prohibited within 75 nautical miles of the mainland coast between the westerly extension of the CA-OR boundary and the westerly extension of the US-Mexico boundary.
Swordfish & Shark	Drift Gill Nets	May 1 – July 31	Use prohibited within 6 nautical miles westerly, northerly, and easterly of the shoreline of San Miguel Island between a line extending 6 nautical miles west from Point Bennett and a line extending 6 nautical miles east from Cardwell Point and within 6 nautical miles westerly, northerly, and easterly of the shoreline of Santa Rosa Island between a line extending 6 nautical miles west from Sandy Point and a line extending 6 nautical miles east from Skunk Point.
Swordfish & Shark	Drift Gill Nets	May 1 – July 31	Use prohibited within 10 nautical miles westerly, southerly, and easterly of the shoreline of San Miguel Island between a line extending 10 nautical miles west

² All Channel Islands include San Miguel, Santa Rosa, Santa Cruz, Anacapa, San Nicolas, Santa Barbara, Santa Catalina, and San Clemente.

Appendix A: Existing Commercial Fishing Prohibitions In The Southern California Area

Species	Gear Type	Regulated Season	Regulations
			from Point Bennett and a line extending 10 nautical miles east from Cardwell Point and within 10 nautical miles westerly, southerly, and easterly of the shoreline of Santa Rosa Island between a line extending 10 nautical miles west from Sandy Point and a line extending 10 nautical miles east from Skunk Point.
Swordfish & Shark	Drift Gill Nets	Dec 15 – Jan 31	Use prohibited in ocean waters within 25 nautical miles of the mainland coast.
Squid	Round Haul Nets	Jan 1–Dec 31	Season closed from noon Friday until noon Sunday each week.
Yellowtail, barracuda, white seabass, salmon, steelhead, striped bass, and shad	Round Haul Nets		Use prohibited to take these species.
All Species	Trawl Nets		Prohibited out to 3 miles offshore mainland coast. (Except California halibut trawl grounds, 1-3 miles offshore between Pt. Arguello and Pt. Mugu). Special restrictions apply.
Halibut	Trawl Nets	March 15 – June 15	Closed Season - California Halibut Trawl Grounds. Use prohibited in waters 1-3 nautical miles from the mainland shore between Pt. Arguello and Pt. Mugu.
Pink Shrimp	Trawl Nets	Nov 1 –March 31	Closed Season for Pacific Ocean Shrimp.
Prawns & Shrimp	Traps		Use prohibited from Point Conception south to the Mexican border inside 50 fathoms depth.
Spot Prawn	Traps	Nov 1 –January 31	Closed Season between line drawn due west from Pt. Arguello and US-Mexico boundary.
Spot Prawn	Trawl		Use prohibited
Sea urchin (Red)		Various Closures - April through October	In April - May, September - October the closed days are Friday through Sunday. In June and August the closed days are Thursday through Sunday. In July the closed days are Wednesday through Sunday.
Lobster	Traps	First Thur. after March 15th to 1st Tue. in October	Closed Season

Appendix B: Existing Recreational Fishing Prohibitions In The Southern California Area

Species	Regulated Season	Regulations
Abalone		May not be taken
Garibaldi, giant (black) sea bass, gulf and broomtail grouper, canary rockfish, cowcod rockfish, yelloweye rockfish, white shark		May not be taken
Grunion	4/1 – 5/31	Closed Season
Rockfish, cabezon, greenlings, CA sheephead, ocean whitefish, and bocaccio.	1/1 – 2/28	Closed Season for boat-based anglers; open year-round for divers and shore-based anglers ¹ .
Rockfish, cabezon, greenlings, CA sheephead, ocean whitefish, and bocaccio	3/1 – 4/15	Take is prohibited in waters greater than 60 fathoms and less than 30 fathoms south of Point Conception.
Rockfish, cabezon, greenlings, CA sheephead, ocean whitefish, and bocaccio	4/16 – 8/31, and 11/1-12/31	Take is prohibited in waters greater than 60 fathoms south of Point Conception.
Rockfish, cabezon, greenlings, CA sheephead, ocean whitefish, and bocaccio	9/1-10/31	Take is prohibited in waters greater than 30 fathoms south of Point Conception.
CA scorpionfish (sculpin)	1/1 – 9/30	Closed Season for boat-based anglers; open year-round for divers and shore-based anglers.
CA scorpionfish (sculpin)	10/1-10/31	Take is prohibited in waters greater than 30 fathoms south of Point Conception
CA scorpionfish (sculpin)	11/1-12/31	Take is prohibited in waters greater than 60 fathoms south of Point Conception
Lingcod	1/1-3/31, and 12/1-12/31	Closed Season for boat-based anglers, divers, and shore-based anglers.
Lingcod	April 1 – April 15	Take is prohibited in waters greater than 60 fathoms and less than 30 fathoms south of Point Conception.
Lingcod	4/16 – 8/31, and November 1-November 30	Take is prohibited in waters greater than 60 fathoms south of Point Conception.
Lingcod	9/1-10/31	Take is prohibited in waters greater than 30 fathoms south of Point Conception.
Lobster	First Thur. after 3/15 to the Fri. before the 1st Wed. in October	Closed Season
Salmon	9/29 – 4/2	Closed Season

Appendix C: Federal Waters Fisheries In the Channel Islands Area

Species	Fishery	Management	General Locale	Comments
Angel Shark	Set Gillnet	State FGC	North side Rosa and Cruz	Mostly inside State Waters
Halibut	Set Gillnet and Trawl Hook and Line	State FGC/T14	North side Rosa, Cruz, Anacapa, South Side Rosa, Cruz, Miguel	Mostly inside State Waters
Other Flatfish	Trawl (mostly)	Federal Groundfish FMP	North side Rosa, Cruz, Anacapa South Side Rosa, Cruz, Miguel	
Rockfish	Set Gillnet/ Hook and Line	Federal Groundfish FMP	NE side Cruz Carrington Point	Hook and Line mostly inside State Waters
Rockfish	Trawl	Federal Groundfish FMP	mostly N and W Rosa and Miguel and S Miguel	
Thornyheads	Trawl/ Hook and Line	Federal Groundfish FMP	South side of all islands except SBI	
Sea Cucumber	Trawl	State FGC	Primarily Santa Barbara Channel	No reported catch in CINMS (Leeworthy and Wiley 2005)
Ridgeback Prawn	Trawl	State T14	All North sides, primarily Anacapa and NE Cruz	
Spot Prawn	Trap and Trawl*	State T14	All areas except SBI	*The trawl fishery is no longer legal, however some fishermen may convert to trap and continue fishing traditionally trawled areas.
Market Squid	Seine/ Brail	State FGC/T14	Occasional SBI North and South, as well as South Santa Rosa and NE Cruz	mostly inside State Waters with the exception of certain areas off SBI
White Seabass	Small-Mesh Drift Gillnet/ Set Gillnet/ Hook and Line	State FGC/T14	SW Rosa, S and SE Cruz All North sides except Anacapa	
Common Thresher Shark	Drift Gillnet	Federal Highly Migratory Species FMP	All areas	
Soupfish Shark/ Leopard Shark	Set Gillnet	State FGC Federal Groundfish FMP	Mostly North side Santa Rosa, Santa Cruz, and Anacapa North and South SBI Occasional South side Rosa, Cruz, and Anacapa	Mostly inside State Waters
Swordfish	Drift Gillnet/ Harpoon	Federal Highly Migratory Species FMP	S Cruz and Anacapa	
Tunas	Hook and Line/ Seine	State T14 Federal Highly Migratory Species FMP	Limited in this region	When appearing near CINMS, Bluefin Tuna have been targeted with Purse Seine at South Santa Rosa and Santa Cruz). Albacore - Hook and Line when

Appendix C: Federal Waters Fisheries In the Channel Islands Area

Species	Fishery	Management	General Locale	Comments
				fish are available.
Sardine/Mackerel/ Anchovy (CPS)	Seine	Federal Coastal Pelagic Species FMP	All areas	
Sablefish	Trap and Hook and Line Gears	Federal Groundfish FMP	South sides of all but SBI	
Salmon	Hook and Line	State T14 Federal Salmon FMP	Very limited in this region	

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PACIFIC FISHERY MANAGEMENT COUNCIL

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

CHAIRMAN
Donald K. Hansen

EXECUTIVE DIRECTOR
Donald O. McIsaac

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

July 1, 2005

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

Re: Marine Protected Areas in Federal Waters of the Channel Islands National Marine Sanctuary

Dear Mr. Basta:

Thank you for the letter we received May 25, 2005 providing the opportunity to prepare draft fishing regulations for the federal waters portion of the Channel Islands National Marine Sanctuary (CINMS) under 304 (a)(5) of the National Marine Sanctuaries Act (NMSA). The letter and supporting materials were included in the advance briefing book for the Pacific Fishery Management Council (Council) June 12-17, 2005 Council meeting in Foster City, California and the Council discussed them on Monday, June 13, 2005. The Council also considered area protection in federal waters of the CINMS on Wednesday, June 15, 2005 under the groundfish essential fish habitat (EFH) agenda. The Council tasked me with conveying initial comments of the Council on your NMSA section 304(a)(5) notification letter and informing you of their action on groundfish EFH relative to the CINMS.

NMSA Section 304(a)(5) Letter

In discussing the referenced materials, the Council expressed concern about a change in the collaborative process by which final Council action is taken on the opportunity to draft proposed fishing regulations under the NMSA. The Council also had some questions about the content of the letter and some requests relative to the logistics of the 120-day response period. Lastly, the Council scheduled consideration of proposed fishing regulations under the NMSA for a two-meeting process at the upcoming September and November Council meetings in Portland, Oregon and San Diego, California respectively.

The Council expressed concern with what appears to be a change in the process by which final Council action is taken on the opportunity to draft proposed fishing regulations under the NMSA. Up until this point, the Council was under the impression that it would see essentially a full draft of the analysis of a draft environmental impact statement (DEIS) prior to developing a recommendation

on proposed fishing regulations. This would allow the Council to consider essentially the same facts and analysis that the CINMS, National Marine Sanctuary Program, the National Ocean Service, and the Secretary of Commerce would all see prior to their decision making on this matter. A process whereby all parties consider the same information would seem to promote consistency in the federal decision-making process. Conversely, if the sequence of those individually considering recommendations, or in the case of the Secretary, a final decision, was made on the basis of different facts and analysis, lack of consistency in decision making would seem a higher probability. This change in process is a disappointment, given the benefits and expectations of the public relative to transparency and consistent use of common information by parties charged with decision making on this issue. It is unclear at this point what differences there will be between the summary analyses in the May 25 correspondence and the DEIS.

The Council also had questions about both the content of the May 25 correspondence and matters that were not included in the correspondence. On content, there is a question of whether the NMSP accurately perceives the Council position on the combined use of the existing Magnuson-Stevens Fishery Conservation and Management Act (MSA) and California State landing and possession authorities to achieve CINMS goals without proceeding under the NMSA process, including amending the CINMS Designation Document. The May 25 letter first correctly describes the Council recommendation to not change the Designation Document at this time, pending an evaluation of the combination of MSA and state authorities as a possible avenue to reach the CINMS' stated objectives. However, the next five times this jurisdictional matter is described in the letter, the concept is characterized as a mechanism under MSA authority without mention of the additive component of the landing and possession authority of California State law in fully protecting CINMS living resources from the effects of fishing. To be clear, the basis of the Council position on the Designation Document change and the Council request for an additional jurisdictional alternative in the DEIS was the concept that the combination of legal authority under the MSA and California State fish and game laws, including and particularly landing and possession regulations, may be an adequate substitute for the NMSA process with regard to regulating fishing to achieve the CINMS stated goals and objectives. You have indicated the analysis of this question will be forthcoming by July 18, 2005; the Council asks that opinion provide analysis of the concept as described in this letter and not just the alternative of singular MSA authority.

The Council has an additional question regarding alternatives not included in the May 25 correspondence. In the Council's December 8, 2004 letter responding to the CINMS request for input on development of the DEIS, particularly the request of input on the adequacy of the range of alternatives, three additional alternatives were recommended for further analysis: the jurisdictional alternative discussed above, an alternative described as the "Miller/Hoeflinger alternative" (referred to in the Council forum as the "fishing industry alternative"), and a subset of alternatives analyzing the designated areas as conservation areas in comparison to no-take marine reserves. The May 25 correspondence supporting materials that contain descriptions and summary analyses of the alternatives does not appear to contain any reference to the Miller/Hoeflinger or conservation area comparison alternatives, nor mention why they were considered and rejected. Noting that a DEIS would typically contain information about alternatives considered and rejected, the Council would appreciate such analysis prior to the onset of the upcoming two-meeting process to consider draft fishing regulations under the NMSA.

The Council also has two requests relative to logistics of the 120-day notification. The May 25 letter indicates that 120-day period would extend for 120 days beyond July 18, the date the NOAA analysis of jurisdictional alternatives is expected. Noting the July 18 deadline was not a Council request, and there may be unforeseen circumstances that prevent delivery of a useable analysis on July 18, we ask that (1) if the referenced analysis is received by July 18, we be provided until November 23 to accommodate full Council member review of the response language in the 12 working days subsequent to the November Council meeting, and (2) in the event the opinion is not available on July 18, the 120-day notification period begin when it is made available. We understand the NMSP is concerned about being as expeditious as possible in the ongoing NMSA process. In the event we can provide the formal Council response earlier than November 23, we will do our utmost to do so.

Lastly, we want to inform you that the Council has scheduled consideration of proposed fishing regulations under the NMSA for a two-meeting process at the upcoming September and November Council meetings in Portland, Oregon and San Diego, California respectively. It will be helpful if the information requested in this letter can be provided by late August for distribution in the advance briefing book for the September Council meeting. Also, noting that the analysis of the two jurisdictional alternatives currently in play has yet to be presented (the NMSA alternative and the MSA/state authorities alternative), this two-meeting schedule presumes it will be appropriate to proceed under the NMSA alternative.

Council Action Under Groundfish EFH Protection

The Council's April 15, 2005 letter regarding potential amendments to the CINM's Designation Document stated the belief that, pending the jurisdictional analysis requested in our December 8, 2004 letter, the combination of existing MSA and state authority can achieve CINMS goals in designating marine protected areas. At the recent June meeting, the Council took action to initiate such designation by identifying groundfish EFH, habitat areas of particular concern (HAPC), and adopting mitigative measures to minimize adverse impacts to EFH in federal waters of the CINMS. The Council designated the federal water areas identified under Alternative 2 of your March 25, 2005 supporting documentation as HAPC and identified these areas as "no-take" areas as a means of minimizing adverse impacts to EFH (with the exception of the western Anacapa Island area which will be closed to specific gear types). The Council anticipates completing the Groundfish Fishery Management Plan amendment and regulations on this matter in the fall of 2005 for full federal implementation by May 2006. Additionally, the California State government seat at the Council table announced the intent to proceed with any state landing and possession regulation enactments that may be necessary to achieve effective no-take marine reserves with regard to fishing in these federal water areas of the CINMS.

The Council would consider additional regulations under the other Council FMPs for coastal pelagic species, salmon, and highly migratory species if that were to be necessary for protection in these CINMS areas. At this time, initial advice from NOAA General Counsel is that, depending on the record, the prohibitions on fishing gear that may impact groundfish EFH could be sufficient to achieve no-take marine reserve status. In the event that the record for the groundfish action does not support no-take marine reserves and additional Council action is necessary, the Council would consider additional action under its MSA authority.

Mr. Daniel J. Basta

July 1, 2005

Page 4 of 4

The Council looks forward to working with the CINMS staff towards a decision by the Council on proposed fishing regulations under the NMSA this fall and would appreciate a response to the comments expressed at the June Council meeting as conveyed above. If you or your staff has any questions about this letter, please don't hesitate to contact me or Mr. Mike Burner, the lead Staff Officer on this matter at 503-820-2280.

Sincerely,

A handwritten signature in black ink, appearing to read "D. O. McIsaac", with a long horizontal flourish extending to the right.

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

MDB:kla

c: Council Members
Dr. William Hogarth
Dr. Rebecca Lent
Mr. Christopher Mobley
Mr. Sean Hastings
Dr. John Coon
Mr. Mike Burner



UNITED STATES DEPARTMENT OF COMMERCE
The Under Secretary of Commerce
for Oceans and Atmosphere
Washington, D.C. 20230

JUL 19 2005

Donald McIsaac, Ph.D.
Executive Director
Pacific Fishery Management Council
7500 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384

RECEIVED

JUL 25 2005

Dear Dr. McIsaac and Council Members:

PFMC

By letter of May 25, 2005, the National Oceanic and Atmospheric Administration's (NOAA) National Marine Sanctuary Program (NMSP) formally provided the Pacific Fishery Management Council (Council) the opportunity to prepare draft sanctuary fishing regulations, pursuant to Section 304(a)(5) of the National Marine Sanctuaries Act (NMSA). These regulations would establish marine reserves and marine conservation areas in federal waters of the Channel Islands National Marine Sanctuary (CINMS or Sanctuary). NOAA provided the goals and objectives for the potential action, as well as additional materials, including an analysis of possible alternatives, and sample model regulations to assist the Council in responding to the Section 304(a)(5) opportunity. NOAA is also in receipt of the Council's July 1, 2005, letter to Dan Basta, NMSP Director, regarding the Section 304(a)(5) materials and the Council's actions at its June meeting. A separate, more thorough response will be sent directly from Mr. Basta to the Council to address more fully the issues raised in the Council's July 1 letter.

As indicated in the NMSP's Section 304(a)(5) letter, in response to the Council and the State of California, NOAA is evaluating the legal and administrative viability, and procedures and timeline necessary to establish and implement fishing restrictions to achieve the Sanctuary's goals and objectives under the Magnuson-Stevens Fishery Conservation and Management Act (MSA). We initially hoped to provide the Council with NOAA's determination regarding the viability of using the MSA to meet Sanctuary goals and objectives by July 18, 2005. However, NOAA needs additional time to complete its MSA review and analysis, particularly, to fully assess the feasibility of implementing the Council's June recommendations regarding restricting fishing in the Sanctuary. Presently, we expect to complete this analysis by September or October 2005.

We appreciate your acknowledgement of the need to keep the National Marine Sanctuaries Act (NMSA) and National Environmental Policy Act (NEPA) process moving forward. We agree to grant the Council's request for an additional one-week extension of the 120-day period to allow for a response by November 23, 2005, rather than November 16. However, it is both critical and appropriate for the Council to respond no later than November 23 so NOAA can continue its NEPA and regulatory process in the event NOAA determines that proceeding under MSA is not viable.

THE ADMINISTRATOR



As stated in our original Section 304(a)(5) request, "providing the PFMC (Council) with this opportunity (to draft regulations) does not presuppose that regulations will be issued under the NMSA..." Similarly, the National Marine Fisheries Service is continuing with the administrative process necessary to make a decision regarding all the Council's recommended Essential Fish Habitat actions under the MSA. Keeping both the NMSA and MSA administrative processes moving forward will help ensure the Sanctuary's goals and objectives for marine reserves and marine conservation areas can be implemented in a timely manner under either regulatory scenario once a NOAA decision has been made. This will also be responsive to the State of California's concern over timely completion of the reserve process.

We want to thank you again for the Council's continued involvement in the CINMS marine reserves process, and for its June recommendations toward achieving the Sanctuary's goals and objectives. Please contact Dan Basta at (301) 713-3125 x235 if you have any questions.

Sincerely,

A handwritten signature in black ink, reading "Conrad C. Lautenbacher, Jr." in a cursive script.

Conrad C. Lautenbacher, Jr.
Vice Admiral, U.S. Navy (Ret.)
Under Secretary of Commerce for
Oceans and Atmosphere

September 2005



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

JUL 26 2005

Donald McIsaac, Ph.D.
Executive Director
Pacific Fishery Management Council
7500 NE Ambassador Place, Suite 200
Portland, OR 97220-1384

RECEIVED

JUL 28 2005

PFMC

Dear Dr. McIsaac:

Thank you for the July 1 letter regarding the National Marine Sanctuaries Act (NMSA) section 304(a)(5) opportunity to prepare draft sanctuary fishing regulations to implement marine reserves and marine conservation areas in federal waters of the Channel Islands National Marine Sanctuary (CINMS or Sanctuary). We appreciate the Pacific Fishery Management Council's (PFMC or Council) input, and your informing us of the Council's June 2005 recommended action on groundfish essential fish habitat (EFH) relative to CINMS, as well as the Monterey Bay and Cordell Bank National Marine Sanctuaries. This letter addresses the concerns and issues you raised in your letter.

I. Preparation of Draft Fishing Regulations for CINMS under the National Marine Sanctuaries Act

Per your statement regarding a change in the NMSA process (e.g., the timing of and need for draft regulations prior to issuance of a completed draft EIS), please be assured that there have been no changes to the NMSA section 304(a)(5) and NEPA processes that have been described and discussed with the Council. NOAA has described this process in letters, informational materials and several staff presentations to the Council since early 2003 and at nearly every Council meeting to date. We hope this letter clarifies any outstanding confusion regarding the NMSA section 304(a)(5) process.

One issue expressed by the Council is its concern that it did not receive a full draft of an analysis of a draft environmental impact statement prior to taking action on the Sanctuary's section 304(a)(5) request for the CINMS. We believe that the analysis and information provided are fully sufficient to support the Council's deliberations, as described in the next paragraph.

The information provided by the NMSP to the Council on May 25, 2005 included the goals and objectives for establishing marine reserves and marine conservation areas in the Sanctuary. These provide the benchmark by which the Council is to prepare NMSA fishing regulations under section 304(a)(5). Also included in the May 25 letter was an analysis of possible zoning alternatives and model regulations to assist the Council in responding to the section 304(a)(5) opportunity. This summary analysis contained information for the purposes of preparing draft



NMSA regulations at this stage of NOAA's regulatory and National Environmental Policy Act process for the CINMS. The Council has been provided all the facts and analysis available to date either within the summary document or by reference. In addition, this information builds on the preliminary environmental document provided the Council in May 2004, to get as much Council input as early as possible, and the Council's comments received on that document. Consequently, we believe that the level of analysis and information provided to assist the Council is fully sufficient to support the Council's deliberations. This information, along with the Council's response, will be discussed in the DEIS that will be issued for public comment.

II. Alternatives Considered to Date for Proposed CINMS Reserves

The Council expressed concern regarding the range of alternatives provided in the section 304(a)(5) supporting materials.

The section 304(a)(5) process is specific to the Council preparing draft NMSA fishing regulations only, and to that end, we are coordinating with the State on what, if any, additional State action may be necessary to complement regulations promulgated under the NMSA. However, given the Council's and State of California's request to consider whether the Sanctuary's goals and objectives can be achieved under the Magnuson-Stevens Act and State authorities, we have also included in the supporting materials an alternative that relies on these authorities (*see the Supporting Document, Section III; Alternatives - Regulation Under the MSA and State Authorities (p. 23) and Appendix A, B and C.*).

The Miller/Hoeflinger proposal referenced by the Council is included as Alternative 1; (*see the Supporting Document, Section III, Alternatives, p. 17*). Please note that this alternative represents an evolution of zoning options originally developed by Mr. Miller and Mr. Hoeflinger, and was endorsed by the Commercial Fishing Working Group of the Sanctuary Advisory Council. Regarding the PFMC recommendation to consider marine conservation areas, this proposal is embedded in Alternative 1 where the areas proposed are all marine conservation areas instead of marine reserves. Additionally, a general comparison of marine conservation areas and marine reserves is referenced and available in the 2002 CDFG CEQA document.

In its June meeting, the Council unanimously supported the State of California's recommendation to designate the CINMS Alternative 2 mapped areas as Habitat Areas of Particular Concern, with all necessary measures taken to ensure that they achieve a de facto "no take" status, through the use of EFH "no fishing" measures, additional FMP amendments, and follow-up State actions as necessary. The Council's recommendation supports the substantive implementation of the current draft Alternative 2 in the section 304(a)(5) materials, which is predominantly made up of no-take reserves, albeit under a different regulatory mechanism than the NMSA. However, in order to ensure a reasonable range of NEPA alternatives, the draft environmental impact statement will consider conservation areas (that allow some types of fishing) as well as no-take marine reserves.

III. Timeline

We appreciate your acknowledgement of the need to keep the NMSA and NEPA process moving forward. As provided in the July 19, 2005 letter from Vice Admiral Lautenbacher, we agree to grant the Council's request for an additional extension of the 120-day period to allow for a response by November 23, 2005, rather than November 16. It is important to note that, as stated in our original section 304(a)(5) request for the CINMS, "providing the PFMC with this opportunity (to draft regulations) does not presuppose that regulations will be issued under the NMSA..." Similarly, NOAA Fisheries is continuing with the administrative process necessary for NOAA to make a decision regarding all of the Council's recommended EFH actions under the Magnuson-Stevens Act (MSA).

Keeping both the NMSA and MSA administrative processes moving forward for CINMS, as well as for the joint management plan review for Monterey Bay, Cordell Bank (and Gulf of the Farallones) sanctuaries, will help ensure that these sanctuaries' goals and objectives related to fishing activities can be implemented in a timely manner once NOAA determines the most appropriate implementing authority.

IV. Council Action Under Groundfish EFH for Protection of California Sanctuaries

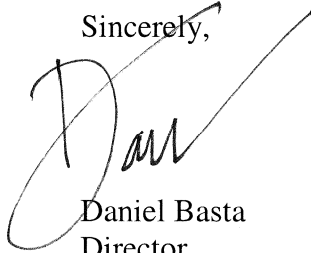
The Council's unanimous endorsement of the State of California's recommended EFH protection measures for CINMS at the June meeting is clear recognition of the importance of this area. At the June meeting, the State of California expressed desire to see EFH and other State or federal fishing regulations enacted as necessary in order to complete the originally envisioned marine protected area network in a timely manner. Your July 1, 2005 letter also states that implementation of the Council's groundfish EFH recommendation of establishing "no fishing" zones may achieve the CINMS ecosystem protection goals and objectives, but that additional State and federal fishery management actions might also be necessary.

I want to also take this opportunity to acknowledge the Council's June EFH recommendations toward meeting the goals and objectives for the Monterey Bay and Cordell Bank National Marine Sanctuaries' proposed actions. As you know, NOAA's analysis of the MSA includes reviewing whether it can be used to achieve all or part of the NMSP's goals and objectives of restricting fishing below 3000 feet over Davidson Seamount for the Monterey Bay National Marine Sanctuary, and restricting bottom-contact gear within the 50-fathom isobath surrounding Cordell Bank in the Cordell Bank National Marine Sanctuary.

Consequently, the complexity of the Council's recommendations make it critical that all of the necessary pieces regarding the process, timing and final implementation of the proposed action be identified before the analysis can be completed, and evaluated. As Admiral Lautenbacher's letter indicates, NOAA expects to complete its analysis by September or October, 2005, at which time an evaluation and determination on the most appropriate course of action will be made.

We look forward to continuing to work with the PFMC particularly in preparation for its September and November meetings. If you have any question regarding the CINMS process, please do not hesitate to contact Chris Mobley, CINMS Manager at (805) 966-7107. If you have any questions regarding the JMPR process, please contact William Douros, MBNMS Superintendent at (831) 647-4201.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dan', with a large, sweeping flourish extending upwards and to the right.

Daniel Basta
Director
National Marine Sanctuary Program

cc: William Hogarth, Assistant Administrator, NOAA Fisheries
Michael Chrisman, California Secretary of Resources
Ryan Broddrick, Director, California Department of Fish and Game

GROUND FISH ADVISORY SUBPANEL STATEMENT ON
CHANNEL ISLANDS NATIONAL MARINE SANCTUARY (CINMS)

The Groundfish Advisory Subpanel (GAP) heard a presentation from Sean Hastings of the Channel Islands National Marine Sanctuary (CINMS) on expansion of marine protected areas (MPAs) from state waters into Federal waters. The GAP does not support a proposal to change the designation document to allow the Sanctuary to regulate fishing in the Sanctuary.

The GAP has commented before and strongly recommends that the Magnuson-Stevens Fishery Conservation and Management Act (MSA) continue to be the law that regulates fishing activity because the Sanctuary does not have the resources or public process with scientific review to make adequate decisions involving fishing activities. We recommend the Council continue to use Amendment 19 (essential fish habitat) procedures as needed to create MPAs.

The Sanctuary was not intended to regulate fishing and fishing was not listed as an activity subject to CINMS regulation in the beginning. If fishing had been included among the activities to be regulated by the CINMS from the start, creation of the CINMS would never have been supported by these communities. The GAP strongly supports the original intent.

The CINMS role of conservation is intended to be met by education, research, and improving water quality. If you hear that the CINMS Sanctuary Advisory Council supports a change, be aware that these members are appointed by the CINMS managers.

We urge the Council to let the CINMS know that their goals cannot be accomplished fairly through their process and the GAP urges the Council clarify that the MSA is the authority to manage fishing.

PFGC
09/21/05

HABITAT COMMITTEE REPORT
CHANNEL ISLANDS NATIONAL MARINE SANCTUARY

The Habitat Committee (HC) understands that National Oceanic and Atmospheric Administration (NOAA) is conducting an internal review and analysis to determine the most appropriate mechanism to establish fishing regulations within National Marine Sanctuaries (including evaluation of existing state rules). We expect the analysis will help us understand the relative effects of fishing regulation options on habitat, especially relating to scope and permanence of measures. Once the NOAA analysis is complete in mid-October, the HC will be ready to provide input at the direction of Council to aid preparation of sanctuary fishing regulations.

PFMC
09/20/05

SALMON ADVISORY SUBPANEL REPORT ON
CHANNEL ISLANDS NATIONAL MARINE SANCTUARY (CINMS)

The Salmon Advisory Subpanel (SAS) feels that existing Council management strategies more than address sanctuary concerns for protection of sanctuary resources. The SAS sees no compelling need that warrants changing their designation document or promulgating further regulation of fisheries.

PPMC
09/21/05

SCIENTIFIC AND STATISTICAL COMMITTEE REPORT ON
CHANNEL ISLANDS NATIONAL MARINE SANCTUARY (CINMS)

The Scientific and Statistical Committee (SSC) reviewed a document entitled, “Supporting Materials” (Agenda Item H.1.a, Attachment 1), which describes draft reserve alternatives for federal waters at Channel Islands National Marine Sanctuary (CINMS) and provides some description of the effects of these alternatives. “Supporting Materials” was an attachment to a letter submitted by Mr. Daniel Basta to Dr. Donald McIsaac (date stamped May 25, 2005) for Council consideration. According to page 3 of that letter, “Supporting Materials” addresses comments previously provided by the Council regarding a May 2004 document entitled *Staff Preliminary Working Draft Document for Consideration of a Network of Marine Reserves and Marine Conservation Areas within the Channel Islands National Marine Sanctuary*. The SSC was among the Council advisory bodies that provided comments regarding the May 2004 document.

The SSC understands that “Supporting Materials” is not intended to constitute a Draft Environmental Impact Statement (DEIS) - which will be completed at a later date - but rather to provide the Council with enough information to propose fishing regulations. The SSC notes that the DEIS is the vehicle by which the Council ensures that its decisions are based on the best available information. Given that “Supporting Materials” is not intended to meet the standards of a DEIS, it would be futile for the SSC to evaluate “Supporting Materials” on that basis. Under these circumstances, the best that the SSC can do is to:

- Focus on issues identified in our cumulative record of recommendations (see Attachment 1 of this statement) that are relevant to the goals and objectives identified in “Supporting Materials” and that the SSC considers salient to the information contained in that document.
- Review the issues identified above as best we can, given the limited information contained in “Supporting Materials.”

“Supporting Materials” reflects an effort to recognize the potential trade-off between ecological and socioeconomic costs and benefits of the reserve alternatives. A major factor hampering the SSC’s review of “Supporting Materials” is the lack of substantiation for the socioeconomic analysis. While “Supporting Materials” includes some tabular estimates of socioeconomic effects, justification for these estimates consists largely of repeated references to an analysis by Leeworthy and Wiley (2005), which was not made available to the SSC; the name of this document is not even known, as it is not included in the “References” section of “Supporting Materials”. In June 2002, the SSC expressed substantive concerns regarding a socioeconomic analysis of CINMS reserve alternatives provided by Leeworthy and Wiley (2002). In July 2004, the SSC reviewed an updated version of that analysis - Leeworthy and Wiley (2003) - which did little to address those concerns. Given this history, the SSC considers it particularly important to have access to Leeworthy and Wiley (2005) in order to evaluate the extent to which these ongoing technical issues have found some resolution in “Supporting Materials”.

“Supporting Materials” contains very little documentation regarding the rationale underlying the description of the baseline and the methods and assumptions underlying the analysis of socioeconomic effects of the alternatives on commercial fisheries and recreational consumptive and non-consumptive activities. Attachment 2 of this statement provides more detailed comments regarding these issues. Some of these issues (particularly those pertaining to the socioeconomic analysis) are not new and were raised by the SSC in 2002 and 2004.

The letter accompanying “Supporting Materials” indicates that it addresses Council comments regarding a document previously submitted to the Council in May 2004, entitled *Staff Preliminary Working Draft Document for Consideration of a Network of Marine Reserves and Marine Conservation Areas within the Channel Islands National Marine Sanctuary*. As indicated in Attachment 2 of this statement, the information contained in “Supporting Materials” is not responsive to SSC comments regarding the May 2004 document. “Supporting Materials” the need for adequate documentation of methods and assumptions which is standard for any technical analysis, regardless of whether it is related to a DEIS. Given the inadequate documentation of the analysis of alternatives contained in “Supporting Materials” and technical issues pertaining to that analysis, the SSC does not see how the Council can make an informed decision regarding proposed regulations for reserves at CINMS.

Attachment 1. Cumulative Record of SSC Comments on Reserve Alternatives at CINMS

Over the past four years, staff at the CINMS have periodically briefed the SSC regarding their plans and progress toward establishing marine reserves at CINMS. To facilitate the Council's consideration of this issue, the SSC has reviewed a number of technical reports pertaining to reserves in state, and now federal, waters at CINMS, as follows:

- October 1-2, 2001 review of a document pertaining to recommendations of the CINMS Science Advisory Panel regarding reserve size
 - Anonymous. May 23, 2001. *DRAFT - How large should marine reserves be?*
- June 10-11, 2002 review of two documents that analyze effects of reserve alternatives in state waters at CINMS
 - Ugoretz, J. And D. Parker. May 2002. *Draft Environmental Document - Marine Protected Areas in NOAA's Channel Islands National Marine Sanctuary*
 - Leeworthy, Dr. V. And P. Wiley. 2002. *Socioeconomic Impact Analysis of Marine Reserve Alternatives for the Channel Islands National Marine Sanctuary* ???
- July 19-20, 2004 review of two documents pertaining to preliminary work by CINMS on evaluating reserve alternatives in federal waters
 - CINMS. Undated. *Staff Preliminary Working Draft Document for Consideration of a Network of Marine Reserves and Marine Conservation Areas within the Channel Islands National Marine Sanctuary.*
 - Leeworthy, Dr. V.R. and P.C. Wiley, 2003. *Socioeconomic Impact Analysis of Marine Reserve Alternatives for the Channel Islands National Marine Sanctuary*

October 1-2, 2001 review: This review was the outcome of a request from the SSC to CINMS for the opportunity to review documentation underlying the CINMS Science Advisory Panel's recommendation for reserves in 30%-50% of CINMS waters. SSC comments regarding this document are contained in the SSC meeting minutes for October 29-30, 2001.

June 10-11, 2002 review: Although the Ugoretz and Parker (2002) analysis pertained to the establishment of marine reserves in state waters at CINMS, the Council requested an SSC review of that document on the basis that subsequent establishment of reserves in federal waters would be contingent on the location of these state reserves. In reviewing Ugoretz and Parker (2002), the SSC was careful to distinguish between aspects of the report that addressed state requirements for regulatory analysis under the California Environmental Quality Act (CEQA) and aspects of the report (most notably the socioeconomic analysis) that went beyond CEQA requirements but nevertheless contributed to the analysis of alternatives. Because documentation for the socioeconomic results presented by Ugoretz and Parker (2002) was contained in Leeworthy and Wiley (2002), it was necessary for the SSC to also review the latter document in order to adequately understand and review the former. The SSC's June 2002 review and its response to a letter from Dr. Leeworthy regarding this review are contained in the SSC meeting minutes for June 16-18, 2002 and September 9-10, 2002, respectively.

July 19-20, 2004 review: This review was prompted by a request from the National Ocean Service for Council input regarding the data, analytical methods and range of reserve alternatives being considered at CINMS. In order to adequately understand and review the *Staff Preliminary Working Draft Document* provided by CINMS, the SSC also received and reviewed an updated version (Leeworthy and Wiley 2003) of the socioeconomic analysis reviewed in June 2002 (Leeworthy 2002). The results of this review are contained in an SSC report dated September 14, 2004 and entitled *Review of Data, Analytical Methods and Range of Alternatives Used in “Staff Preliminary Working Draft Document for Consideration of a Network of Marine Reserves and Marine Conservation Areas within the Channel Islands National Marine Sanctuary”*. This review covered issues initially identified in the SSC’s June 2002 review which had not yet been addressed as well as new issues associated with changes in the analysis since that initial review.

Together, the October 2001, June 2002 and July 2004 reviews provide a cumulative record of SSC recommendations to date regarding reserves at CINMS. These recommendations are consistent with federal regulatory guidelines and with the SSC’s 2004 white paper entitled *Marine Reserves: Objectives, Rationales, Fishery Management Implications, and Regulatory Requirements*.

Attachment 2. SSC Comments Regarding Specific Aspects of “Supporting Materials”

Defining range of alternatives

- “Supporting Materials” provides useful information regarding the alternatives. For instance, figures 4-7 (pp. 17-21) describe the location of state reserves under the *status quo* and the location of federal reserves under each of the three alternatives to the *status quo*. Table 2 (p. 29) describes the extent to which different types of habitat (soft sediment, hard sediment, submarine canyons) would be protected under the *status quo* and the three alternatives. Pages 17-21 describe the size of the combined state and federal areas that would be set aside as marine reserves (MRs) and marine conservation areas (MCAs) under each alternative. Additional breakdown of these numbers to distinguish how much of these MRs and MCAs occur in state and federal waters would be helpful for better understanding the impact of the proposed regulatory action.
- Pages 10-11 (including Table 1) provide information on selected fishes and invertebrates in CINMS. If the intent of this information is to identify species that would be protected under the reserve alternatives, this should be made explicit. Clarification regarding the extent of species protection provided by the alternatives would be useful for evaluating the ecological effects of the alternatives and may also facilitate the Council’s efforts to draft appropriate regulations as they pertain to these species.

Defining the baseline

In its July 2004 review, the SSC recommended that the baseline used in the analysis of reserve alternatives for federal waters should (to the extent possible) reflect the level and geographic distribution of commercial and recreational activities in CINMS after establishment of reserves in state waters (that is, 2003 and beyond). The extent to which this is done in “Supporting Materials” is limited or, in some cases, not clear.

- The commercial fishery baseline is defined in “Supporting Materials” in terms of the annual ex-vessel value of landings in 2003 for rockfish, tuna and prawns, 2000-2003 for sheephead, and 1996-2003 for ten other species. Given that 2003 ex-vessel revenue information is available for all species, it is not clear why this information was not consistently used to define the baseline for all species.
- No discussion is provided regarding how baseline estimates of person-days associated with consumptive and non-consumptive recreation were calculated. The actual numbers that appear in the analysis are virtually unchanged from the 1999 baseline previously used by Leeworthy and Wiley (2002, 2003).
- No information is provided regarding baseline geographic distributions of commercial and recreational activity or the assumptions underlying those distributions.

- The Sanctuary Aerial Monitoring and Spatial Analysis program (SAMSAP) is used to qualitatively characterize the extent of congestion associated with each alternative. While SAMSAP is a potentially useful source of information, the baseline for analyzing the SAMSAP data (Figure 10, p. 41) includes years before and after the establishment of state reserves (1997-2004) rather than just the “after” years (2003-2004).

Analyzing effects of alternatives

- The estimates of recreational and commercial fishing activity displaced under the three alternatives and associated effects on income and employment (Tables 4-6 on pp. 35-37) depend critically on how the baseline is defined. As indicated above, “Supporting Materials” provides little description of or justification for the baseline used in the analysis.
- A retrospective analysis of SAMSAP data that compares activity distributions before (1997-2002) and after (2003-2004) the establishment of state reserves (the latter being the current *status quo*) may provide insights regarding what can be expected once reserves are established in federal waters.
- “Supporting Materials” references a “benefits transfer/policy analysis simulation” conducted by Leeworthy and Wiley (2005) involving use of quality elasticities from the literature to estimate benefits of the alternatives to non-consumptive recreation (p. 40). “Supporting Materials” also references Leeworthy and Wiley’s (2005) derivation of consumer surplus estimates pertaining to recreational use at CINMS (footnote 1, p. 40). Although these results are apparently available in Leeworthy and Wiley (2005) and highly relevant to the analysis of alternatives, they are not provided in “Supporting Materials”. It is not clear why available information on all analyzed effects is not included in “Supporting Materials”, given the relevance of this information to the Council’s deliberations.
- The SSC notes its longstanding concerns - raised in June 2002 and July 2004 - regarding the treatment of recreational effects in Leeworthy and Wiley (2002, 2003). These concerns include inappropriate use of price elasticities of demand from the literature as a proxy for quality elasticities of consumer surplus, and calculations of consumer surplus based on misinterpretation of results from the recreational demand literature and incorrect conversion of recreational values from a per-trip to a per-day basis. In addition to providing a fuller consideration of recreational effects in the evaluation of alternatives (which is apparently available in Leeworthy and Wiley (2005)), adequate documentation of the methods used to estimate these effects is also needed to determine whether and how SSC concerns have been resolved.

THE OREGON LEGISLATIVE ASSEMBLY - 2005 REGULAR SESSION

NOTE: Matter within { + braces and plus signs + } in an amended section is new. Matter within { - braces and minus signs - } is existing law to be omitted. New sections are within { + braces and plus signs + }

Senate Bill 734

Sponsored by COMMITTEE ON ENVIRONMENT AND LAND USE

Relating to marine protected areas; creating new provisions; and amending ORS 390.180.

A Bill For An Act

Whereas the creation, site location and size determination of marine reserves must be determined by all the stakeholders in the Oregon territorial sea's marine resources, including the public at large, relevant state agencies, conservationists, local county and city officials and the fishermen and fishing industries and related local businesses of the coastal fishing communities; and

Whereas Oregon's marine biodiversity is a vital asset to the state because Oregon's ocean waters contain recreational, commercial, subsistence, ecological, historical, educational and aesthetic values; and

Whereas the marine environment is subject to damage and loss of ecological integrity due to human activities, including overfishing of some groundfish; and

Whereas local coastal communities are directly affected by the degradation of the marine environment and have an economic interest in preserving and restoring healthy marine populations and critical bottom habitat; and

Whereas state and federal agencies have concluded that marine reserves are a valuable management tool for protecting and recovering the marine environment for the benefit of the marine ecosystems and their components and for the benefit of future generations of Oregonians as a food source; and

Whereas the biology of groundfish is in its early stages, but marine reserves are known to act as nurseries for groundfish, allowing older, more productive fish to survive while producing greater numbers of offspring that may help replenish populations outside the reserves; and

Whereas a significant risk to marine fisheries is our lack of understanding regarding the biology of marine life, and marine reserves can help expand our knowledge of marine life and its ecosystems; and

Whereas sound management of ocean resources requires adequate financial resources and close coordination with the federal government; and

Whereas a limited system of marine reserves, designed and managed according to clear conservation-based goals and guidelines, can provide the state with multiple benefits, now therefore

Be It Enacted by the People of Oregon:

SECTION 1 { + Section 2 of this 2005 Act is added to and made a part of ORS chapter 501. + }

SECTION 2 { + (1) The Oregon Department of Fish and Wildlife shall establish a limited system of marine reserves within waters in the Oregon Territorial Sea, up to the three-mile limit for the following purposes: (A) protecting and restoring specific areas of marine habitat that are of particular benefit or

importance to marine life and for the Oregon economy including subsistence, commercial and sport fishing, including but not limited to valuable groundfish species and their habitat; (B) providing and protecting areas that may serve in the future as the source of baseline data for scientific research, and (C) the restoration and enhancement of marine life, including but not limited to valuable groundfish species and their habitat.

(2) The Fish and Wildlife Commission shall identify and designate specific marine reserves in the Oregon Territorial Sea. The creation, and the determination of their site location and size determination shall be pursued and decided through the following process. (A) The Commission shall organize a Marine Reserves Site and Size Determination Committee (hereinafter Marine Reserves Committee, or, the Committee). The Committee shall have eleven members. It shall be composed of two members of the Oregon Department of Fish and Wildlife, one member of the Oregon Department of Parks and Recreation, one member of the academic and/or scientific community professionally involved with marine biology and/or marine fisheries, one representative of the commercial fishing industry, one representative of the sport fishing industry, one representative of coastal subsistence fishers, one representatives of conservation organizations, one representative of a coastal county, one representative of a coastal city, and one public-at-large representative. The Commission shall, in consultation with the Office of the Governor, make the appointments specified herein, and the membership of the Committee shall be seated and be authorized to begin work until the Committee's membership has been approved by both houses of the state legislature. Each legislative chamber shall vote yes or no on the entire roster of Committee members proposed by the Commission, and may not change, add or subtract from the roster as proposed by the Commission. The members of the Committee shall be reimbursed by ODFW for their travel expenses and overnight lodging when reasonably needed.

(3) In making its determination as to the site location and size of Oregon's marine reserves, the Committee shall consider the following factors, to the best extent possible given the present state of knowledge about marine biology and marine ecology, and about the Oregon coastal economy: (A) the importance of any given area or underwater feature as mating, spawning or rearing habitat for groundfish species (including rockfish and bottomfish species), with particular emphasis on commercially valuable species and, amongst those a primary emphasis on those species that are deemed overfished; (B) the larval travel patterns of the larvae of groundfish species (including rockfish and bottomfish species), with particular emphasis on those species that are deemed overfished; (C) the protection of habitat favored, if such be known, by large, old, highly fecund females, (D) the importance of specific other biological elements and/or habitat in the Oregon Territorial Sea's ecosystems, including kelp beds and keystone species, (E) the importance of any proposed area to commercial, sport and charter fishing and subsistence fishing and to the coastal economy.

(4) The Committee shall seek to maximize the ecological benefit of each reserve while also minimizing the economic detriment to the coastal commercial, sport and charter and subsistence fishing industries and communities. In doing so, the Committee shall balance ecological benefits against economic detriment, seeking first, significant ecological benefits that come with no or only slight economic detriment, then moderate ecological benefits that come with only slight detriment, then significant ecological benefits that come with moderate economic detriment, then, only if none of the foregoing can be identified, moderate ecological benefits that come with moderate economic detriment. Only if none of the foregoing can be identified, then the Committee may identify as reserves areas with significant ecological benefit that come with significant economic detriment.

(5) The Committee may not identify more than 15 percent of the total area (measured as square miles or percentages thereof) of the Oregon Territorial Sea as marine reserves, nor less than five percent. Except, however, it may identify up to 20 percent, or down to three percent if the Committee provides to the Legislature a Report that makes the request, identifies with particularity the reasons why, and the Legislature agrees to the variation above 15 percent or below five percent. Such area or areas shall be designated as a Second Tier area or areas. (A) In making such Report, if requesting more than 15 percent, the Committee shall specify: (a) the area that comprises the most important 15 percent, and the

ecological reasons for the area or areas involved, (b) the need for the additional area or areas above 15 percent, (c) the particular biological or ecological value or function of the area within the most important 15 percent, and (d) the particular biological or ecological value or function of the areas above that 15 percent, (e) the economic detriment associated with the 15 percent, (f) the economic detriment associated with the additional area above 15 percent, (g) and the reason why the additional economic detriment from the additional area or areas is very substantially outweighed by the additional ecological benefits. (B) In making such Report, if requesting less than five percent, the Committee shall specify: (a) the economic sectors it deems likely to be negatively impacted by the additional areas above three percent and below five percent if they are set aside as reserves, (b) the need for the avoidance of such economic detriment to such economic sectors, (c) the particular biological or ecological value or function of the area within the three percent to five percent range that would otherwise be protected if the minimum five percent were not lowered to less than five percent, (d) and the reason why the additional ecological benefits from the area that would be set aside if the minimum were not lowered to less than five percent and why they are very substantially outweighed by the additional economic detriments.

(6) If the Committee determines to designate areas totaling within the five percent to 15 percent range, the Committee shall rank those areas according to the factors specified in Section 4 of this Act, and the Commission shall not be required to seek approval from the Legislature for its designations. If the Committee determines to designate areas totaling less than five percent or more than 15 percent (that is, down to three percent or up to 20 percent of the ocean surface), the Commission shall be required to take the areas identified in that second tier of importance, and obtain approval from both Chambers of the Legislature for that variance upwards of 15 percent or downward of five percent.

(7) The Commission shall appoint Reserve Oversight/Monitoring Committees (ROM Committees) for each coastal county in Oregon, based on recommendations it shall solicit from the groups, interests, entities and agencies to be represented on the ROM Committee. Each ROM Committee shall have the same eleven-person membership structure as the Marine Reserves Committee, and shall have responsibility for overseeing the operation and monitoring of the marine reserve or reserves within the Territorial Sea off their portion of the coast. If a reserve is within the Territorial Sea area of two or more counties, each county shall participate in the ROM Committee for that reserve, with the county whose Sea includes the greater part of the reserve holding the county seat on the ROM Committee, and the county whose Sea includes the lesser part holding the city seat. Each ROM Committee with representatives from more than one county may vary duties and responsibilities in proportion to the part of the reserve within their Territorial Sea. If there are several areas in a reserve, linked by similar geological, biological and/or ecological considerations, they should be treated as one reserve for simplicity of management. Each such ROM Committee shall issue an annual report to the Legislature and Governor's Office. It shall describe the reserve, identify any and all research, and any and all fishing industry beliefs or reports, as to the progress, increase or decrease in the ecological functioning and commercial (commercial, sport/charter and subsistence) impacts of the reserve or reserve, and its ecological functioning and progress towards sustainable levels for species deemed overfished.

(8) No member of the Marine Reserves Committee, nor any member of any ROM Committee shall be liable for any otherwise lawful act taken when serving on, or acting for the ROM Committee, nor liable to any person for the consequences of any decision, action or omission by the ROM Committee. Any legal recourse against any action by the Marine Reserves Committee or any ROM Committee shall be against the ODFW, and any liability found shall attach to the Department or the state generally.

(9) No groundfish, bottomfish or rockfish tags, licenses or other device establishing a fee or charge for implementation of this Act shall be created and no such tags or licenses or device shall be issued or charged for. Unless otherwise expressly prohibited by law, the Oregon Department of Motor vehicles shall work with the Department of Fish and Wildlife to create a specialty license plate in support of Oregon Marine Reserves with a design relating directly to a marine and/or marine reserve theme. A contest among High School students should be the preferred method for obtaining such design. + }

Submitted by: Edward Johnston, 1540 N. Nye St., Toledo, OR 97391, (541)-336-1233

Edward Johnston
Signature

5-6-05
Date

Edward Johnston
Print Name

STATE OF OREGON,

County of Lincoln

} ss.

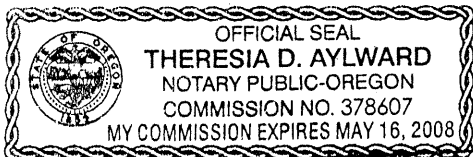
On May 6, 2005
DATE

before me personally appeared Edward Johnston

whose identity was established to my satisfaction, and who executed the foregoing instrument, acknowledging to me that the same was executed freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the date first written above.

Theresa D. Aylward
Notary Public for Oregon
My commission expires May 16, 2008



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IN THE CONGRESS OF THE UNITED STATES
THE 109th CONGRESS

WHEREAS the closure of sport and charter fishing on the Oregon Coast four days before the Friday beginning of the 2004 Labor Day weekend by the Oregon Department of Fish and Wildlife caused substantial economic losses and dislocation that was severely disproportionate to the ecological benefits it provided to the fish species, the black rockfish, it was intended to protect by avoiding what the Oregon Department of Fish and Wildlife believed was a likely exceeding of the season sport/charter catch quota for the species; and

WHEREAS the Oregon Department of Fish and Wildlife explained the perceived need for the in-season closure as being required by the Magnuson Stevens Fisheries Conservation Act; and

WHEREAS the sport/charter ground fish fishery was closed by ODFW when the catch was at 322 metric tons of black rockfish out of a previously set quote of 342 metric tons; and

WHEREAS the situation was confused by unclear ODFW figures that may have mixed together the catch of black rockfish and blue rockfish; and

WHEREAS virtually all parties, the public and stakeholders, including the Oregon Department of Fish and Wildlife concluded afterwards that the closure was more damaging to the coastal Oregon economy than was beneficial to the black rockfish, NOR THEREFORE, the Magnuson-Stevens Fisheries Conservation Act, Public Law 94-265 as amended, 16 USC 1853, Section 303 is hereby amended as follows:

ADD:

(+ 13. (A) Allow a fishing season in a particular fishery to continue for a period of up to ten days so as to allow it to continue through to the end of any major holiday fishing weekend, despite reasonably concluding or believing, based upon the then-current season data, the computer models utilized, and the most recent stock assessments, that allowing that continuation is likely or certain to exceed the quota for that particular fishery, if the agency reasonably believes (i) that closure of the particular fishery would produce economic losses to the coastal fishing region involved that are significantly and disproportionately greater than the ecological benefits non-delayed closure would bring to the particular fish species and (ii) would bring extraordinary hardships beyond those which would ordinarily occur from the ordinary closing of the fishery at season end. (B) In such event, the regional Council shall, in the season immediately following such continuation, deduct the amount by which the continued season actually exceeded the catch quota set for it from the catch quota for that subsequent season, and shall not follow a policy or procedure of raising that subsequent season catch level for the purpose of compensating for or avoiding the reduction thus required.

(C) The agency allowing such continuance shall make a finding setting forth the reasoning for allowing such continuance, and such finding shall reasonably demonstrate that the harmful economic impacts avoided were reasonably believed to be significantly and disproportionately greater than the ecological benefits foregone. (D) The agency may, in its discretion, declare a closure for some of the days prior to the major holiday fishing weekend as a means of mitigating the ecological harm to the fish species. (E) The regional Fishery Management Councils shall adopt rules enabling state agencies charged with implementation of Council decisions to allow the continuance of a particular fishery under the conditions and rules in this subsection. +)

CHANNEL ISLANDS NATIONAL MARINE SANCTUARY

The Council has been coordinating with Channel Islands National Marine Sanctuary (CINMS) in their development of proposed marine protected areas (marine reserves and marine conservation areas) within CINMS.

The National Marine Sanctuary Program (NMSP) submitted a letter and supporting documents at the June 2005 Council meeting (Agenda Item H.1.a, Attachment 1) which provided the Council the opportunity to draft fishing regulations for the potential establishment of marine protected areas in the federal waters of the CINMS pursuant to section 304(a)(5) of the National Marine Sanctuaries Act (NMSA). Although not the completed Draft Environmental Impact Statement (DEIS) for the proposed marine protected areas, the supporting materials provide the Council a description of the range of alternatives and preliminary analyses that have been conducted to date. One essential aspect of the analysis was not included, specifically the evaluation of the establishing fishing regulations that meet the CINMS goals and objectives under a combination of Magnuson-Stevens Fishery Conservation and Management Act (MSA) and state authorities as opposed to the NMSA process. The expectation in the May 25, 2005 letter was that National Oceanographic and Atmospheric Administration's (NOAA's) determination of whether to implement fishing regulations under the NMSA or under the combination of MSA and state authority would be available no later than July 18, 2005.

The Council reviewed the NMSP's May 25, 2005 materials and conveyed comments on the proposal in a letter dated July 1, 2005 (Agenda Item, H.1.a, Attachment 2). In this letter, the Council requested clarification on several aspects of the process including concerns about a change in the process schedule including the delivery of the full DEIS, the de-emphasis of state authority in achieving the NMSA goals with non-NMSA fishing regulations, and an incomplete description of the alternatives. The Council also requested reconsideration of the length of the review period and specified a deadline of November 23, 2005 if all of the required analyses were completed by July 18, 2005, and if not, requested the 120-day review period begin when all of the analyses were made available. Finally, the Council response letter informed the NMSP of Council action at the June 2005 meeting relative groundfish essential fish habitat (EFH). Under that action, the Council recommended the federal water areas of the CINMS in Alternative 2 in Agenda Item H.1.a, Attachment 1 as habitat areas of particular concern and identified most of these waters as "no-take" areas as a means of minimizing adverse habitat impacts (see Agenda Item F.4 for additional information and EFH regulatory recommendations).

In a letter dated July 19, 2005, Vice Admiral Lautenbacher responded to the Council's requests (Agenda Item H.1.a, Attachment 3) notifying the Council the need for additional time to complete the review of meeting CINMS goals through existing MSA and state authority. The letter states that the review is now anticipated in either September or October 2005. The letter grants an extension of the Council response deadline to November 23, 2005 and requests the Council proceed under the NMSA section 304(a)(5) process should the review conclude that proceeding under MSA and state authority is not viable. The letter also stated that the Council should anticipate a more thorough response from the NMSP on Council concerns of differing information and insufficient explanation of alternatives considered but rejected.

The NMSP sent a letter to the Council dated July 26, 2005 (Agenda Item H.1.a, Attachment 4) responding the Council's specific comments and acknowledging the Council's recent actions relative to groundfish EFH protection measures. The NMSP reiterated the May 25, 2005 positions that "providing the [Council] with this opportunity (to draft regulations) does not presuppose that regulation will be issued under the NMSA".

The Council will hear a report from the CINMS staff and receive statements from its advisory bodies and the public. The Council is to consider draft fishing regulations to be implemented under the NMSA for public review. It is anticipated that NOAA's review of achieving the CINMS goals through MSA and state authority will be available prior to Council final action on this matter at the November 2005 Council meeting in San Diego, California.

Council Task:

- 1. Consider draft fishing regulations under to the National Marine Sanctuary Act for public review for the potential establishment of marine protected areas in federal waters of the Channel Island National Marine Sanctuary.**

Reference Materials:

1. Agenda Item H.1.a, Attachment 1: May 25, 2005 letter and supporting materials from Mr. Basta providing the Council the opportunity to prepare draft fishing regulations pursuant to section 304(a)(5) of the NMSA.
2. Agenda Item H.1a, Attachment 2: July 1, 2005 letter from Dr. McIsaac to Mr. Basta conveying Council comments on the section 304(a)(5) of the NMSA and Council action relative to groundfish EFH relative to the CINMS.
3. Agenda Item H.1.a, Attachment 3: July 19, 2005 from Vice Admiral Lautenbacher regarding the time line for documentation of analytical results and the response period for Council final action.
4. Agenda Item H.1.a, Attachment 4: July 26, 2005 letter from Mr. Basta in response to June 2005 Council comments.
5. Agenda Item H.1.e, Public Comment.

Agenda Order:

- | | |
|---|----------------------------------|
| a. Agenda Item Overview | Mike Burner |
| b. Statement of the CINMS Staff | Christopher Mobley/Sean Hastings |
| c. Reports and Comments of Advisory Bodies | |
| d. Public Comment | |
| e. Council Action: Consider Proposed Draft of Fishing Regulations
Under National Marine Sanctuary Act Authority for Public Review | |

PFCM
08/24/05

CHANNEL ISLANDS NATIONAL MARINE SANCTUARY

The coastal tribes feel adamantly that the Magnuson-Stevens Fishery Conservation and Management Act takes precedence regarding fishery management issues in federal waters. The management of ocean fisheries should continue to be conducted within the regional council process by state, tribal and federal managers. This follows congressional intent that the regulation of fishery activities in federal waters occurs under the Magnuson-Stevens Fishery Conservation and Management Act. The National Marine Sanctuaries Act clearly recognizes that regional councils have the primary authority to manage fishery resources within sanctuary waters. The Department of Commerce should not blur this distinction by recommending the adoption of fishing regulations under the authority of the National Marine Sanctuary Act.

We request that the Pacific Council not recommend an action that deviates from the existing federal fishery management process and structure. Recommending the adoption of fishery management regulations under the National Marine Sanctuaries Act would result in managing the affected fishery resources under a new process with undefined goals and objectives. Unlike the Magnuson-Stevens Fishery Conservation and Management Act, the National Marine Sanctuaries Act lacks any identified national standards and guidelines for evaluating fishery conservation and management actions.

The National Marine Sanctuaries Act should not be utilized to expedite control over fishery resources not currently covered by a fishery management plan. Fishery management regulations should not be recommended for adoption under the National Marine Sanctuaries Act for sanctuaries that were not designated initially with fishery management responsibilities. This lack of identified fishery management responsibility represents a conscious decision made at the time of their designation by the affected governmental entities. Under these circumstances, if there is a conservation issue that needs to be addressed, then the Pacific Council should take action solely under the authority of the Magnuson-Stevens Fishery Conservation and Management Act.

For these reasons, we are requesting that the Pacific Council maintain the position that the Magnuson-Stevens Fishery Conservation and Management Act take precedence regarding fishery management issues within marine sanctuary boundaries. Any conservation or ecological concern that could be raised under the National Marine Sanctuary Act could be both raised and addressed within the regional council process established by the Magnuson-Stevens Fishery Conservation and Management Act. The Department of Commerce has direct representation in this process, via NOAA Fisheries, and input from the National Marine Sanctuary Program has been and can continue to be considered when developing the federal guidance and recommendations for the regional councils. Specific fishery regulations should be addressed within the normal regulatory development process and considered within the context of the appropriate fishery management plan's stated goals and objectives.