

FISHERY REGULATION IN MPAS WITHIN THE CHANNEL ISLANDS NATIONAL
MARINE SANCTUARY THROUGH MAGNUSON-STEVENSON ACT AND STATE
MANAGEMENT AUTHORITY

The Council has been coordinating with Channel Islands National Marine Sanctuary (CINMS) in their development of proposed marine protected areas (Marine Protected Areas [MPAs], which include both no-take marine reserves and marine conservation areas where some fishing is allowed and some prohibited) within CINMS. At the November 2005 Council meeting, the Council elected to not forward any proposed fishing regulations for the Channel Islands National Marine Sanctuary (CINMS) under the regulatory authority of the National Marine Sanctuaries Act. Instead, the Council directed staff to send letters to Vice Admiral Lautenbacher and Mr. Dan Basta, National Marine Sanctuaries Program Director (Agenda Item I.1.a, Attachment 1 and Attachment 2), formally notifying the National Oceanic and Atmospheric Administration (NOAA) of the Council's intent to develop regulations that achieve the stated goals and objectives of the CINMS under the aggregate of the various Council fishery management plan (FMP) authorities and complimentary state laws.

In a written response to Council dated December 30, 2005, Vice Admiral Lautenbacher informed the Council of the NOAA's intent to pursue the necessary CINMS designation document changes and fishery regulations under the National Marine Sanctuaries Act (NMSA) to achieve limited and no-take zones in the water column within the CINMS. Documents and analyses supporting these actions, including a draft Environmental Impact Statement and draft fishing regulations, are anticipated for public review in March 2006. The Vice Admiral concludes the letter by encouraging the Council to continue to pursue management measures under Magnuson-Stevens Fishery Conservation and Management Act (MSA) authority that meet the goals and objectives of the CINMS and states that if the Council is successful "the scope of the NMSA regulations could be reduced" (Agenda Item I.1.a, Attachment 3).

At the March 2006 Council meeting the Council is scheduled review relevant correspondence and events since the November 2005 Council meeting and provide guidance on a future course of action. Options for the Council include: 1) taking no further regulatory action while tracking the establishment of CINMS designation document changes and NMSA fishing regulations, and 2) continue to pursue limited and no-take closure of the water column under combination of state and MSA authority under the various Council fishery management plans. The National Marine Fisheries Service (NMFS), Southwest Regional Office (SWR), has considered the viability of various alternatives including matters of general MSA authority, protection of essential fish habitat, and compliance with National Standard 10 (Agenda Item I.1.c, NMFS Report).

The following important MPA matters have arisen since the November 2005 Council meeting, which are peripheral but pertinent to fishery regulatory issues within the CINMS:

- Mr. Ed Ebisui, Western Pacific Fishery Management Council member, is scheduled under Agenda Item I.1.b to provide a brief case history of the development of fishing regulations for the proposed Northwest Hawaiian Islands National Marine Sanctuary.
- Mr. Jim Balsiger, National Marine Fisheries Service, Acting Deputy Assistant Administrator, and Captain Craig McClean, National Ocean Service, Acting Deputy Assistant Administrator, sent a memo and draft flowchart to all eight Regional Fishery Management Council requesting input on a proposal to improve coordination concerning the promulgation of fishing regulations in National Marine Sanctuary (Agenda Item I.1.a, Attachment 4). Formal written comments on the proposal, such as the letter submitted by the Southwest Regional Office of the National Marine Fisheries Service (Agenda Item I.1.a, Attachment 5) have been solicited by NOAA by April 30, 2006.
- The four coastal Washington Indian Tribes presented a cosigned letter to Vice Admiral Lautenbacher at the September 2006 Council meeting regarding tribal support of the MSA fishery management process as well as tribal concerns regarding fishery authority in the Olympic Coast National Marine Sanctuary. Following the November Council meeting, in a letter dated December 7, 2005 (Agenda Item I.1.a, Attachment 6), Vice Admiral Lautenbacher responded with an explanation of NOAA's position on fishery regulation within California's National Marine Sanctuaries, and a request for tribal and state participation in the review process for the Olympic Coast National Marine Sanctuary management plan.
- Oregon Governor, Ted Kulongoski, proposed an Oregon Coast National Marine Sanctuary in a letter to members of the Oregon Congressional Delegation on December 13, 2005 (Agenda Item I.1.a, Attachment 7). As a starting point for discussion of the size and location of the proposed sanctuary, Governor Kulongoski has requested consideration of the Oregon Ocean Stewardship Area, established by the state in 1991 and extending from the Columbia River to the Oregon/California border and from the shore to the edge of the continental margin.

The Council is anticipated to discuss these relevant materials and provide guidance on a recommend course of action regarding fishing regulations for the water column in the federal water portion of the proposed marine protected areas of the CINMS. Additionally, the Council may discuss a draft response to NOAA on the proposed processes and draft flowchart regarding the promulgation of National Marine Sanctuary fishing regulations. This draft response could be prepared for review and final consideration at the April Council meeting in time for submission of formal written comments by the **April 30, 2006 deadline**. Depending upon Council input on these matters, the Council may also discuss plans for addressing MPA matters at the April 2006 Council meeting in Sacramento, California.

Council Action:

- 1. Provide guidance on a course of action regarding MSA regulations within the CINMS.**
- 2. Discuss a draft response to the NOAA proposal for improved coordination regarding fishing regulations in National Marine Sanctuary.**
- 3. Plan MPA matters for the April Council meeting.**

Reference Materials:

1. Agenda Item I.1.a, Attachment 1: November 23, 2005 letter from Dr. McIsaac to Mr. Basta conveying formal Council response regarding fishing regulations in federal waters of the Channel Islands National Marine Sanctuary.
2. Agenda Item I.1.a, Attachment 2: November 23, 2005 letter from Dr. McIsaac to Vice Admiral Lautenbacher regarding the viability of meeting National Marine Sanctuary goals and objectives under the authority of the MSA.
3. Agenda Item I.1.a, Attachment 3: December 30, 2005 letter from Vice Admiral Lautenbacher regarding November 2005 Council actions regarding fishing regulations in the CINMS.
4. Agenda Item I.1.a, Attachment 4: January 6, 2006 memorandum and draft flowchart from Mr. Jim Balsiger and Captain Craig McLean regarding fishing regulations for National Marine Sanctuaries.
5. Agenda Item I.1.a, Attachment 5: January 19, 2006 memorandum and from Mr. Rodney McInnis to Mr. Jim Balsiger and Captain Craig McLean regarding comments on the draft flowchart on fishing regulations for National Marine Sanctuaries.
6. Agenda Item I.1.a, Attachment 6: December 7, 2006 letter from Vice Admiral Lautenbacher to Ms. Jennifer Hagan, Northwest Indian Fisheries Commission, responding to tribal concerns regarding fishery management within National Marine Sanctuaries.
7. Agenda Item I.1.a, Attachment 7: December 13, 2005 letter from Oregon Governor Theodore R. Kulongoski to U.S. Senator Ron Wyden regarding a proposal for an Oregon Coast National Marine Sanctuary.
8. Agenda Item I.1.c, NMFS Report: Discussion Paper, Water Column Fishing Closures at CINMS Under the MSA and State Authorities.

Agenda Order:

- | | |
|--|-------------|
| a. Agenda Item Overview | Mike Burner |
| b. Northwest Hawaiian Islands Sanctuary Process | Ed Ebisui |
| c. NMFS Report | Mark Helvey |
| d. Reports and Comments of Advisory Bodies | |
| e. Public Comment | |
| f. Council Action: Consider Adopting Public Review Alternatives for Area Closures in the CINMS. | |

PFMC
02/21/06

PACIFIC FISHERY MANAGEMENT COUNCIL

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November 23, 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: Formal Response Regarding Fishing Regulations in Federal Waters of the Channel Islands
National Marine Sanctuary

Dear Mr. Basta:

Thank you for 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 Pacific Fishery Management Council (Council) and its advisory bodies spent considerable time reviewing your letter and supporting materials, dated May 25, 2005, in a two-meeting process encompassing the September 19-23, 2005 and October 31-November 4, 2005 Council meetings. On Wednesday, November 2, 2005, the Council passed a motion regarding recommended NMSA fishing regulations at CINMS and took final action to identify, describe, and mitigate fishing impacts to groundfish essential fish habitat (EFH) under Amendment 19 to the Pacific Coast Groundfish Fishery Management Plan, including area protection in federal waters of the CINMS. The Council tasked me with conveying Council recommendations regarding draft fishing regulations under NMSA section 304(a)(5) relative to the CINMS.

The Council remains supportive of the goals and objectives of the CINMS but proposes no fishing regulations be promulgated under the authority of the NMSA. Rather, the Council will recommend that fishing regulations required for the potential establishment of marine protected areas in federal waters of the CINMS be implemented through the existing authorities of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the states of California, Oregon, and Washington. A portion of that task has been accomplished, under the authority of groundfish EFH protection, as described later in this letter. The Council intends to proceed expeditiously to develop all remaining fishing regulations necessary to create proposed no-take marine protected areas as well as limited-take marine conservation areas within the CINMS, in accordance with the goals and objectives stated by the CINMS, under the combination of other Council fishery management authorities and accompanying state regulations.

Section 304(a)(5) of the NMSA states in part:

"Draft regulations prepared by the Council, or a Council determination that regulations are not necessary pursuant to this paragraph, shall be accepted and issued as proposed regulations by the Secretary unless the Secretary finds that the Council's action fails to fulfill the purposes and policies of this chapter and the goals and objectives of the proposed designation."

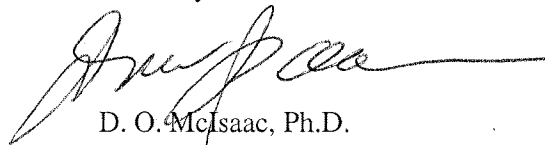
Mr. Daniel J. Basta
November 23, 2005
Page 2 of 2

The formal Council response action on this matter is as described in the prior paragraph. The Council proposal is for this formal response to be placed in the National Environmental Policy Act analytical documents to be used for public review and eventual decision making by the Secretary of Commerce. If, for any reason, the formal Council response action cannot be included in the public review and decision making documents, we would appreciate notice of such finding.

As mentioned above, the Council has taken an important first step in this endeavor through final approval of Amendment 19 the Pacific Coast Groundfish Fishery Management Plan to protect groundfish EFH. The Council originally proposed extending no-take state marine reserves into federal waters within the CINMS to mitigate fishing impacts to groundfish EFH. In a letter dated October 19, 2005, Undersecretary of Commerce for Oceans and Atmosphere Vice Admiral Conrad C. Lautenbacher advised the Council that there was insufficient evidence to implement closures affecting the water column in the CINMS on the rationale of protecting groundfish EFH. In response, the Council changed its recommendation under Amendment 19 to close the proposed mitigation areas in the CINMS to only bottom contact gear. To complete the regulatory package necessary for the creation of no-take marine reserves and limited-take marine conservation areas, the Council intends to address fishing activity in the water column under the aggregate of various other Council fishery management plan authorities and complimentary State laws. A progress report is scheduled for the March 2006 Council meeting in Seattle, Washington.

Finally, I would like to express the Council's appreciation for the time and effort contributions to the Council process by various staff of the National Ocean Service, National Marine Sanctuary Program, and CINMS, both at the recent November Council meeting and prior to that point. The Council looks forward to working with CINMS staff to achieve the goals and objectives of CINMS through the Council process and MSA and state authorities. If you or your staff have any questions regarding this letter, please contact me or Mr. Mike Burner, the lead Staff Officer on this matter at 503-820-2280.

Sincerely,



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

MDB:ckc

c: Council Members
VADM Conrad C. Lautenbacher
Dr. William Hogarth
Mr. Jim Balsiger
Mr. Christopher Mobley
Mr. Sean Hastings
Ms. Eileen Cooney
Dr. John Coon
Mr. Mike Burner
Regional Fishery Management Council Executive Directors

PACIFIC FISHERY MANAGEMENT COUNCIL

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November 23, 2005

Vice Admiral Conrad C. Lautenbacher, Jr.
Under Secretary of Commerce for Oceans and Atmosphere
NOAA HQTR Route: A, BLDG: HCHB RM: 5128
14th and Constitution Avenues NW
Washington, DC 20230-0001

Dear Vice Admiral Lautenbacher:

Thank you for your letter dated October 19, 2005 regarding the viability of meeting the goals and objectives of the Cordell Bank, Monterey Bay, and Channel Islands National Marine Sanctuaries under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). The Pacific Fishery Management Council (Council) asked me to convey recent Council action to protect essential fish habitat (EFH) within and outside National Marine Sanctuaries and to inform you of Council plans to pursue additional regulatory mechanisms necessary to complete the proposed establishment of marine conservation areas and marine reserves at the Channel Islands National Marine Sanctuary (CINMS).

At its November 2005 meeting in San Diego, California, the Council completed a multi-year process to identify, describe, and mitigate fishing impacts to groundfish EFH under Amendment 19 to the Pacific Coast Groundfish Fishery Management Plan. As part of this final action, the Council closed many areas to fishing gear that contact and potentially adversely effect benthic habitats. This action includes closures protecting sensitive habitats at Cordell Bank, the Davidson Seamount, and select areas around the CINMS. The Council is proud to play an integral role in the protection of these habitats and in the strengthening of our National Marine Sanctuaries.

Following the advice in your letter that there was insufficient evidence to implement closures affecting the water column in the CINMS on the rationale of protecting groundfish EFH, the Council changed its recommendation under Amendment 19 to close the proposed mitigation areas in the CINMS to only bottom contact gear. However, the Council considered factors that led to alternatives other than Council action under the National Marine Sanctuaries Act avenue. The Council heard testimony of National Oceanic and Atmospheric Administration (NOAA) representatives indicating the possibility of accomplishing the goals and objectives stated by the CINMS via EFH protection for species other than groundfish. This was consistent with your remarks before the collective Regional Fishery Management Council Chairs and Executive Directors on October 24, 2005. Further, it was not clear from testimony at the Council meeting that the full spectrum of joint authority under the MSA and state jurisdiction had been evaluated. It was also noteworthy that the Council has dominantly heard consistent, compelling testimony

Vice Admiral Lautenbacher Jr.
November 23, 2005
Page 2 of 2

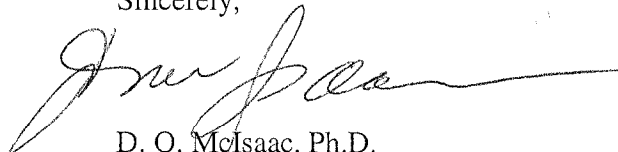
that fishery management in offshore federal waters should be singularly under the authority of the expertise expressed in the MSA and not under alternate authority by individual sanctuaries.

The Council remains supportive of the goals and objectives of the CINMS but recommends no changes to the CINMS Designation Document and requests that no fishing regulations be promulgated under the authority of the NMSA at this time. To complete the regulatory package, the Council intends to address fishing activity in the water column under the aggregate of various Council fishery management plan authorities other than the groundfish EFH together with complimentary jointly enforceable State laws.

Lastly, I would like to express the Council's appreciation for the dedication to the Council process demonstrated by many NOAA employees over the course of the last year. The Council looks forward to continued coordination with the National Marine Sanctuary Program and the CINMS.

If you or your staff have any questions regarding 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,



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

MDB:ckc

c: Council Members
Mr. Daniel Basta
Dr. William Hogarth
Mr. Jim Balsiger
Mr. Christopher Mobley
Mr. Sean Hastings
Ms. Eileen Cooney
Dr. John Coon
Mr. Mike Burner
Regional Fishery Management Council Executive Directors



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

Agenda Item I.1.a
Attachment 3
March 2006

DEC 30 2005

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

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PFMC

Dear Dr. McIsaac:

Thank you for your letters to Daniel Basta, Director, National Marine Sanctuary Program (NMSP), and me conveying recent Pacific Fishery Management Council (PFMC) actions regarding fishing regulations in the Channel Islands National Marine Sanctuary (CINMS). We appreciate your continued efforts to meet the goals and objectives of the sanctuary.

As you stated in your letter to Mr. Basta, that letter is the Council's official response to the NMSP's request under section 304(a)(5) of the National Marine Sanctuaries Act (NMSA), concerning the marine reserves and marine conservation areas for the CINMS. While we appreciate the steps the Council has taken, your recommendations to date do not have the specificity or record to support the use of the Magnuson-Stevens Act (MSA) or state laws to establish limited take or no-take zones in the water column and thereby do not fulfill the goals and objectives of the CINMS.

Consistent with my October 19 letter, the National Oceanic and Atmospheric Administration (NOAA) will pursue regulatory action under the NMSA (beyond the measures included in Amendment 19 to the Groundfish Management Plan) to establish limited take and no-take zones in the water column. NOAA's regulatory actions will also address certain actions that cannot legally be addressed under the MSA, such as certain scientific research activities. NOAA will also propose amending the sanctuary designation document to allow establishment of no-take zones in the marine reserves, and limited take in the marine conservation areas. The NMSP is developing a draft management plan, a draft Environmental Impact Statement, and draft regulations to implement the marine reserves and marine conservation areas. The NMSP plans to have the draft documents available for public review in March 2006.

While NOAA plans to move forward with the NMSA process, and has concluded the section 304(a)(5) process, we encourage you to continue your efforts to address fishing activities in the water column under various other Fishery Management Plan authorities. The proposed NMSA regulations will be drafted in such a way that, if your future management measures meet the goals and objectives of the CINMS, the scope of the NMSA regulations could be reduced.



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THE ADMINISTRATOR



We appreciate the PFMC's continued support of the goals and objectives of the CINMS and the PFMC's efforts throughout this process, and look forward to continuing our work with you in the future.

Sincerely,

A handwritten signature in cursive script, reading "C. Lautenbacher, Jr.", with a large, stylized initial "C".

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

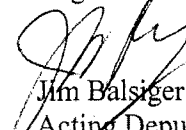



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

January 6, 2006

MEMORANDUM FOR: Regional Fishery Management Councils

FROM:


Jim Balsiger
Acting Deputy Assistant Administrator
for NOAA Fisheries Service

Captain Craig McLean
Acting Deputy Assistant Administrator
for Ocean Services and Coastal Zone Management

SUBJECT: Draft Flowchart Regarding Fishing Regulations for National Marine Sanctuaries

Recent NOAA actions have highlighted the opportunity for improved coordination and collaboration concerning the promulgation of fishing regulations in our Nation's marine sanctuaries. NOAA staff has developed a flowchart to clarify the role of Regional Fishery Management Councils (RFMCs), Sanctuary Advisory Councils, Treaty Tribes, NOAA Fisheries Service (Fisheries) and the National Marine Sanctuary Program (NMSP) in this process.

The National Marine Sanctuaries Act (NMSA) and the Magnuson-Stevens Fishery Conservation and Management Act (MSA) are both important pieces of marine resource legislation administered by NOAA. Although they reflect different purposes and mandates, these acts can be implemented in a compatible and complementary manner, and NOAA is committed to doing so. The development of sanctuary goals and objectives is a public process in which Fishery Management Councils are invited to participate. The regulatory options for meeting a specific sanctuary's goals and objectives, once developed, are evaluated by NOAA on a case by case basis to determine whether regulations proposed by a Council under the MSA would meet both the legal requirements of the MSA and the sanctuary's goals and objectives relative to fishing, or whether using NMSA authorities would be more appropriate. Each act requires fishery actions to be developed through a public process.

The attached draft flowchart graphically traces NMSA and MSA regulatory actions from initial concept to promulgation. It is a work-in-progress and we are seeking your input on the process outlined. The flowchart's associated text provides greater detail and is intended to more fully explain the contents of the boxes. The diagram highlights the points of coordination among the RFMCs, Fisheries, Sanctuary Advisory Councils,



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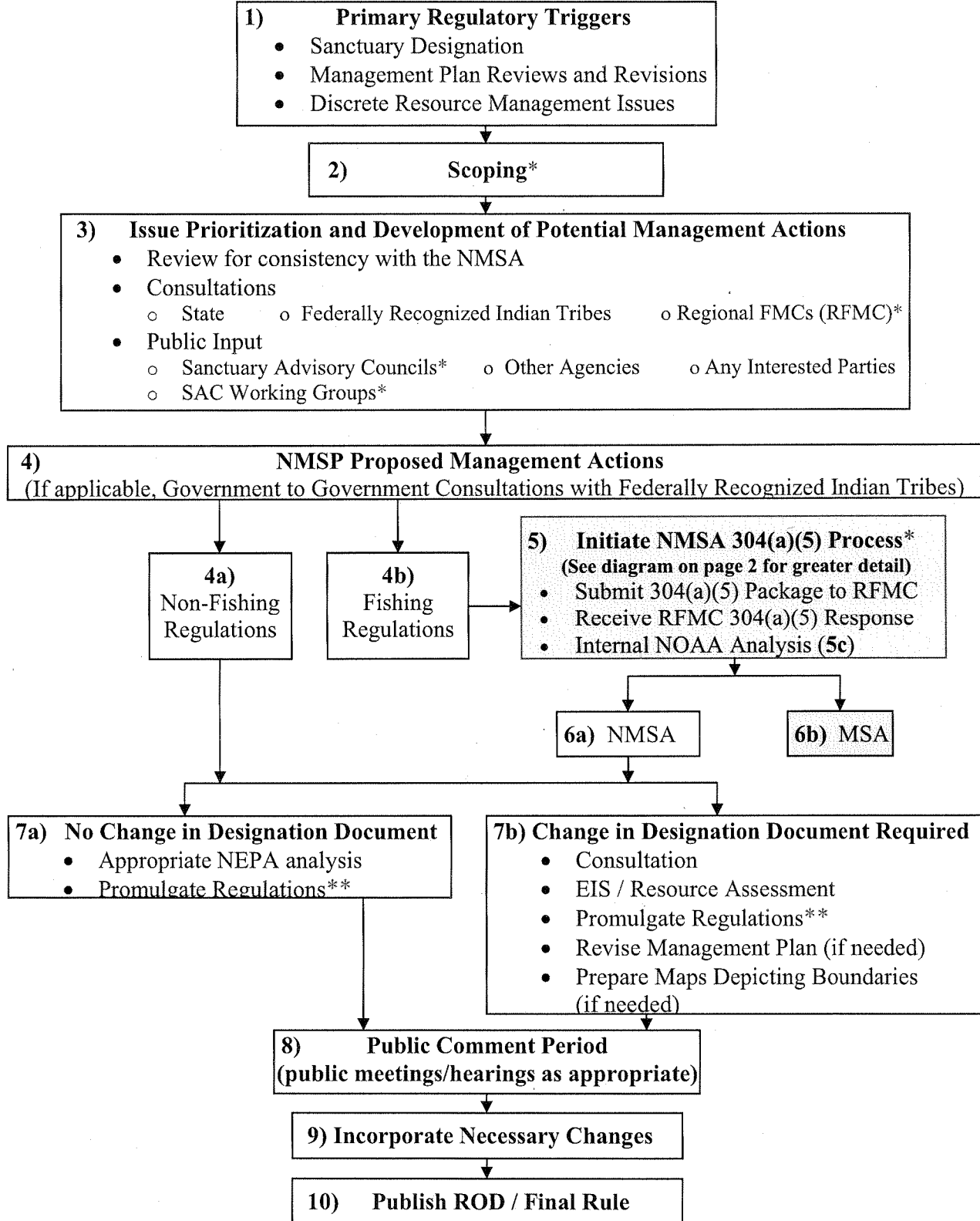
Treaty Tribes, and NMSP at the different stages in the process of developing fishing regulations.

On January 30, we will present this flowchart via conference call to all interested Council members. Once we have presented the flow chart, we are interested in hearing your suggestions of how we can improve this process. In addition, we invite you to send written comments by April 30, 2006. We thank you in advance for your participation.

Attachments

NMSA / MSA Regulatory Flowchart

National Marine Sanctuaries Act Regulatory Process



*These highlighted items represent specific steps in the process by which NOAA will actively engage the appropriate RFMC. Please see accompanying text for more detail.

**During final development of draft fishing regulations, staff of the NMSP, NOAA Fisheries Service and RFMCs coordinate as appropriate to ensure that any resulting regulation fulfills sanctuary goals and objectives.

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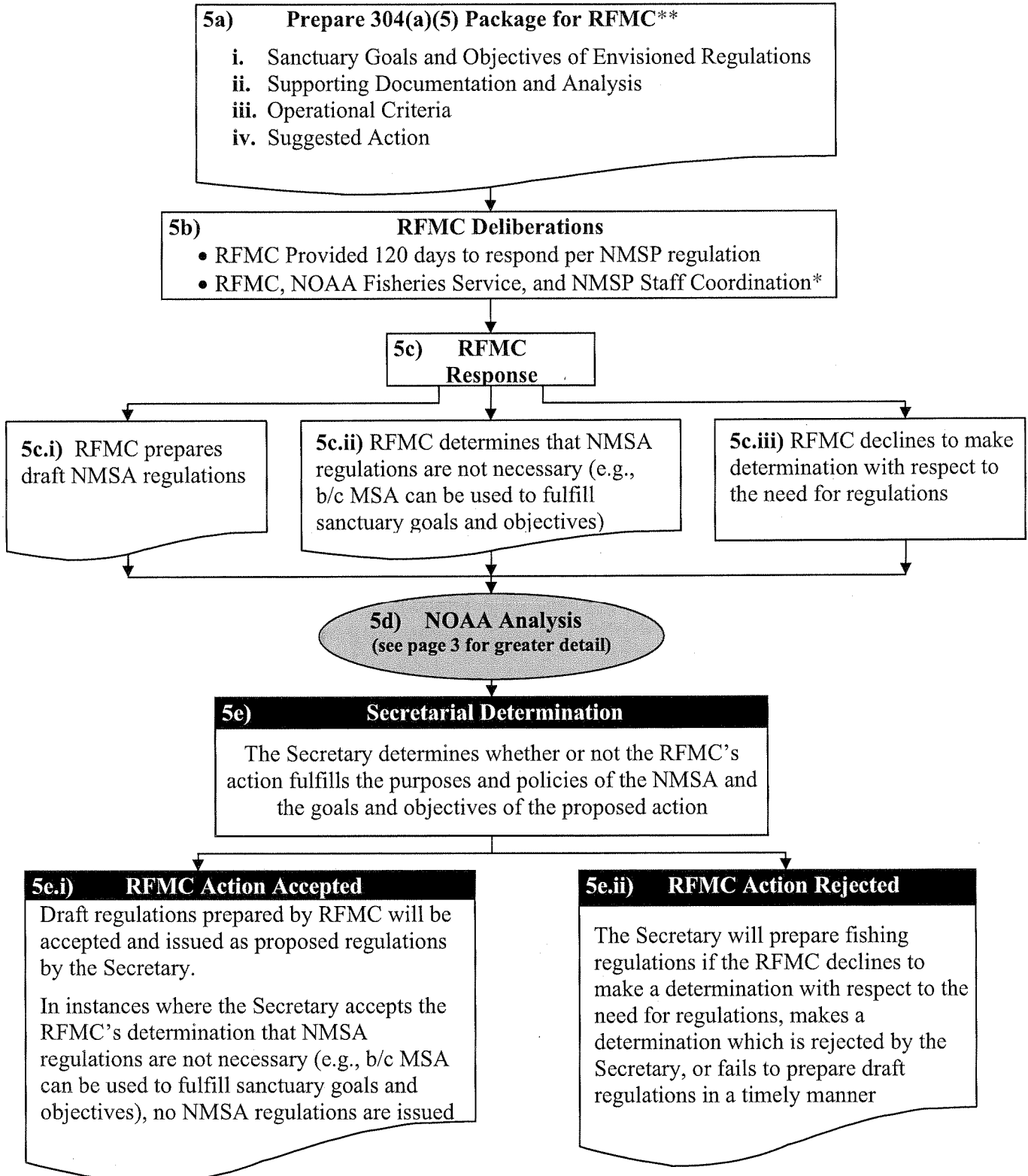
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NMSA §304(a)(5) Regulatory Process

(Expansion of Box 5 on page 1)

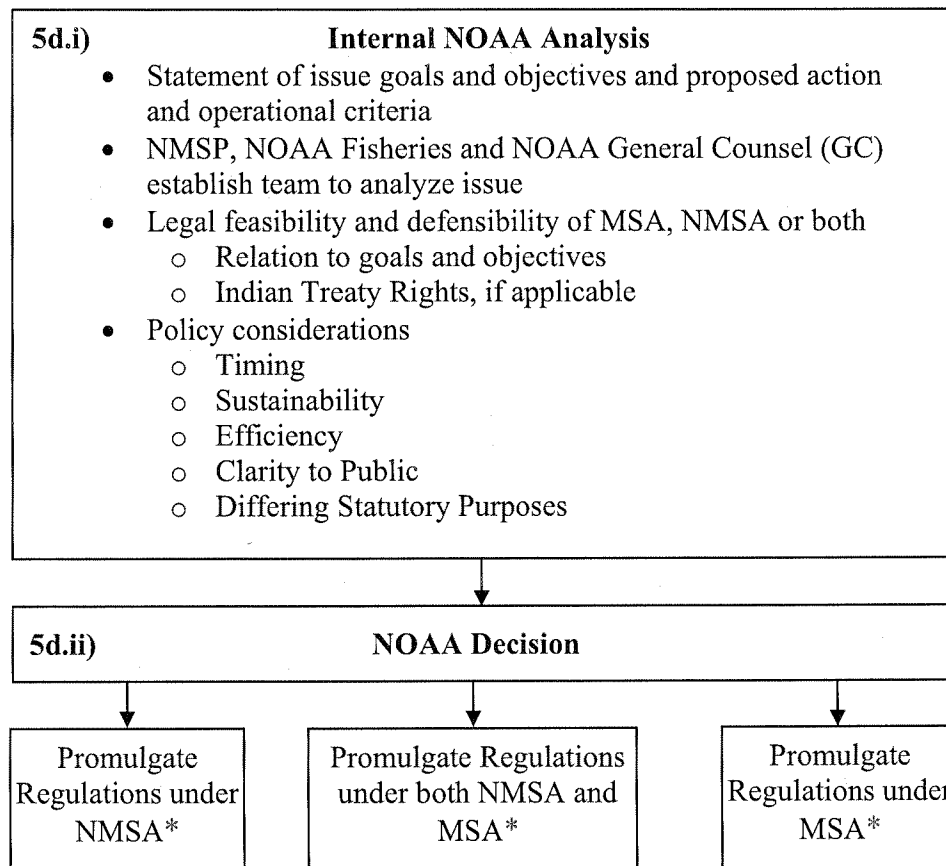


* This highlighted item is a step in the process by which NOAA will actively engage the RFMC. Please see accompanying text for more detail.

** These materials are developed from the Scoping and Issue Prioritization steps in the process.

5d) NOAA Analysis

(Expansion of Box 5d on page 2)



* During promulgation of regulations resulting from the NMSA 304(a)(5) process, staff of the NMSP, NOAA Fisheries Service and RFMCs will coordinate as appropriate to ensure the resulting regulation fulfills its intended goals and objectives, regardless of the statute(s) under which it is promulgated. NOAA will ensure that any proposed regulations are consistent with Indian treaty fishing rights.

The flowchart graphically traces a National Marine Sanctuaries Act (NMSA) as well as Magnuson-Stevens Fishery Conservation and Management Act (MSA) action from initial concept through to implementation. The following text bullets correspond to the numbered boxes on the flowchart and are intended to more fully explain the contents of the boxes and identify the points of consultation for three players (NOAA National Marine Sanctuary Program (NMSP), Fisheries Service, Regional Fishery Management Councils (RFMCs)) at the different stages in the generic process of developing fishing regulations, and decision criteria used in moving from one step to the next in the decision making process.

National Marine Sanctuaries Act Regulatory Process

- 1) **Primary Regulatory Triggers.** This represents the initial concept or idea stage of what may eventually develop into a proposed federal action. Three typical categories of actions are most often taken by NMSP: a sanctuary designation, a sanctuary management plan review and revision, or a regulatory proposal that is developed in response to a discrete Sanctuary resource issue. An Environmental Impact Statement under the National Environmental Policy Act (NEPA) is required when a major federal action significantly affecting the human environment is taken under the NMSA, or when a change in a term of designation for the sanctuary is proposed.
- 2) **Scoping.** Once an action is initiated, a scoping process is undertaken which includes community outreach, public meetings, and literature review. Scoping provides a framework for identifying environmental issues and coordinating with interested parties. *NOAA Fisheries Service and the appropriate RFMC(s) established under the MSA are identified among the interested parties and will be expressly notified at this step because of their role under the NMSA and fisheries expertise.*
- 3) **Issue Prioritization and Development of Potential Management Actions.** A Sanctuary Advisory Council (SAC) is charged by NOAA under the NMSA to advise throughout the process. Representatives from NOAA Fisheries Service and the appropriate RFMCs are invited to be members of SACs or SAC Working Groups. The SAC prioritizes issues that may be addressed by the NMSP. The SAC may also form issue specific working groups to assist the SAC. *For instance, if there are fishing issues associated with designation or management of a Sanctuary, a fisheries working group could be formed. Such working group could consist of representatives from NOAA Fisheries Service (e.g., regional office and /or science center staff), the RFMCs, other agencies, Federally Recognized Indian Tribes, State marine resource management departments, the fishing industry, non-governmental environmental groups, and subject-matter experts and other interested parties.* SAC working groups may be charged to develop potential management actions and recommendations to the SAC. The SAC in turn provides NMSP with recommendations. [As a result of activities related to NMSP or SAC issue prioritization, a RFMC may pursue actions under the MSA. Refer to the Magnuson-Stevens Act Regulatory Process diagram for further description of the ensuing process.]
- 4) **NMSP Proposed Management Actions.** The recommendations provided by the SAC and interested Indian tribes are considered by the NMSP in its development of draft goals and objectives. The draft goals and objectives are ultimately reviewed within NOAA and become an agency statement of proposed goals and objectives for that sanctuary ("goals and objectives"). Because the draft goals and objectives become a statement of NOAA goals and objectives for that sanctuary, NOAA will conduct government to government consultation

with any potentially affected federally recognized Indian tribe(s). These goals and objectives are the benchmark by which a RFMC action under NMSA §304(a)(5) is assessed.

Management recommendations normally come about through a SAC deliberative process as described in 3) above. The potential regulatory actions for a given sanctuary are divided into non-fishing and fishing actions (4a and 4b) by the NMSP prior to proceeding to the next step

5)**NMSA §304(a)(5) Regulatory Process**

5) Section 304(a)(5) of the NMSA requires that the appropriate RFMC(s) be given the opportunity to prepare draft regulations for fishing within the Exclusive Economic Zone of a sanctuary's boundaries. When such regulations appear desirable, NOAA develops and presents a 304(a)(5) package to the appropriate RFMC(s). All of the materials provided to the RFMC(s) as part of the §304(a)(5) package are intended to help the RFMC make a determination of what would best fulfill the sanctuary goals and objectives. The entire package is reviewed and approved by NOAA and provided to the RFMC.

a. **Prepare 304(a)(5) Package for RFMCs.** NOAA develops a §304(a)(5) package (package) and provides it to the appropriate RFMC(s). These materials are developed from the Scoping and Issue Prioritization steps in the process. Copies are made publicly available and given concurrently to the appropriate NOAA Fisheries Service regional office(s). The package usually consists of, but is not limited to:

- i. **Sanctuary specific goals and objectives.** (Refer to box 4 for the process a sanctuary goes through to develop goals and objectives.)
- ii. **Supporting documentation and analyses** come from a variety of sources including: literature and reports authored by the NOAA Science Centers or interagency and university scientists, notes and reports of the working group and SAC, data and/or analyses obtained via contract from consultants, NMSP assembled socio-economic and biological information, along with NMSP prepared GIS maps and relevant supporting information.
- iii. **Site-specific operational criteria** are developed and approved by NOAA (NMSP and NOAA Fisheries staff) to better define the goals and objectives.
- iv. **Suggested action(s)** are the recommended actions developed throughout the process of Scoping (2) and Issue Prioritization and Development of Potential Management Actions (3).

b. **RFMC Deliberations.** The RFMC is provided 120 days to respond to the 304(a)(5) package (15 CFR 922.22(b)). Extensions to this 120-day time limit may be requested and granted to accommodate RFMC agendas and workloads. *During the 120-day period staff of RFMC, NOAA Fisheries Service (e.g., regional office and /or science center staff) and NMSP may coordinate as necessary to clarify issues, address questions and provide preliminary feedback.*

c. **RFMC Response.** The RFMC may take any of three actions at this point. The RFMCs will make their determination by following their standard operating procedures and certain MSA procedural requirements (e.g., majority votes, hold public meetings). The RFMC could:

- i) Prepare draft NMSA regulations. If the RFMC determines that regulations should be promulgated under the NMSA, the RFMC may prepare draft NMSA regulations and submit them to the NMSP. If the RFMC determines that regulations should be promulgated under the NMSA and the RFMC

chooses not to provide draft regulations, then NOAA will draft the regulations. In either case, the RFMC may conduct such analyses as it considers helpful to making its determination. However, the RFMC is not required to comply with the MSA requirements for developing or amending an FMP (e.g., public notice and comment). NOAA will develop the required NEPA and other analyses for the NMSA action.

- ii) Determine that NMSA regulations are not necessary (e.g., the RFMC could recommend that sanctuary goals and objectives be fulfilled by the MSA or could recommend that no action be taken)

- iii) Decline to make a determination with respect to the need for regulations

d. NOAA Internal Analysis. NOAA determines, through the following internal process, whether or not the RFMC's proposed action would fulfill sanctuary goals and objectives.

- i. **Analysis.** The internal NOAA analysis consists of NOAA NMSP, Fisheries Service and GC staff examining the RFMC submission and determining whether the submission fulfills the sanctuary goals and objectives. As necessary, this team will analyze the feasibility and legal defensibility of the RFMC's proposed action. The team will also identify any relevant policy considerations (e.g., timeliness, sustainability, efficiency, clarity to the public, monitoring and research needs, and ease of enforcement) of the RFMC's proposed regulation(s).

- ii. **NOAA Decision.** After the team considers all aspects of the analysis, it makes a recommendation regarding acceptance / rejection of the RFMC proposal. If unable to reach consensus, or if the recommendation is to reject a RFMC proposal, the team would elevate the issue to the Assistant Administrators (AAs) of the National Ocean Service and NOAA Fisheries Service for a decision, and to the Administrator of NOAA as appropriate.

e. Secretarial Determination¹. Once the NOAA decision has been made regarding a RFMC submission, the §304(a)(5) process is concluded.

- i. **RFMC Action Accepted.** If NOAA determines that draft NMSA regulations prepared by the RFMC fulfill the sanctuary goals and objectives and the purposes and policies of the NMSA, the regulations will be issued as proposed regulations for public comment. If the RFMC determines that NMSA fishing regulations are not necessary because sanctuary goals and objectives can be fulfilled by the MSA, and the Secretary accepts that recommendation, no NMSA regulations are proposed and regulations are pursued through the MSA regulatory process (see accompanying diagram and text).
- ii. **RFMC Action Rejected.** If NOAA determines that a RFMC submission fails to fulfill the goals and objectives of the sanctuary and the purposes and policies of the NMSA, then NOAA will prepare proposed fishing regulations for the sanctuary. NOAA will communicate the decision to the RFMC and coordinate as appropriate with the RFMC on the development of the fishing regulations.

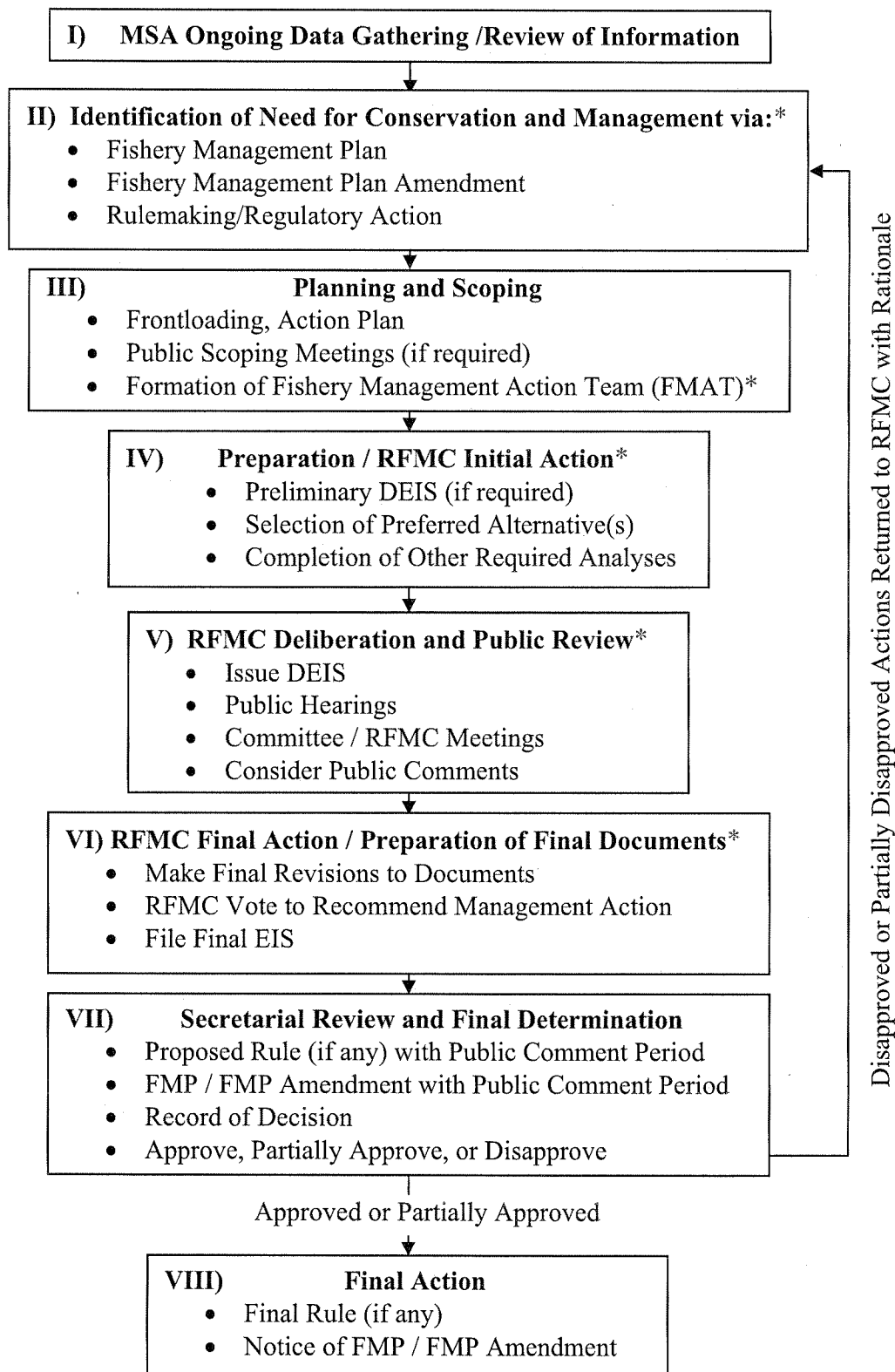
6a) NMSA Regulatory Process. If the NOAA analysis of fishing actions (5d) determines the appropriate course of action is to pursue the proposed action fully or partially under the NMSA, then the regulations and supporting documentation (e.g., NEPA, APA, Reg. Flex)

¹ The Secretary's authority under the MSA and NMSA has been delegated to NOAA.

are prepared by the NMSP, including any change to a sanctuary designation document (per NMSA paragraph 7).

- 6b) Magnuson-Stevens Act Regulatory Process.** If the NOAA analysis of fishing actions (5d) determines the appropriate course of action is to pursue the proposed action fully or partially under the MSA, then the regulations are pursued under the MSA process.
- 7) Sanctuary Designation Document.** A designation document is prepared as part of a sanctuary's designation process. The terms of designation are defined by the NMSA as: 1) the geographic area of a sanctuary; 2) the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational or esthetic value; and 3) the types of activities that will be subject to regulation to protect those characteristics. A sanctuary can only prohibit or restrict an activity listed in its designation document. A sanctuary designation document can, however, be amended if a discrete resource management issue arises or during the routine sanctuary management plan review processes outlined in the NMSA.
- a. No Change Required in Designation Document.** If proposed regulations do not necessitate a change to the sanctuary's designation document, then the NMSP proceeds to promulgate regulations accompanied by the appropriate level NEPA analysis.
 - b. Change Required in Designation Document.** Designation documents are changed following the applicable procedures for designation of a sanctuary (sections 303 and 304 of the NMSA). Some steps (e.g., consultation, draft EIS preparation) can be initiated as part of earlier actions under 3) Issue Prioritization and Development of Potential Management Actions. To issue a regulation prohibiting or restricting a fishing activity in a sanctuary for which a designation document does not have fishing as one of the activities subject to regulation, the sanctuary's designation document must be amended to include fishing as an activity subject to regulation.
- 8) Public Comment Period.** Publish the proposed rule, Notice of Availability of a draft environmental impact statement or environmental analysis, and amended sanctuary designation document (if one is being amended) in the *Federal Register* to start the public comment periods (minimum 45 days DEIS; proposed rules generally have a 60-day review period). Hold public meetings or hearings as appropriate and collect public comments.
- 9) Incorporate Necessary Changes.** Consider the public comments and revise regulations and analyses as appropriate.
- 10) Publish Final Rule.** Issue the Record of Decision (ROD) and the final rule. If a final EIS was prepared, the ROD and final rule are issued after the required 30-day wait period from publication of the Notice of Availability of a final EIS. If there is a change to the designation document, the change becomes effective after a period of 45 days of continuous session of Congress (NMSA §304(a)(6)). During this final 45-day review period the Governor (when state waters are included) has the opportunity to certify to NOAA that the change to the terms of designation is unacceptable, in which case the unacceptable change to the term of designation shall not take effect in that part of the sanctuary that is within the boundary of that State.

Magnuson Stevens Act Regulatory Process



*These highlighted items are steps in the process by which RFMC and NOAA Fisheries Service will actively engage NOS. Please see accompanying text for more detail.

Magnuson Stevens Act Regulatory Process

MSA Process for the Magnuson-Stevens Fishery Conservation and Management Act. This flowchart traces a fishery management action under the Magnuson-Stevens Fishery Conservation and Management Act (MSA) from initial concept through implementation. The following descriptions correspond to the numbered boxes on the flowchart and are intended to more fully explain the contents of the boxes and identify the points of consultation for three players (NOAA National Marine Sanctuary Program (NMSP), NOAA Fisheries Service, and RFMCs) at the different stages in the generic process of developing fishery-related regulations.

I) Ongoing Data Gathering / Review of Information: The MSA requires that RFMCs conduct regular public meetings, and submit periodic reports, and submit recommended management action² for any fishery under their jurisdiction that requires conservation and management.

Typical routes of initiating FMP/rulemaking by a RFMC include:

- a) NOAA Fisheries Service submits information pertinent to Federal fisheries to the appropriate RFMCs.
- b) Constituents, fishing industry representatives, agency staff, RFMC members, and/or non-governmental organization representatives write or testify to the RFMC of their concern and may request a particular action.
- c) Some actions get on a RFMC agenda due to acts of Congress, which may require specific actions within statutory time frames. NOAA Fisheries Service has an intermediate role between the Executive Branch and the RFMC, and is ultimately responsible for deadlines and actions required by the Secretary of Commerce as a result of legislation.

The NMSP may provide information about potential relevant fishery management considerations that may affect sanctuary resources. Early identification of such issues will permit RFMCs to begin assessing potential management actions for fisheries.

II) Identification of Need for Conservation and Management. This is the point at which a RFMC determines that there may be a need to recommend action and may begin assessing the need for fishery management measures. *If a potential management action may affect sanctuary resources, RFMC staff would contact NMSP staff.*

At this stage ideas are developed for a response to an identified fisheries conservation or management need. The types of major Federal actions typically undertaken by RFMCs include: A new fishery management plan (FMP); an Amendment to an already approved FMP; and regulatory actions developed in response to a discrete marine conservation or management issue. FMPs and FMP Amendments must be consistent with the MSA national standards and other applicable laws, several of which require analysis of alternatives. Although it infrequently begins sooner, in most cases the National Environmental Policy Act (NEPA) process starts here.

² The term "fishery management actions" should be interpreted broadly to include a wide range of activities taken pursuant to the MSA, including proposed and final rulemakings, FMPs with no implementing regulations, and other substantive actions by the agency that promulgate or are expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, and advance notices of proposed rulemaking.

As part of internal NOAA Fisheries Service efforts to manage expectations and outcomes, FMP/rulemaking activities are divided into four phases in the draft Operational Guidelines³. Whether an action is a rule, an FMP or an FMP Amendment, and whether it will be supported by an Environmental Assessment (EA), Categorical Exclusion (CE), or Environmental Impact Statement (EIS), it is developed through the following four phases: (1) Planning and Scoping; (2) Preparation; (3) RFMC Final Action; and (4) Secretarial Review and Implementation. The time it takes a proposed Federal action to be developed varies depending on the complexity of the proposal, resources available to conduct the analyses and draft the documents, and a multitude of other contingencies. Staff resources to prepare FMP/rulemaking activities are pooled between RFMC and NOAA Fisheries Service to variable degrees across the six NOAA Fisheries Service regions and eight RFMCs. *Additional staff resources are achieved through cooperating agency agreements.*

III) Planning and Scoping. RFMCs have the primary responsibility for initiating the NEPA scoping process on actions initiated by RFMCs.

The draft Operational Guidelines recommend the development of an "Action Plan" which describes objectives, resources, alternatives and applicable laws, prior to commencement of drafting the initial NEPA document. These Guidelines rely heavily on the concept of frontloading, which means the early involvement of all interested parties to address and resolve issues. The draft Operational Guidelines also recommend formation of a fishery management action team (FMAT) as a project management activity intended to identify and task those necessary to work on a particular action from the beginning. The FMAT will generally include representatives of the RFMC and NOAA Fisheries Service, as well as other NOAA components and federal agencies, as necessary. *Personnel from the NMSP will be invited to participate on FMATs regarding potential fishery management considerations that may affect sanctuary resources.*

Through deliberations of the FMAT, NOAA General Counsel, and agency NEPA advisors, determinations are made as to the appropriate MSA type of action (FMP or regulatory) and level of NEPA analysis (CE, EA, or EIS), or whether supplements or amendments to existing NEPA analyses are appropriate for compliance.

IV) Preparation / RFMC Initial Action. This represents actions taken by preparers and the RFMC to complete preparation of the Draft NEPA analysis and all other required analyses deemed necessary by the FMAT for the proposed Federal action to achieve legal sufficiency.

Regulatory language, analyses and information collection requirements may be examined and preliminary estimates made of the costs and benefits of regulations depending on the nature of the proposed action and associated Federal permits, licenses, or other entitlements, and their respective accompanying analyses that will be required prior to implementation. RFMC standing committees or specially appointed committees may be asked by the RFMC to prepare components of actions for RFMC consideration. All meetings are advertised and open to the public, and public comments are taken each time an aspect of the proposed action appears on the agenda of the respective RFMC or one of its committees. *RFMC staff will invite NMSP staff to attend and participate at standing or specially appointed committee meetings regarding potential fishery management considerations that may affect sanctuary resources.*

³ Draft Operational Guidelines: For Development and Implementation of Fishery Management Actions. August 23, 2005. http://www.nmfs.noaa.gov/sfa/domes_fish/OperationalGuidelines/DraftOGs_082405.pdf

Preliminary Draft EIS: If schedules permit and the RFMC chooses, it may include a summary action, such as "Approve DEIS for Public Review" on the agenda. That would necessitate preparation and presentation of a preliminary DEIS to the RFMC (and public, because every action is open to the public).

Selection of Preferred Alternative: Because early identification of a preferred alternative facilitates compliance with the substantive requirements and procedural timelines of the MSA, ESA, and APA and other applicable law, the Draft Operational Guidelines encourage identification of the preferred alternative at the DEIS stage, though this is not always possible. *One such applicable law is section 304(d) of the NMSA which requires federal agencies to consult on any federal action that is likely to destroy, cause the loss of, or injure any sanctuary resource. (Stellwagen Bank NMS has a special standard, and consultation is required when a federal action "may affect" a sanctuary resource.)*

V) RFMC Deliberation and Public Review. Completed draft analyses are circulated for public review. *If a potential management action may affect sanctuary resources, RFMC staff would provide these draft analyses to NMSP.* RFMC meetings or hearings are held to facilitate understanding of the documents, collect public comment and have RFMC deliberations. After public review and comment, the analysis documents are revised as necessary and provided to the RFMC.

VI) RFMC Final Action / Preparation of Final Documents. The RFMC holds a vote on the proposed action at a public meeting. After the RFMC votes to submit an action to the Secretary, RFMC and NOAA Fisheries Service staff finalize the action document and any accompanying draft regulation and analyses for submission to the Secretary. *The NMSP would be given an opportunity to review any such documents for those MSA actions developed from the NMSA 304(a)(5) regulatory process to fulfill sanctuary goals and objectives.* It is anticipated that some work on the necessary supporting documentation will continue after the RFMC's vote. However, if NOAA or the Council determines that the supporting analyses have been substantively changed at this point, the model in the Draft Operational Guidelines would call for reconsideration by the RFMC. All parts of a final EIS (FEIS) analysis must be completed and assembled prior to NOAA Fisheries Service filing the FEIS with the EPA, who in turn publishes a Notice of Availability (NOA) of the FEIS in the *Federal Register*.

The MSA also requires that NOAA Fisheries Service initiate formal public review of the RFMC's proposed measures by publishing in the *Federal Register* the NOA of an FMP or FMP Amendment and/or the proposed rule to implement the RFMC's recommendation. The NOA of an FEIS is different from a NOA of an FMP or FMP Amendment and is published in a different part of the *Federal Register*.

VII) Secretarial Review and Final Determination. The MSA limits the time for Secretarial review and decision on new FMPs and FMP Amendments to ninety days. NOAA Fisheries Service must publish the NOA of the FMP or FMP Amendment immediately (within 5 days) of the transmittal date for a 60-day public comment period. The transmittal date is established by the NOAA Fisheries Service Regional Administrator when all of the necessary documentation is determined to be complete.

Within 30 days of the close of the comment period, the agency must approve, partially approve, or disapprove the RFMC's recommendation. A Record of Decision is issued at this time. The

determination to approve, partially approve, or disapprove is made by reference to the MSA's National Standards, other provisions of the MSA and other applicable law.

Approved: If a FMP or FMP Amendment is found to comply with the ten National Standards, contain all the required FMP components, and otherwise comply with all applicable laws and E.O.s, it is approved and the process is complete but for final publication of the regulations.

Disapproved or Partially Approved: If an FMP or FMP Amendment does not comply with the ten National Standards, contain all the required FMP components, and otherwise comply with all applicable law, it is disapproved. The NOAA Fisheries Service Regional Administrator must specify in writing to the RFMC the inconsistencies of the FMP or FMP Amendment with the MSA and/or other applicable laws, the nature of inconsistencies, and recommendations for actions to make the FMP or FMP Amendment conform to applicable laws. If the RFMC is not notified within 30 days of the end of the comment period on the FMP or FMP Amendment of the approval, disapproval, or partial approval, such FMP or FMP Amendment shall take effect as if approved. If an FMP or FMP Amendment is disapproved or partially approved, the RFMC may resubmit a revised FMP or FMP Amendment and revised proposed rule, where applicable.

VIII) Final Action. For approved actions or partially approved actions a notice of availability of the final FMP or FMP amendment is issued and final regulation (if any) is published.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802- 4213

JAN 19 2006

F/SWR2:MH

MEMORANDUM FOR: Jim Balsiger
Acting Deputy Assistant Administrator
for NOAA Fisheries Service

Captain Craig McLean
Acting Deputy Assistant Administrator
for Ocean Services and Coastal Zone Management

FROM: Rodney R. McInnis *Rodney R. McInnis*
Regional Administrator, Southwest Region

SUBJECT: Comments on Draft Flowchart Regarding Fishing Regulations
For National Marine Sanctuaries

My office had a chance to review the draft flowchart and provides the following comments.

Based on the current layout of the flow chart, it is implied that NOAA consults with external partners before consulting internally. We wonder if there may be some merit in clearly identifying points along the regulatory process where NOAA line offices consult between themselves much earlier. One area where internal consultation may be of value is after box 1 in the National Marine Sanctuaries Act process chart. That is, after "discrete resource management issues" are triggered, should there be some internal consultation? An example that comes to mind is the proposed effort to prevent a krill fishery from occurring on the west coast. This was a situation where one of the west coast sanctuaries went before the Pacific Fishery Management Council and requested that such a closure take place. This particular 'resource management issue' has worked out well but one can only speculate that the entire effort may have progressed more timely had NMFS and NOS collaborated early in the process on possible options before the Council was approached.

The scoping box (box 2) shows that this action includes community outreach, public meetings, and literature review. This may also be another opportunity for NOAA to undertake internal consultation by assimilating the information and internally determining the best approaches for proceeding. We find this may be a prudent aspect for completing this stage of the process before launching into the issue prioritization effort depicted in box 3 with the public.

With regard to box 3, we suggest that internal consultations with NMFS on the Endangered Species Act, the Marine Mammal Protection Act, and the essential fish habitat provisions of the Magnuson-Stevens Act be identified.



With regard to box 4, we suggest that this be relabeled as "NOAA Proposed Management Actions" rather "NMSP" because at this stage in the process, the proposed management actions should reflect the collaborative efforts between the various NOAA offices.

Lastly, box 5 needs to be revised to accurately reflect the more detailed regulatory process depicted on page 2 that includes elements "d" and "e."



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

DEC -7 2005

Ms. Jennifer Hagen
Northwest Indian Fisheries Commission
P.O. Box 1942
Forks, Washington 98331

Dear Ms. Hagen:

Thank you for your cosigned letter regarding the use of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) or the National Marine Sanctuaries Act for fishery management issues within national marine sanctuary (NMS) boundaries.

In my October 19, 2005, letter to the Pacific Fishery Management Council (Pacific Council) (enclosed), I informed the Pacific Council that in all but one instance, the Magnuson-Stevens Act is a viable approach to meet fishing related sanctuary goals and objectives for Cordell Bank, Monterey Bay, and Channel Islands National Marine Sanctuary management plans. However, one aspect of the Channel Islands NMS goals and objectives necessitated a no-take zone in the water column. We determined this fishing exclusion zone could not be implemented in whole under the Magnuson-Stevens Act through the current Pacific Groundfish Fishery Management Plan (FMP) amendment. The National Oceanic and Atmospheric Administration (NOAA) will proceed under the National Marine Sanctuaries Act to propose amending the sanctuary designation document to allow establishment of no-take zones in the Channel Islands NMS. National Marine Sanctuaries Act actions relative to fishing will not be taken for the Monterey Bay NMS, and the Cordell Bank NMS because the goals and objectives can be met using the Magnuson-Stevens Act. NOAA will, on a case-by-case basis, with input from regional fishery management councils, interested Tribes, and sanctuary advisory councils, determine the most appropriate statutory vehicle (Magnuson-Stevens Act, National Marine Sanctuaries Act, or both) to fulfill sanctuary goals and objectives regarding fishing-related actions.

I understand your concerns regarding changes to designation documents for sanctuaries. The National Marine Sanctuaries Act at 16 U.S.C. 1434(e) require a review of management plans every five years that may result in proposals to revise management plans and regulations as necessary to fulfill the purposes and policies for sanctuaries. I encourage the Tribes to work with us in these reviews, especially in sanctuary areas overlapping usual and accustomed fishing grounds.

The review process for the Olympic Coast NMS management plan is in the early stages. It is uncertain whether it will have any implications for fisheries management. I understand tribal representatives have met with Olympic Coast NMS staff and leadership from the National Marine Sanctuary Program to discuss more formal tribal participation in the review process along with other co-managers of marine resources, such as the State of Washington and NOAA's National Marine Fisheries Service (NMFS). I support the consultation of states and tribes as



NOAA addresses resource issues in the Olympic Coast NMS. NOAA takes its trust responsibilities to tribes very seriously, and I have asked my staff to undertake government-to-government discussions on any aspect of this review that may in any way affect treaty Indian fishing and hunting rights.

I want to reiterate my commitment to working with treaty Indian tribes on all of NOAA's actions. We appreciate your interest and involvement in NOAA's activities.

Sincerely,

A handwritten signature in cursive script, reading "Conrad C. Lautenbacher, Jr.", written in dark ink.

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

Enclosure



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

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

OCT 19 2005

Mr. Donald Hansen
Chairman
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384

Dear Sirs:

Over the past year, the National Oceanic and Atmospheric Administration (NOAA) has made significant progress in its review of management plans governing the Cordell Bank, Monterey Bay, and Channel Islands National Marine Sanctuaries, and in considering establishment of marine reserves and marine conservation areas in the Channel Islands National Marine Sanctuary. As part of the process, we have sought the Council's views, and in particular, the Council's recommendations for regulation of fishing to meet the goals and objectives of each Sanctuary.

I appreciate the Council's work in developing a proposal for regulating fishing for all three Sanctuaries, as reflected in the proposal adopted at its June 2005 meeting. NOAA's National Marine Sanctuary Program and NOAA's National Marine Fisheries Service have carefully reviewed and studied the Council's proposal. Based on that review, NOAA finds in all but one limited instance, the Council's proposal to regulate fishing under the Magnuson-Stevens Fishery Conservation and Management Act (MSA) is a viable approach for meeting the Sanctuaries' goals and objectives under the National Marine Sanctuaries Act (NMSA). While any MSA regulatory action must still undergo the administrative process required by the MSA and Administrative Procedure Act and receive final approval from the Department of Commerce, NOAA supports the Council's pursuit of this approach as outlined below.

Cordell Bank National Marine Sanctuary

In its June 2005 action, the Council proposed prohibiting use of all bottom-contact fishing gear within a 50-fathom isobath surrounding the Cordell Bank. Based on our review of the existing factual and scientific evidence, there is a credible basis to propose issuance of these regulatory prohibitions under the MSA. NOAA supports this approach and therefore will not propose amending the Sanctuary's designation document to allow NOAA to regulate fishing under the NMSA.

THE ADMINISTRATOR



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Monterey Bay National Marine Sanctuary

As part of its ongoing review of this Sanctuary's management plan, NOAA is considering expansion of the Sanctuary's boundary to include Davidson Seamount. Davidson Seamount is a deep water seamount, the peak of which is at a depth of approximately 670 fathoms (4,000 feet). In order to protect the Seamount, the Council proposed prohibiting use of all fishing gear at depths below 500 fathoms in the Davidson Seamount area (i.e., at depths below 3,000 feet). Based on our review of the existing factual and scientific evidence, there is a credible basis to propose issuance of these regulatory prohibitions under the MSA. NOAA supports this approach and therefore will not propose amending the Sanctuary's designation document to allow NOAA to regulate fishing under the NMSA.

To address scientific collection and monitoring or educational collection not restricted under the MSA, NOAA anticipates proposing an NMSA regulation prohibiting such collection below 500 fathoms in the Davidson Seamount area without an NMSA permit. While the designation document for the Monterey Bay National Marine Sanctuary will need to be amended to include Davidson Seamount within its boundaries, a regulation affecting scientific and educational collection will not require amendment of the designation document.

Channel Islands National Marine Sanctuary


With respect to the Channel Islands National Marine Sanctuary, the Council proposed prohibiting fishing throughout the proposed marine reserves and marine conservation areas identified through the multi-party collaborative process. Based on our review of the existing factual and scientific evidence, there is a credible basis to propose issuance of regulations prohibiting the use of bottom-contact fishing gear in these areas under the MSA. NOAA supports the Council's pursuing these regulatory prohibitions under the MSA.

With respect to regulation of fishing throughout the remainder of the water column, however, there is an insufficient factual and scientific basis to support pursuit of this aspect of the Council's proposal under the MSA. The Council also recommended NOAA explore filling any regulatory gaps with regulations by the State of California. California regulations, however, could not fill the entire gap because California would have no jurisdiction over vessels of other states that fished outside of state waters and did not land in the State of California. Because of these uncertainties, NOAA will pursue regulatory action under the NMSA to establish limited take or no-take zones throughout the remainder of the water column, and will propose amending the sanctuary designation document to allow establishment of no-take zones in the marine reserves and limited take in the marine conservation areas. NOAA therefore invites the Council to prepare draft regulations for fishing under the NMSA for this purpose by the current November 23, 2005, deadline. In order to facilitate the Council's development of proposed regulations, NOAA will make personnel from NOAA's Fisheries Service and National Marine Sanctuary program available to work with the Council. Mark Helvey and Chris Mobley will contact you the week of October 24, 2005, to discuss how NOAA can best support you in this effort.

Page 3

I want to again extend my sincere appreciation for the hard work the Council and Council staff have contributed toward the process of review of the sanctuary management plans for the Cordell Bank, Monterey Bay, and Channel Islands National Marine Sanctuaries, and creation of marine reserves and marine conservation areas in the Channel Islands National Marine Sanctuary. We look forward to continuing our collaborative efforts as we complete these processes.

Sincerely,

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

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

Theodore R. Kulongoski
Governor



December 13, 2005

The Honorable Ron Wyden
United States Senate
230 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Wyden:

I write to invite you to join me in an extraordinary endeavor to secure the long-term stewardship of the marine environment along our beautiful Oregon Coast. In consultation with the Oregon Ocean Policy Advisory Council (OPAC), I will soon be requesting the Secretary of Commerce to designate an Oregon Coast National Marine Sanctuary and I ask for your enthusiastic support and assistance for this designation. I want to spell out what I believe are compelling reasons for us to seek such a Sanctuary, and why I believe the time for action is now.

My proposal for an Oregon Coast National Marine Sanctuary is founded on the historical commitment of Oregonians to the long-term conservation and protection of coastal and ocean resources. Oregonians desire vibrant coastal communities, healthy and resilient marine ecosystems, sustainable fisheries, clean and safe shorelines, and enjoyable and inspirational recreational opportunities. I believe that the unique state-federal partnership of a National Marine Sanctuary gives Oregon an opportunity to reinforce these longstanding values and commitment.

In 2004 the U.S. Commission on Ocean Policy made clear that the nation's marine environment, ecosystems and economies are increasingly threatened by the hand of mankind through overuse, misuse, pollution, habitat loss, and climate change. As I prepared my response to the Commission, I learned that while the Pacific Ocean off Oregon has been spared many of the ills in other seas and we have done our best to try to protect ocean resources in state waters, the Oregon coast is not immune to these same forces and, in fact, we face growing challenges in protecting our ocean resources for the future.

To meet these challenges on behalf of future generations, I believe that we must act now. At present, there is no broad state-federal program, no agreed-upon plan of action or guiding principles to integrate federal and state interests across the entire continental margin off Oregon. A National Marine Sanctuary will enable Oregon and federal agencies to work collaboratively with tribes, ocean users, and the public to plan and manage all uses and resources based on sound science.

The Honorable Ron Wyden
December 13, 2005
Page Two

Currently, Oregon cannot afford the costs of marine research and monitoring nor the technical assistance required to plan for and manage ocean resources across our ocean area. A National Marine Sanctuary will give Oregon the opportunity to draw increased funding, technical support and other resources from a variety of federal programs for scientific research and monitoring to support resource management off our coast.

At present Oregon has jurisdiction only within three nautical miles of shore while the federal government has jurisdiction beyond. Oregon has long supported an ecosystem-based approach to resource conservation as demonstrated through our successful watershed restoration programs to promote coastal salmon recovery and habitat restoration. A National Marine Sanctuary will enable Oregon to work with federal agencies across this political boundary at an ecosystem scale to ensure that programs and regulations work together for the good of the marine ecosystem.

The starting point for public discussion of the size and location of the Oregon Coast National Marine Sanctuary is the Oregon Ocean Stewardship Area that the state has asserted as a matter of policy since 1991. This area extends from the Columbia River to the California border and from the ocean shore to the toe of the continental margin. Oregon most recently asserted this Ocean Stewardship Area in 2000 as part of amendments to Statewide Planning Goal 19, Ocean Resources.

Clearly a number of smaller sites, such as Heceta-Stonewall Banks, Rogue Canyon, Orford Reef, or Astoria Canyon are serious candidates for a National Marine Sanctuary as individual features. I believe, however, that a larger ecosystem-based approach to management, as called for in the Ocean Commission's report, is required to meet on-coming challenges. This would be a new model for the National Marine Sanctuary Program. I have asked OPAC to provide me with advice on the size of the sanctuary.

I want to highlight a few of the ways that I believe Oregon will benefit.

First, a National Marine Sanctuary is the only federal program that will give Oregon a seat at the table and a strong voice with appropriate federal agencies to develop a long-range plan to guide multiple-use management in this ocean area. Such a plan could address new ocean uses such as wave energy, ocean aquaculture and methane hydrate extraction.

Second, the threat of offshore oil and gas development continues to build through Congressional action. This threat must be ended once and for all by creating a National Marine Sanctuary for the Oregon Coast in which drilling for oil and gas will be prohibited.

Third, increased federal research funding and technical support will help Oregon to meet the need for better scientific information to manage marine resources.

Fourth, an Oregon Coast National Marine Sanctuary will boost tourism and travel on our coast by drawing national and international attention. National Marine Sanctuaries around the

The Honorable Ron Wyden
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Page Three

country are magnets for nature travelers, outdoor adventurers, photographers and marine recreationists.

In addition, an Oregon Coast National Marine Sanctuary will help to support protection of other unique coastal areas such as the South Slough National Estuarine Research Reserve near Coos Bay, the Crook Point National Wildlife Refuge, Yaquina Head Outstanding Natural Area, Cascade Head U.N. Biosphere Reserve, the Oregon Islands National Wildlife Refuge and the many coastal Oregon state parks with diverse marine rocky shore resources.

I want to emphasize that commercial and recreational fishing will continue within the sanctuary and will continue to be regulated by the Pacific Fishery Management Council and the Oregon Fish and Wildlife Commission based on the management plan for the sanctuary. As you know, a National Marine Sanctuary does not have separate authority to manage or regulate marine fisheries.

The sanctuary designation process required by federal law is thorough and will take time. It is a public process that will result in an environmental assessment and draft sanctuary management plan. Oregon will be fully engaged in this process through the Ocean Policy Advisory Council, as well as state agencies. Prior to formal designation, the Secretary of Commerce will be required to make findings that adequate funding is available and submit a report to the Congress. I will turn to you for guidance and assistance in the final designation steps.

This is a historic step for Oregon. I appreciate the amount of effort that this designation will require of all of us, but I believe that the legacy that we will leave to future generations will be well worth it.

I look forward to working with you.

Yours very truly,



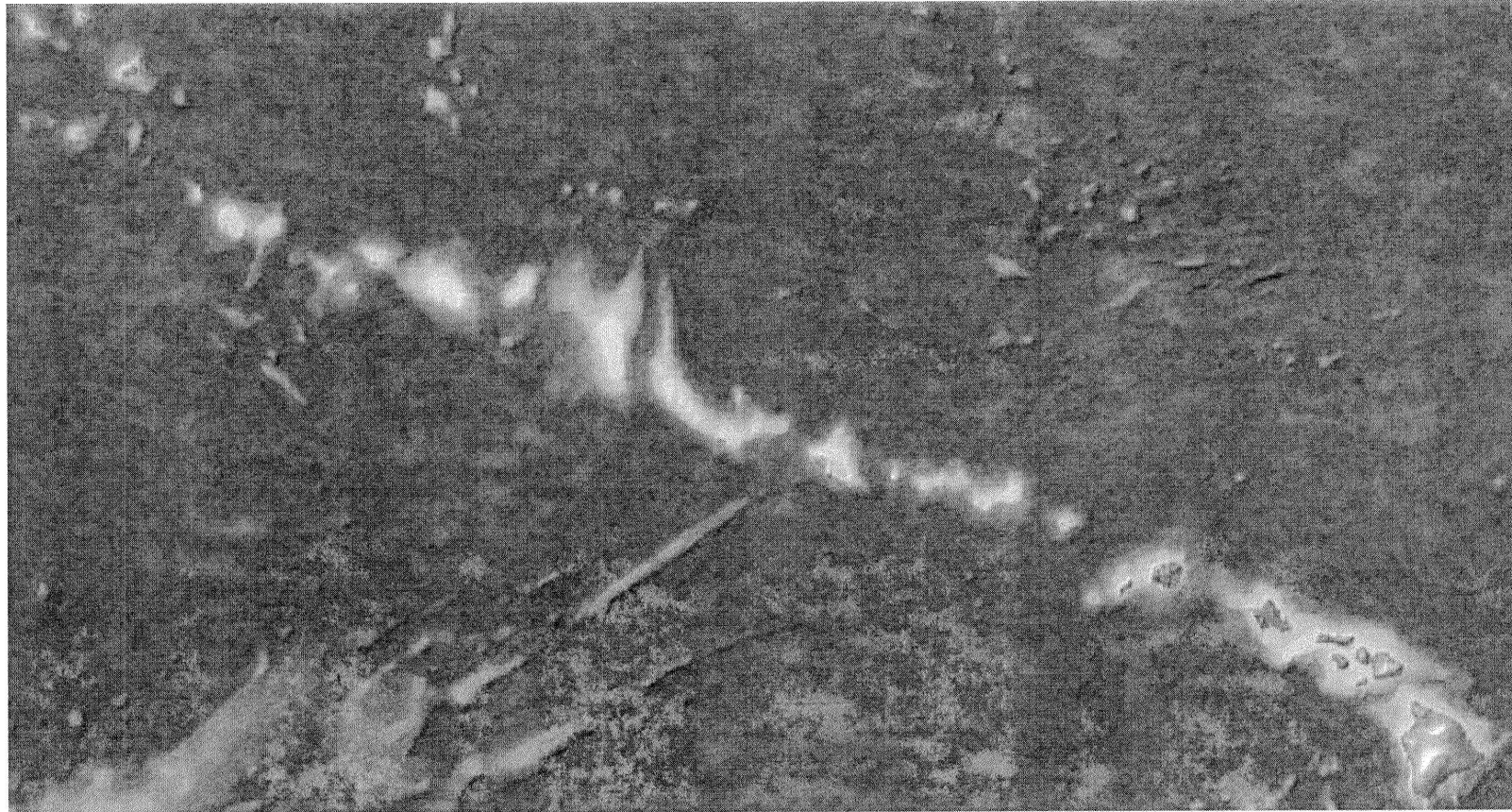
THEODORE R. KULONGOSKI
Governor

TRK:mc:jm:tmt:jb

Originals of this letter were mailed to the Oregon Congressional Delegation:

Senator Ron Wyden
Senator Gordon Smith
Congressman David Wu
Congressman Greg Walden
Congressman Peter DeFazio
Congressman Earl Blumenauer
Congresswoman Darlene Hooley

Fisheries Management in the Northwestern Hawaiian Islands



Pacific Fishery Management Council
March 9, 2006



Discussion Paper

**NOAA National Marine Fisheries Service
February 17, 2006**

WATER COLUMN FISHING CLOSURES AT CINMS UNDER THE MAGNUSON-STEVENSON ACT AND STATE AUTHORITIES

1.0 SITUATION

The Pacific Fishery Management Council (Council) made final recommendations in November, 2005 to Amendment 19 of the Pacific Groundfish Fishery Management Plan (FMP). Among the several conservation and management measures addressed in the amendment, one specifically would prohibit the use of bottom-tending fishing gear at specific locations in Federal waters along the U.S. west coast using the essential fish habitat (EFH) authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). One particular location where these fishing prohibitions will take place is the Channel Islands National Marine Sanctuary (CINMS).

In a jointly supported effort by NOAA and the State of California begun in 1999, a discrete network of sites were originally identified by a community process (see Section 2.0) as productive areas that should be set aside as marine protected areas (MPAs¹) within CINMS. The network of sites resided in both State and Federal waters. The State of California closed the sites within its jurisdiction in 2003 by prohibiting or limiting commercial and recreational fishing in 10 State marine reserves and two State marine conservation zones. The State made its decision in designating these MPA sites with the expectation that the complementary sites in Federal waters would similarly be set aside from fishing in due time.

At its June 2005 meeting to identify and describe EFH for Pacific groundfish, the Council acknowledged the remaining sites of the MPA network in Federal waters and identified them not only as groundfish EFH, but also distinguished the sites as habitat areas of particular concern² (HAPC) under the EFH provisions of the MSA. In the same action, the Council tentatively decided to recommend closing all fishing at the specific HAPC sites within CINMS, that is, close all fishing from the sea surface to the sea floor.

Such closures would have achieved the conservation objectives of the State of California and NOAA for attaining long-term habitat protections into Federal waters and completing the second of two phases of the MPA process begun in 1999. However, in fall 2005, NOAA reviewed the basis for these broad closures, and while it determined that closing

¹ Marine protected areas are geographically discrete areas where special restrictions are applied included no fishing (i.e., marine reserves) or partial fishing (i.e., conservation zones).

² HAPCs are a subset of areas identified as EFH because they are recognized as areas of special importance that may require additional protection from adverse effects. In this particular case, the HAPC designation for Pacific groundfish extends from the sea surface to the seafloor

the bottom habitat at the HAPC sites to all bottom fishing was justified to avoid adverse impacts to Pacific groundfish EFH, it did not find sufficient justification to close the water column under the same EFH authority.

At its November 2005 meeting, the Council passed a motion recommending that the various Council FMP authorities and complimentary State laws be examined for completing what it was unable to do with the EFH authority for closing the water column to fishing in the HAPC locations examined. Specifically, they asked whether other MSA and/or the State of California legal authorities exist that could be used to establish these water-column closures and thereby bypass the use of the National Marine Sanctuaries Act for achieving the conservation objectives of the State of California and NOAA. The purpose of this paper is to respond to the Council's request to analyze whether other MSA and/or State of California authorities conceivably could be used for achieving closures of the water column above the HAPC bottom habitats within CINMS.

2.0 CINMS' MANAGEMENT ACTION

In examining other MSA or State of California authorities that may apply for achieving water column closures, it is important to briefly review the history of CINMS and its proposed management action. The next section summarizes the history of establishing marine reserves within CINMS.

2.1.1 History of CINMS: The waters surrounding the northern Channel Islands and Santa Barbara Island were designated in 1980 as CINMS for the purpose of preserving and protecting the island's unique and fragile ecological community. The 1,252-square-nautical-mile portion of the Santa Barbara Channel was given special protected status because of its exceptional natural beauty and important marine resources. It encompasses the waters that surround Anacapa, Santa Cruz, Santa Rosa, San Miguel and Santa Barbara Islands, extending from mean high tide to six nautical miles offshore around each of the five islands. Within its boundaries occurs a unique combination of warm and cool currents resulting in a great variety of plants and animals including large nearshore forests of giant kelp, flourishing populations of fish and invertebrates, and abundant and diverse populations of cetaceans, pinnipeds and marine birds. As noted in its designation document, the Sanctuary is located in an area of upwelling and in a transition zone between the cold waters of the California Current and the warmer Southern California countercurrent. As a result, CINMS contains an exceptionally rich and diverse biota.

2.1.2 Development of Marine Reserves in CINMS: In 1999, a group of community members (the Marine Reserve Working Group or "MRWG") was formed by NOAA and the California Department of Fish and Game (CDFG) to examine the feasibility of establishing marine reserves within the Sanctuary's boundaries. The 17 members represented a broad array of community responsibilities and perspectives including commercial fishermen/divers, recreational fishermen/divers, and environmental

organizations as well as Federal and state regulatory officials. The group reached consensus on specific locations within CINMS considered to be exceptionally unique in terms of their ecological and habitat qualities. The identification of these sites was primarily provided by representatives of the local community that relied on their extensive knowledge and experience from utilizing the fishery resources of the Sanctuary for their livelihood and recreation. The community acknowledged these areas to be highly productive locations embedded within the larger CINMS ecosystem.

The joint effort also identified four distinct objectives they expected to achieve from these closures: 1) ensure the long-term protection of CINMS' resources by restoring and enhancing the abundance, density, population age structure and diversity of the natural biological communities; 2) protect, restore, and maintain functional and intact portions of natural habitats, (including deeper water habitats), populations and ecological processes in CINMS; 3) 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; and, 4) set aside, for intrinsic and heritage value, representative habitats and natural biological communities.

2.1.3 Uncompleted Action to Implement Marine Reserves: NOAA and CDFG took this information and proposed a management action to close these areas from all or limited forms of consumptive uses so that non-consumptive benefits could be realized (i.e., enhanced ecosystem biodiversity; ecotourism, etc.). The proposal amounted to closing approximately 25 percent of the area within CINMS' boundaries including both State of California waters (e.g., shoreline to three miles) and Federal waters (i.e., three to six miles).

In 2003, the State of California implemented closures within its waters out to three miles from the shoreline. However, the action only completed a portion of the proposed joint management action. The Federal phase was left uncompleted until the Council took action in June 2005, and, as mentioned earlier, recommended complete fishing closures that, as determined by NOAA, can only apply to the bottom habitat of the HAPC areas the Council identified in cooperation with the Sanctuary during its Pacific groundfish EFH designations. The remaining gap necessary to complete the marine reserve fishing closures, originally intended to be implemented by the State and NOAA, is the water column areas at the HAPC locations located within the Sanctuary's boundaries.

3.0 MSA DISCRETIONARY PROVISIONS

This section identifies two authorities in MSA that could be used by the Council for attaining fishing closures in the water column portion of its proposed HAPC sites identified within CINMS.

- 3.1 **Zonal Designation:** The MSA provides the legal authority to establish no fishing areas (16 U.S.C. §1853 (b)(2)). This section states, in pertinent part,

“Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may.....designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear...”

This provision authorizes the Council to recommend the establishment of no fishing areas through its fishery management plans.

Three possible justifications for closing the water column to fishing in the HAPC areas by designating zone prohibitions are discussed below.

3.1.1 Protection of EFH Relative to Other Council FMPs: During its deliberations to identify EFH and recommend conservation and management actions under Amendment 19 to the Pacific Groundfish FMP, the Council recognized the EFH and HAPC value of the specifically identified areas originally proposed by the State of California and NOAA. Consequently, the Council recommended that these remaining areas of the network be protected from the adverse impacts of all fishing. However, as mentioned above, the Council was informed by NOAA that the gear types used by the groundfish fishery do not pose an adverse effect to EFH in the water column.

The question was raised whether gear types used to prosecute fisheries in the Council’s other FMPs adversely affect EFH in the water column and thereby should be prohibited from use in the HAPC locations. These other FMPs all deal with pelagic species that occupy the water column and include the Highly Migratory Species FMP (i.e., tunas, sharks, and billfish), the Coastal Pelagic Species FMP (i.e., sardine, northern anchovy, mackerel, and squid), and the Pacific salmon FMP (Chinook salmon). The EFH provisions are intended to protect habitats from the adverse affects of fishing gear. However, the fishing gears used in these other FMPs including purse seine, longline, hook-and-line, harpoon, and drift gillnet do not appear to cause adverse impacts to the water column HAPC of Pacific groundfish nor to the designated EFH within each of the three other FMPs. Consequently, any argument to justify use of EFH habitat protections for these other FMPS seems difficult to support.

3.1.2 Council Action: Probably no further action

3.2.1 Elimination of Potential Use Conflicts: The Council's action in recommending that the proposed network of marine reserve sites in Federal waters be identified as HAPC sites and closing them to bottom fishing achieves a substantive portion of the original State of California and NOAA MPA objectives. The Council's action complements the State of California's MPA efforts implemented in early 2003 by extending bottom fishing prohibitions and subsequent bottom habitat protection further offshore. (One exception is the "Footprint" area located between Santa Cruz and Anacapa Islands that does not have an inshore component). The proposed HAPC action in Amendment 19 will protect a new combination of bottom habitat types and depth contours not found in the State's portion of the MPA network. In recommending this action to prohibit bottom fishing in the proposed HAPC sites, the Council is greatly enlarging the existing MPA network closed to bottom fishing. These new areas in Federal waters have the potential to serve as scientific research sites for assessing the ecological impacts of areas protected from fishing.

3.2.1.1 Biological Monitoring in CINMS: Scientific investigation and research form a large part of the Sanctuary's mandate and this includes promoting, coordinating and supporting the efforts of internal and external research groups whose work is aimed at understanding of the Channel Islands biological and cultural resources. These collaborative efforts have been undertaken with academia (e.g., the Marine Science Institute of the University of California Santa Barbara, University of California Santa Cruz, Scripps Institute of Oceanography, Humboldt State University) research institutions (e.g., National Geographic Society), federal and state government (e.g., U.S. Geological Survey, Department of Navy, NOAA's National Ocean Service and National Marine Fisheries Service, the National Park Service, and CDFG).

When the network of MPAs was implemented in 2003 in State waters, it was predicted that biomass levels would potentially increase in the MPAs and these larger populations in the protected areas had the potential to contribute to those in surrounding waters³. This ecological response is well-documented in the scientific literature from other efforts around the globe that closed areas to fishing. Ecological changes include such responses as increases in the abundance, diversity and productivity of predators and their prey. In order to detect these changes, NOAA and CDFG determined that a program to monitor marine systems within and around the MPAs was essential³. NOAA,

³ *Summary of Research Programs in the Channel Islands National Marine Sanctuary*, February 20, 2003, Unpublished document assembled by the Bren School of Environmental Science and Management University of California, Santa Barbara, CINMS, and CDFG. 145 pp.

CDFG and the Channel Islands National Park hosted a Marine Protected Areas Monitoring Workshop on March 14-16, 2003 at the Bren School of Environmental Science and Management at the University of California, Santa Barbara to develop a research agenda for the newly created State MPA sites (Appendix 1). Representatives from the scientific community, fishing interest, business, and environmental communities joined CINMS staff at the workshop.

The primary goal of the workshop was to develop preliminary biological and socioeconomic monitoring plans including: what to monitor; how to conduct monitoring; when to complete various portions; how to compile data into an easily accessible source; what funding and personnel needs exist; and what type of oversight is appropriate. Because numerous research and monitoring programs were already in existence in the Channel Islands region, but were not designed within the context of the newly established MPAs, it was agreed that "...existing programs may need to be modified or expanded, and new programs may need to be developed, in order to assess the ecological impacts of protected areas³."

It may be very reasonable to assume that current scientific investigations taking place inside and outside the State's MPA network within CINMS will not only continue into the future but also be expanded into the Council's HAPC areas (see Appendix 1, maps 4, 8, 9, 20, and 24). However, the State of California and NOAA's efforts to add to the informational baseline and improve the scientific understanding on the effectiveness and efficiency of MPAs and specifically marine reserves may be compromised if fishing activities in the water column are left unabated. Consequently, the potential exists for user and gear conflicts between these scientific investigations and the fishing efforts prosecuting the HMS, CPS and salmon fisheries under Council jurisdiction

3.2.1.2 NOAA's Management of Use Conflicts: NOAA has managed user conflicts in the past by designating specific zones where, and periods when, fishing was limited or completely prohibited. These fishing prohibitions have been undertaken to prevent: 1) between competing gear types (e.g., closures in the Gulf of Mexico off Florida to prevent domestic gear conflicts between stone crab fishermen fishing with pots from shrimp trawlers; closures varying from 25 to 75 nautical miles seaward of the main Hawaiian Islands to alleviate potential gear conflicts among small boat handline/troll fishers, charter boat operators, recreational fishers, and longline fishers;); 2) to eliminate bycatch (e.g., time/areas closures to reduce interactions between endangered and threatened sea turtles and pelagic fishing gear in the U.S. exclusive economic zone (EEZ) and the high seas around Hawaii,

California, and other locations); and 3) to not interfere with research activities (closures in the Bering Sea to support NMFS research project investigating the effect of commercial fishing on Pacific cod abundance and Stellar sea lion foraging in localized areas).

3.2.2 Council Action: For the various circumstances NOAA has utilized time/area closures to prohibit fishing, supporting research activities comes closest to the current situation at CINMS. In order to avoid these user conflicts, the Council would need to amend its HMS, CPS, and Pacific Salmon FMPs or prepare regulatory amendments to prohibit these fisheries in the HAPC areas. Such an action would avert the potential for interfering or disrupting research studies in these HAPC areas. However, if the Council decides to pursue this course of action, it must recognize that the administrative record is weak and will need to be further developed. For example, the report cited regarding the State of California and NOAA's research programs was prepared in early 2003. The Council would need to inquire whether the report has been updated and even request research agendas of NOAA, CDFG, and other collaborators planned for the bottom fishing closures in the HAPC areas. This would especially require information on remotely operated vehicles (ROV) surveys, deepwater submersible surveys, midwater-trawl surveys, the Reef Environmental Education Foundation (REEF) monitoring, and side-scan sonar mapping. Lastly, the Council should evaluate the results of a recent NOAA workshop entitled "Benthic-Pelagic Linkages in MPA Design: Exploring the Application of Science to Vertical Zoning Approaches" held in August, 2005 as to whether the report's findings have application to any potential action by the Council.

3.3.1 Insuring Safety at Sea: If scientific studies are undertaken in the proposed HAPC sites, one particular outcome is that there will be an increase in research vessels occupying these sites. These vessels will be used to collect oceanographic data as well as serve as operating platforms for both tethered and untethered submersible vessels for ROV surveys and deepwater submersible surveys. In addition, side-scan SONAR mapping of the new closures may also take place. Further, occasional human activity on the water surface may take place to assist underwater submersible vessel activities as well as potential SCUBA diving may occur in those HAPC areas that are not beyond depth limitations. The potential use of the proposed HAPC areas as research sites also creates the potential risk of placing both scientists and those fishermen prosecuting the HMS, CPS and salmon fisheries in potentially hazardous situations. The potential risks could be averted by eliminating Federally managed fishermen from the HAPC sites.

Closing areas to one particular user group to reduce jeopardy to other user groups is consistent with National Standard 10. This standard states “[c]onservation and management measures shall, to the extent practicable, promote the safety of human life at sea.” (16 §U.S.C. 1851 (a)(10)). The standard recognizes that fishing is an inherently dangerous occupation and directs the councils to reduce that risk when developing management measures, so long as those measures can still meet the requirements of the other standards and achieve the goals of the management program.

3.3.2 Council Action: The council would need to develop an administrative record to establish a factual basis for this option. At the very least, a record that established the degree and frequency of research activities in the HAPC areas (Section 3.2.2) would be necessary. In addition, the Council would need to establish the extent of fishing historically and presently occurring in these same areas.

4.0 INCORPORATING STATE REGULATIONS:

The MSA also provides the legal authority to the Council to incorporate relevant state management actions (16 U.S.C. §1853 (b)(5)). This section states, in pertinent part,

“Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may.....incorporate, consistent with the national standards, the other provisions of this Act, and any other applicable law the relevant fishery conservation and management measures of the coastal States nearest to the fishery...”.

This provision may grant the Council the authority to recommend extending the fishing prohibitions implemented by the State in its jurisdictional waters in 2003. In this particular case, the Council would recommend that the water column fishing prohibitions currently in the water column within the State’s portion of the MPA network would be extended into the water column of their proposed HAPC sites. Such an action by the Council acknowledges its recognition of the importance of the State’s action and would satisfy subsequent requests by the State of California that NOAA complete the conservation objectives of the original joint State-Federal effort (see below).

4.1 State of California’s Position: In a letter written by Mr. Michael Chrisman, California’s Secretary of Resources, to Mr. Dan Basta, NOAA’s National Marine Sanctuary Program Director on March 3, 2005, the State expressed its frustration at the lack of progress to complete the establishment of marine reserves in the Federal waters portion of CINMS that were “....envisioned [as] companion areas...” (Appendix 2). In closing, Mr. Chrisman expressed his expectation that the Federal phases be completed in a “...productive and timely manner...”.

In a second letter to Mr. Basta dated April 18, 2005 (Appendix 3), Mr. Chrisman mentioned the State could not support changes in the CINMS’

designation document “...that allows for what appears to be an open-ended and duplicative promulgation of fishing regulations.” It is noted that the current CINMS designation document, a document that among other topics, discusses the present and potential uses of sanctuary, does not authorize the regulation of fishing. Consequently, Mr. Chrisman is referring to a process that CINMS would need to pursue in amending its designation document allowing for the Sanctuary to regulate fisheries within their boundaries. With the intent of working with CINMS in establishing the marine reserves in the Federal waters of CINMS, he recommended the following : 1) CINMS work with NMFS and the Council to determine necessary steps to complete the Federal phase for establishing marine reserves using “existing statutory provisions”; 2) that if a process is identified under existing law that is “...timely, efficient, and sustainable...”, then the State would support that course of action; and 3) should the marine reserves not be established in a reasonable amount of time using existing statutory provisions, then the State would support a change in the CINMS’ designation document regarding the specific sites originally identified.

4.2 Council Action: A basis for invoking this discretionary provision in the MSA would need to be established as part of the administrative record. The basis would need to determine if the State of California’s position on this matter is still resolute. In addressing the issue of timeliness, as specified in Mr. Chrisman’s letter, a realistic comparison of the timelines between the Council recommending a course of action under this MSA provision and the necessary implementing regulations by NMFS, versus the actual adoption of changes to CINMS’ designation document that allows the Sanctuary to begin regulating fishing would need to be prepared. The Council may also want to examine other FMPs where this authority has been exercised.

5.0 STATE OF CALIFORNIA ACTION: SPECIES MANAGED BY THE STATE

Any Council action to prohibit HMS, CPS and Pacific Coast salmon fisheries in the HAPC areas of CINMS would not apply to fish species not under Federal management. For example, fishermen could enter the HAPC areas and fish for water column species such as white seabass, yellowtail, bonita, and barracuda among other pelagic species with immunity because these species are managed by the State rather than under a Federal FMP. Such a loophole in the closures would not meet the conservation objectives of CINMS.

In order to meet CINMS’ conservation objective, the Council could recommend to the State of California that they impose landing restrictions for those water column species caught in the EEZ and not managed under the HMS, CPS, and Pacific Coast salmon FMPs. The prohibitions would be designed to ban the landing of State managed species from the HAPC areas. In addition, the Council would need to ensure that the State would implement and enforce the closures.

Although very remote, boats from Oregon and Washington could traverse CINMS and not be subject to the State of California’s landing restrictions. The Council would need to

also recommend that California develop reciprocal regulations with the adjoining states to prevent vessels registered in these other states from landing fish in the HAPC areas.

5.1 Council Action: The Council would need to work with the State of California begin the necessary steps to prevent and enforce landings for all species managed by the State of California and not regulated under the MSA from the HAPC areas by California registered vessels. Similarly, the Council would ask that California also work with Oregon and Washington to ensure these states similarly prevent their registered vessels from landing fish not under Federal regulations.

6.0 SUMMARY

Several options appear to be available to the Council for achieving water column closures under MSA, some more practical than others. However, whether these various options would be best used individually or combined, a strong administrative record for each will need to be developed. Specifically, a factual written record supporting any of these options would be necessary. As a stand alone option, the Council could incorporate state regulations under the MSA (16 U.S.C. §1853 (b)(5)) which would cover all water-column species managed under either State or Federal regulations. Should the Council decide that zonal closures under MSA are more appropriate (16 U.S.C. §1853 (b)(2)), then the Council would need to work with the State of California to prohibit the landing of species not regulated under Federal authority by State registered vessels, as well as work out similar arrangements with Oregon and Washington registered vessels. In all cases, the Council should be aware that any action on its part to close the water column to all fishing does maximize the enforceability of its bottom closures. Lastly, it is noted that any recommendation by the Council to exclude HMS, CPS, and Pacific salmon fisheries from the HAPC areas only forecloses these fisheries in the specific HAPC areas and does not prevent these fisheries from taking place in locations immediately outside the HPAC areas of the Council

APPENDIX 1: (Cover page and selected maps):

Summary of Research Programs In the Channel Islands National Marine Sanctuary

Assembled by:

**Adina Abeles
Larry Chiang
Matt Stadler
Ben Pitterle**

**Bren School of Environmental Science and Management
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**Mary Bergen
John Ugoretz
California Department of Fish and Game**

**Cover Photos
Courtesy of NOAA
Claire Johnson
Donna Perry
Robert Schwemmer**

February 20, 2003

Map 4: ROV Surveys of Market Squid



Pt. Conception

Santa Barbara

Ventura

Sanctuary Boundary

San Miguel
Island

Santa Rosa
Island

Santa Cruz
Island

Anacapa
Island

 Monitoring Area

State MPAs

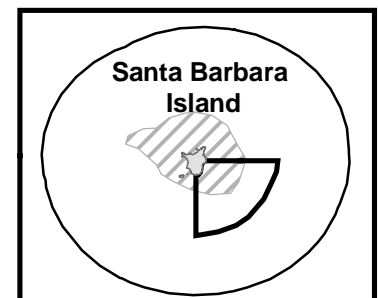
 SMR

 SMP

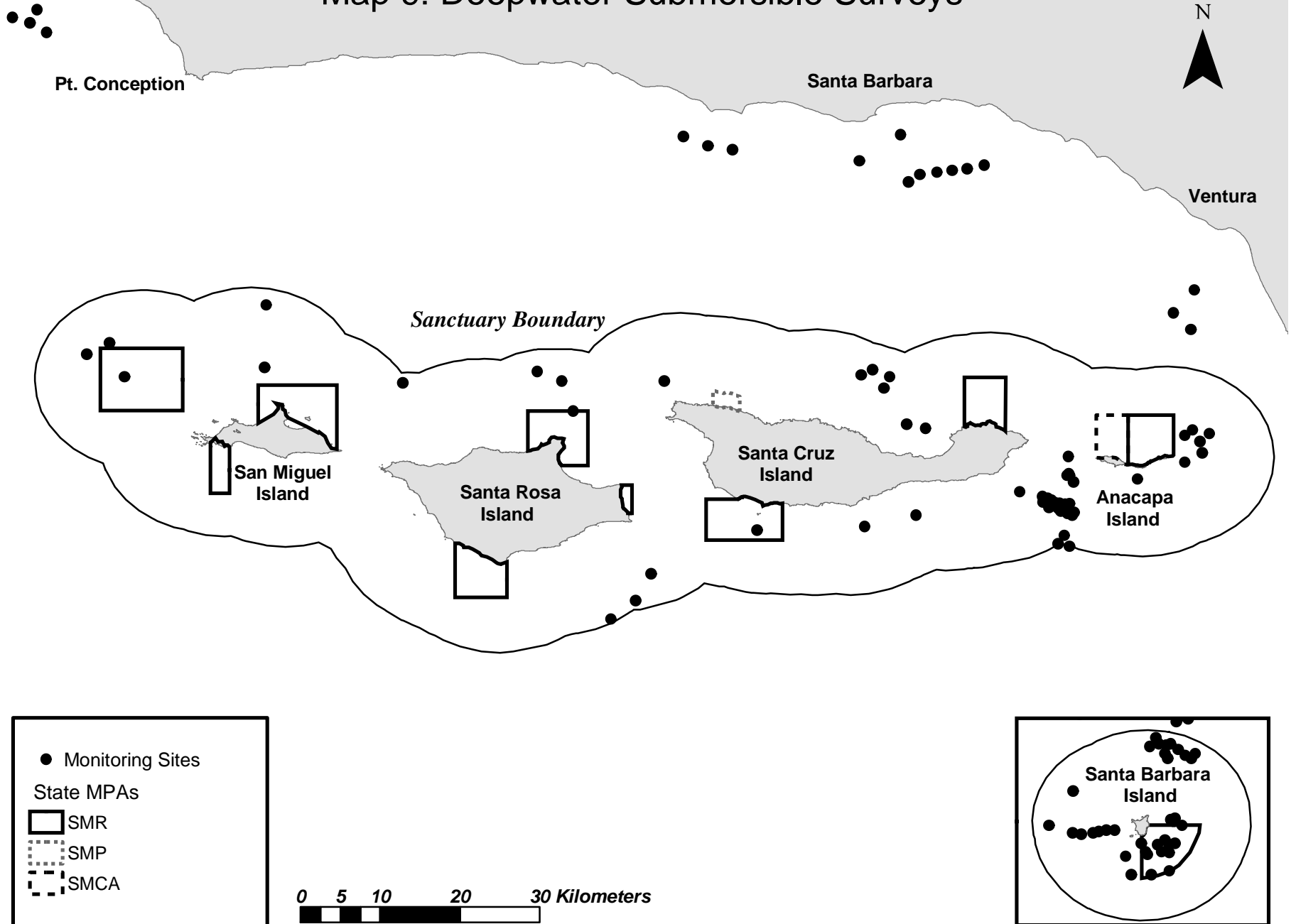
 SMCA

0 5 10 20 30 Kilometers

Santa Barbara
Island



Map 9: Deepwater Submersible Surveys



Map 20: REEF Monitoring

Pt. Conception

Santa Barbara



Ventura

Sanctuary Boundary

San Miguel
Island

Santa Rosa
Island

Santa Cruz
Island

Anacapa
Island

● Monitoring Sites

State MPAs

□ SMR

□ SMP

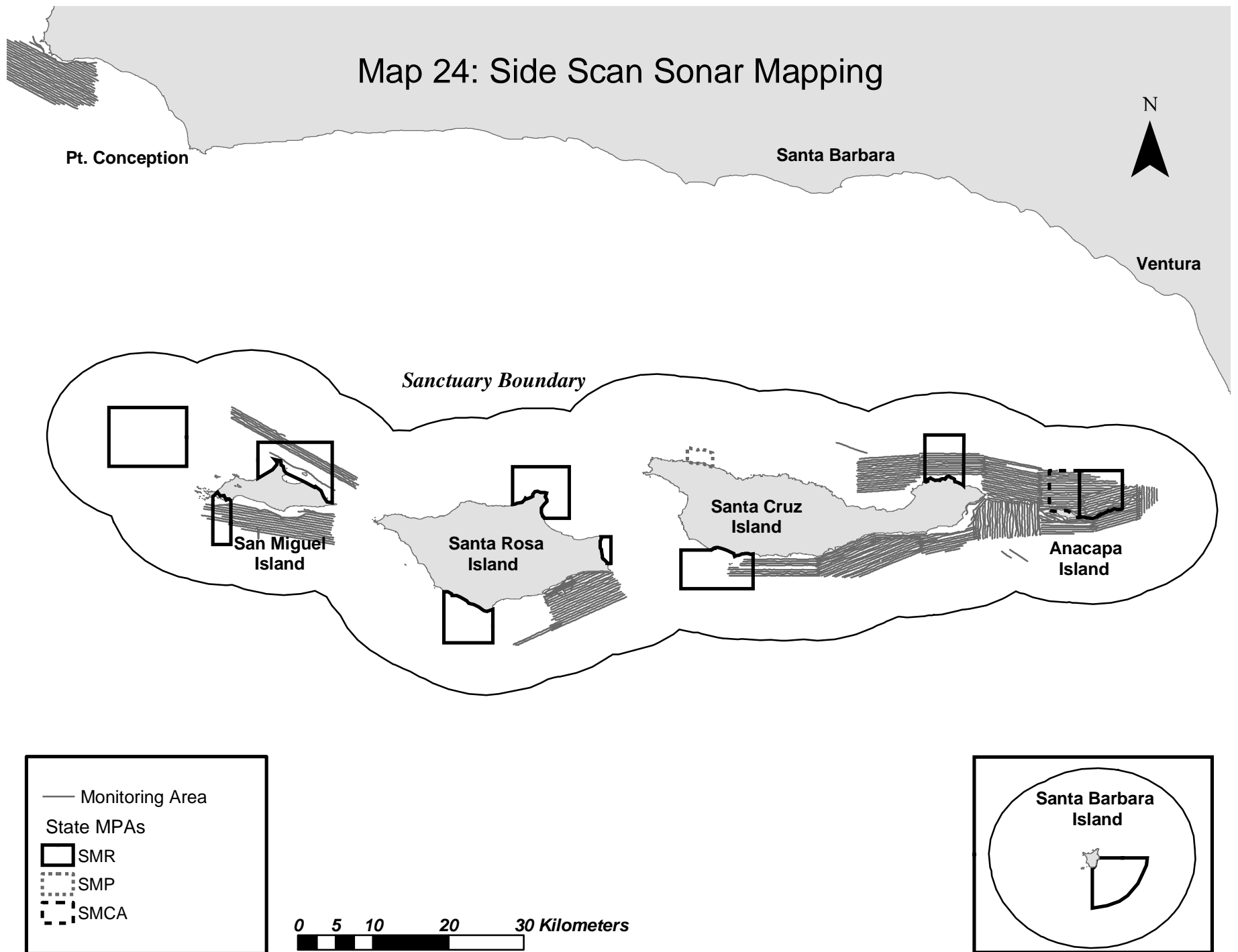
□ SMCA

0 5 10 20 30 Kilometers

Santa Barbara
Island



Map 24: Side Scan Sonar Mapping



APPENDIX 2: March 3, 2005, letter from California Secretary of Resources to Director of National Marine Sanctuary Program.

APPENDIX 3: April 18, 2005, letter from California Secretary of Resources to Director of National Marine Sanctuary Program.

APPENDIX 2: March 3, 2005, letter from California Secretary of Resources to Director of National Marine Sanctuary Program:



RESOURCES
A G E N C Y

ARNOLD SCHWARZENEGGER, Governor
MIKE CHRISMAN, Secretary

March 3, 2005

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

Dear Mr. Basta,

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

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

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

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

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

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



Mr. Basta
March 3, 2005
Page 2

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

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

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

Sincerely,



Mike Chrisman
Secretary for Resources

APPENDIX 3: April 18, 2005, letter from California Secretary of Resources to Director of National Marine Sanctuary Program:



ARNOLD SCHWARZENEGGER, GOVERNOR
MIKE CHRISMAN, Secretary

April 18, 2005

RECEIVED

APR 25 2005

Dan Basta, Director
NOAA-National Marine Sanctuary Program
1305 East-West Highway, NORM-6
Silver Spring, MD 20910-3281

DFG
DIRECTOR'S OFFICE

Subject: State of California's comments on possible amendments to the Channel Islands National Marine Sanctuary Designation Document

Dear Dan,

Thank you for the opportunity to respond to your early consultation letter prepared pursuant to Section 303(b)(2) of the National Marine Sanctuaries Act, 16, USC. Sec 1433(b)(2). Your letter addresses a possible amendment to the Channel Islands National Marine Sanctuary (CINMS) designation document regarding the establishment of marine protected areas (MPAs). These areas include marine reserves, marine parks, and marine conservation areas in federal waters. This early consultation process is important for California and the National Marine Sanctuary Program (NMSP) to continue the cooperative working relationship and partnership that we have developed over the years. We hope to work closely with the NMSP in the coming years on a wide range of issues as California moves forward with its new Ocean Protection Council.

As noted in my March 3, 2005, letter to you (enclosed), the State of California strongly supports the establishment of MPAs in the federal waters of the CINMS. We also believe that the designation of MPAs in these federal waters should be compatible with the joint state/federal recommendation provided to the California Fish and Game Commission in August 2001, the Department of Fish and Game's California Environmental Quality Act Final Document of October 2002 and the state's adoption of marine protected areas within the Sanctuary implemented in April 2003 (as indicated in the enclosed letter from the Department of Fish and Game). The challenge is in determining the most effective method to establish these MPAs.

In Governor Arnold Schwarzenegger's comments to the U.S. Commission on Ocean Policy and in his Ocean Action Plan, titled *Protecting Our Ocean: California's Action Strategy*, he emphasized the importance of implementing existing statutory provisions and processes if possible instead of simply creating new and potentially duplicative ones. We are concerned that the proposed change in the CINMS designation document would provide an open-ended authorization for the Sanctuary to regulate fisheries. Fisheries management is the exclusive role of the National Marine Fisheries Service (NMFS) and the Pacific Fisheries Management Council in federal waters, and the California Fish and Game Commission in state waters.

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

04:46p Ca. Dept. Fish & Game, Mo 831 649 2917
02-103 02:57 PM DEPT. OF FISH & GAME FAX No. 19166537287

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For that reason, we cannot support the change proposed in the CINMS designation document that allows for what appears to be an open-ended and duplicative promulgation of fishing regulations. I want to work with you to expeditiously move toward our mutual goal of establishing these MPAs in the federal waters off the Channel Islands. I suggest the following process, and we stand ready to help you in any way that we can to complete it.

- The Sanctuary should work with the NMFS and other members of the Pacific Fisheries Management Council to determine once and for all what it would take to establish these MPAs using existing statutory provisions.
- If a process can be identified under existing law that is timely, efficient, and sustainable, then we would support that course of action.
- If it is determined that these MPAs cannot be established in a reasonable amount of time using existing statutory provisions, then the state would consider supporting a change in the CINMS designation document to establish specifically identified and designed MPAs with no conveyance of any additional fishery management authority.

I believe this will process require strong leadership from the highest levels of NOAA because of the need for additional coordination on this issue between the NMFS and the National Marine Sanctuary Program. You have my commitment that the State of California is ready to assist in any way we can to develop a timely, efficient, and sustainable process for moving forward. Please contact Brian Baird, Assistant Secretary for Ocean and Coastal Policy, if you have any questions regarding these comments. Brian can be reached at brian.baird@resources.ca.gov or (916) 657-0198.

Sincerely,



MIKE CHRISMAN
Secretary for Resources

04:47p Ca. Dept. Fish & Game, Mo 831 649 2917
03-106 02157 DEPT. OF FISH & GAME FAX NO. 19100027307

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Cc: Admiral Conrad Lautenbacher, Administrator, National Oceanic and Atmospheric Administration
William Hogarth, Assistant Administrator for Fisheries, National Marine Fishery Service
Chris Mobley, Manager, Channel Islands National Marine Sanctuary
Bill Douros, Manager, Monterey Bay National Marine Sanctuary
Jim Brancham, Undersecretary for Environmental Protection
Peter Douglas, Executive Director, Coastal Commission
Will Travis, Executive Director, Bay Conservation and Development Commission
Sam Schuchat, Executive Officer, State Coastal Conservancy
Paul Thayer, Executive Director, State Lands Commission
Ray Teuneyoshi, Director, Department of Boating and Waterways
Celeste Cantu, Executive Officer, State Water Resources Control Board
Ryan Broddrick, Director, Department of Fish and Game ✓
Ruth Coleman, Director, Department of Parks and Recreation
Lester Snow, Director, Department of Water Resources
Robert Treanor, Executive Director, Fish and Game Commission
Debbie Sareeram, Interim Director, Department of Conservation

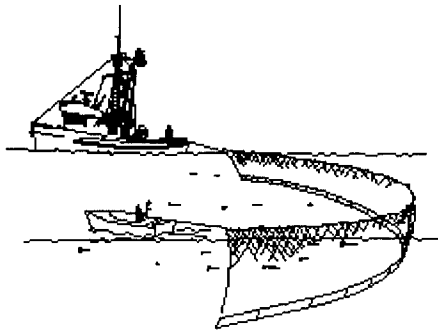
GROUND FISH ADVISORY SUBPANEL REPORT ON
FISHERY REGULATIONS IN MPAs WITHIN THE CHANNEL ISLANDS NATIONAL
MARINE SANCTUARY THROUGH MAGNUSON-STEVENSON ACT AND STATE
MANAGEMENT AUTHORITY

The Groundfish Advisory Subpanel (GAP) supports the November 2006 Council letter to the Sanctuary Program (Agenda Item I.1.a, Attachment 5) recommending that Channel Islands National Marine Sanctuary (CINMS) water column goals affecting fishing be accomplished using Magnuson-Stevens Fishery Management and Conservation Act (MSA) authority to apply state regulations to Federal waters—presented as extended Marine Protected Areas by the Council. It is our understanding that the Council process can adopt state regulations for outside state waters, as it has with drift gillnets permitted by the state.

The application of state regulations to Federal waters to achieve water column goals is preferred for several reasons. It is consistent with MSA authority. It is easier. It can be applied to resolve consistency situations, such as straightening marine protected area boundaries for enforcement purposes. The responsibility for managing fisheries remains with the Council. The promise to fishermen that the CINMS will not manage fisheries will remain in effect through the designation document. Maintaining within the NMFS/Council system the authority to manage CINMS fisheries is desired because the organizational structure, fishing knowledge, and scientific knowledge to carry out this responsibility reside in that system.

The paper titled National Marine Sanctuaries Act Regulatory Process and flow chart (part of Agenda Item I.1.a, Attachment 4) indicates the regulatory triggers that would lead to a scoping process. Rather than the National Marine Sanctuary Program (Sanctuary) independently taking the actions outlined in boxes 1 and 2, the GAP recommends the Sanctuary coordinate with the Council and NMFS before generating ideas in a management plan review process or taking fisheries proposals to the public for comment. The GAP recommends that at the earliest stage steps be taken in the process to include Sanctuary/NMFS/Council consultation and involvement in steps parallel to those listed in the process. We want to reiterate our position to the Council that clarification on regulatory authority is needed.

PFMC
03/08/06



CALIFORNIA WETFISH PRODUCERS ASSOCIATION

Representing California's Historic Fishery

February 27, 2006

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

RE: Agenda Item I.1.f. CINMS MPA Fishing Regulations

Dear Dr. McIsaac, Chairman Hansen and Council members,

These comments are submitted on behalf of the California Wetfish Producers Association, which represents the majority of wetfish processors and fishermen in Monterey and southern California. We appreciate this opportunity to comment on Council action to adopt public review alternatives for area closures in CINMS.

We urge the Council to develop the administrative record supporting your November 2005 decision to pursue fishing regulations through existing Magnuson Act (MSA) and State authorities. As we commented at that meeting, the CINMS summary analysis of options provided to the Council in September 2005 acknowledged that the ecosystem protections of the MSA and ecosystem-based California statutes, e.g. Marine Life Management Act and Marine Life Protection Act, are consonant with Sanctuary goals. Several options addressing regulation of fisheries within existing MSA fishery management plans and State regulations were identified in the NOAA Discussion Paper included in Council briefing books for the March 2006 meeting.

We note that among the options, the Magnuson Act provides legal authority to the Council to incorporate relevant state regulations, such as extending the fishing prohibitions already implemented by the State into the water column of the federal water MPAs identified in the original joint State-Federal MPA proposal for CINMS, which areas are now designated as no-bottom contact HAPC sites under the Council's groundfish FMP. Such action would cover all water-column species managed under either State or Federal regulations.

As we have stated in the past, we firmly believe that fishery management is best addressed through the ecosystem-based policies of the federal Magnuson-Stevens Act and the ecosystem-based policies of the State of California. To reiterate our March 15, 2005 letter to the Council:

CWPA members ... concur that the Sanctuaries have neither the scientific expertise nor the public decision-making process to implement adaptive fishery management effectively, and by

this letter they register their agreement with the advice provided by the CPSAS and the Groundfish Advisory Panel, encouraging the Council to oppose the proposals advanced by the Sanctuaries to amend designation documents to authorize Sanctuary regulation of fisheries in Sanctuary waters.

There is no need for an additional, duplicative layer of authority to regulate fishing activities beyond the strict regulations already implemented by NOAA Fisheries and the State of California. As we've testified previously, considering the inadequacy of funding now available for needed research, we feel such duplication would be a misuse of taxpayer dollars.

We fully support and encourage the Council to continue pursuing the MSA-State regulatory approach in adopting public review alternatives for CINMS MPAs in federal waters.

Thank you very much for your consideration of our concerns.

Best regards,

Diane Pleschner-Steele
Executive Director

Cc: Mr. Mike Chrisman, Secretary for Resources
V.Adm. Conrad Lautenbacher, Undersecretary of Commerce for Oceans & Atmosphere

Subject: Agenda Item I. 1 CINMS MPA's/ designation document/ March council meeting

From: "Chris Miller" <cjmiller@dock.net>

Date: Mon, 27 Feb 2006 20:55:47 -0800

To: <PFMC.Comments@noaa.gov>

CC: <swordstuna@aol.com>, <Mark.Helvey@noaa.gov>, <rebecca.lent@noaa.gov>, <dplesch@earthlink.net>, <greg.haas@mail.house.gov>

Dear Council Members,

My name is Chris Miller I am the Vice President of the California Lobster and Trap Fisherman's assn. I also represented fishermen in the Channel Island process to consider MPA's in my fishing grounds at CINMS.

I would like my comments included in the briefing book for March and included in the administrative record for consideration of amending the Channel Islands designation document to allow for CINMS regulatory authority of fisheries in the federal waters in the water column.

1. California has an overarching policy for marine resource management that is ecosystem based and adaptive.
2. The Sanctuary DEIS Document change is not adaptive management
3. It technically eliminates adaptive management until CINMS revises its management plan again. CINMS has only done one management plan revision in twenty years. We cannot endorse this track record as a process for adaptive management.
4. This federal action being considered will affect state commercial fisheries and habitat protection planning in state FMP's and MPA planning.
5. Therefore we request that the PFMC endorse and recommend consistency review by the state Coastal Commission to determine if this action will conform with state policy for adaptive management.
6. We request that the PFMC and NOS create MOU that specifies procedures for adaptive management that defines data management budget for NOAA ecosystem monitoring of federal MPA's.
7. We request that CINMS maintain article six of the CINMS Sanctuary charter which specifies that amendments to its designation document will follow the same procedures which granted them authority in rulemaking.
8. We believe that this may require a separate DEIS and notification process for the specific scope of power amendment. We do not believe that Admiral Lautenbacher has the privilege to amend the process stipulated in article six of our existing through CINMS management planning. Article six predates any existing management plan.

Sincerely,

Chris Miller
Vice president California Lobster and Trap Fisherman's assn
731 Coiner st.
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Los Alamos Ca. 93440
805-344-3091

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Chris Miller
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