



National Marine Sanctuaries, West Coast Region

Presentation to Pacific Fishery Management Council on NMSA 304(a)(5) Relative to CHNMS Designation

William Douros
West Coast Regional Director
NOAA's Office of National Marine Sanctuaries

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Section 304(a)(5) in National Marine Sanctuaries Act (NMSA)



Purpose

Explains that NOAA will give relevant fishery management councils (FMCs) first opportunity to address fishing issues and need for regulations in a national marine sanctuary.

What has changed?

Historically, NOAA has come to a FMC when NOAA's Office of National Marine Sanctuaries (ONMS) sought a fishing regulation for a sanctuary. This has not changed.

NOAA recently has interpreted NMSA section 304(a)(5) to also require it to ask a FMC if it believed fishing regulations were necessary at the start of a new designation.

Text of NMSA Section 304(a)(5)



FISHING REGULATIONS – The Secretary shall provide the appropriate Regional Fishery Management Council with the opportunity to prepare draft regulations for fishing within the Exclusive Economic Zone as the Council may deem necessary to implement the proposed designation. Draft regulations prepared by the Council, or a Council determination that regulations are not necessary pursuant to this paragraph, shall be accepted and issued as proposed regulations by the Secretary unless the Secretary finds that the Council's action fails to fulfill the purposes and policies of this chapter and the goals and objectives of the proposed designation. In preparing the draft regulations, a Regional Fishery Management Council shall use as guidance the national standards of section 301(a) of the Magnuson-Stevens Act (16 U.S.C. 1851) to the extent that the standards are consistent and compatible with the goals and objectives of the proposed designation. The Secretary shall prepare the fishing regulations, if the Council declines to make a determination with respect to the need for regulations, makes a determination which is rejected by the Secretary, or fails to prepare the draft regulations in a timely manner. Any amendments to the fishing regulations shall be drafted, approved and issued in the same manner as the original regulations. The Secretary shall also cooperate with other appropriate fishery management authorities with rights or responsibilities within a proposed sanctuary at the earliest practicable stage in drafting any sanctuary fishing regulations.

Regulations that Implement 304(a)(5)



§ 15 CFR 922.22 Development of designation materials.

(b) If a proposed Sanctuary includes waters within the exclusive economic zone, the Secretary shall notify the appropriate Regional Fishery Management Council(s) which shall have one hundred and twenty (120) days from the date of such notification to make recommendations and, if appropriate, prepare draft fishery regulations and to submit them to the Secretary. In preparing its recommendations and draft regulations, the Council(s) shall use as guidance the national standards of section 301(a) of the Magnuson Act (16 U.S.C. 1851) to the extent that they are consistent and compatible with the goals and objectives of the proposed Sanctuary designation. Fishery activities not proposed for regulation under section 304(a)(5) of the Act may be listed in the draft Sanctuary designation document as potentially subject to regulation, without following the procedures specified in section 304(a)(5) of the Act. If the Secretary subsequently determines that regulation of any such fishery activity is necessary, then the procedures specified in section 304(a)(5) of the Act shall be followed.

Options for the Pacific Council



- 1. To not adopt or recommend any fishing regulations with regard to the proposed sanctuary.**
- 2. To adopt or recommend fishing regulations.**
- 3. To defer any action at this time and await NOAA's release of proposed rule, draft management plan, and draft NEPA document, and other materials as necessary.**
- 4. Decline adopting fishing regulations as part of the designation process; remain open to consider new information from the public, sanctuary, or others should the sanctuary be designated.**

History of ONMS Working with Pacific Council on Fishing Issues



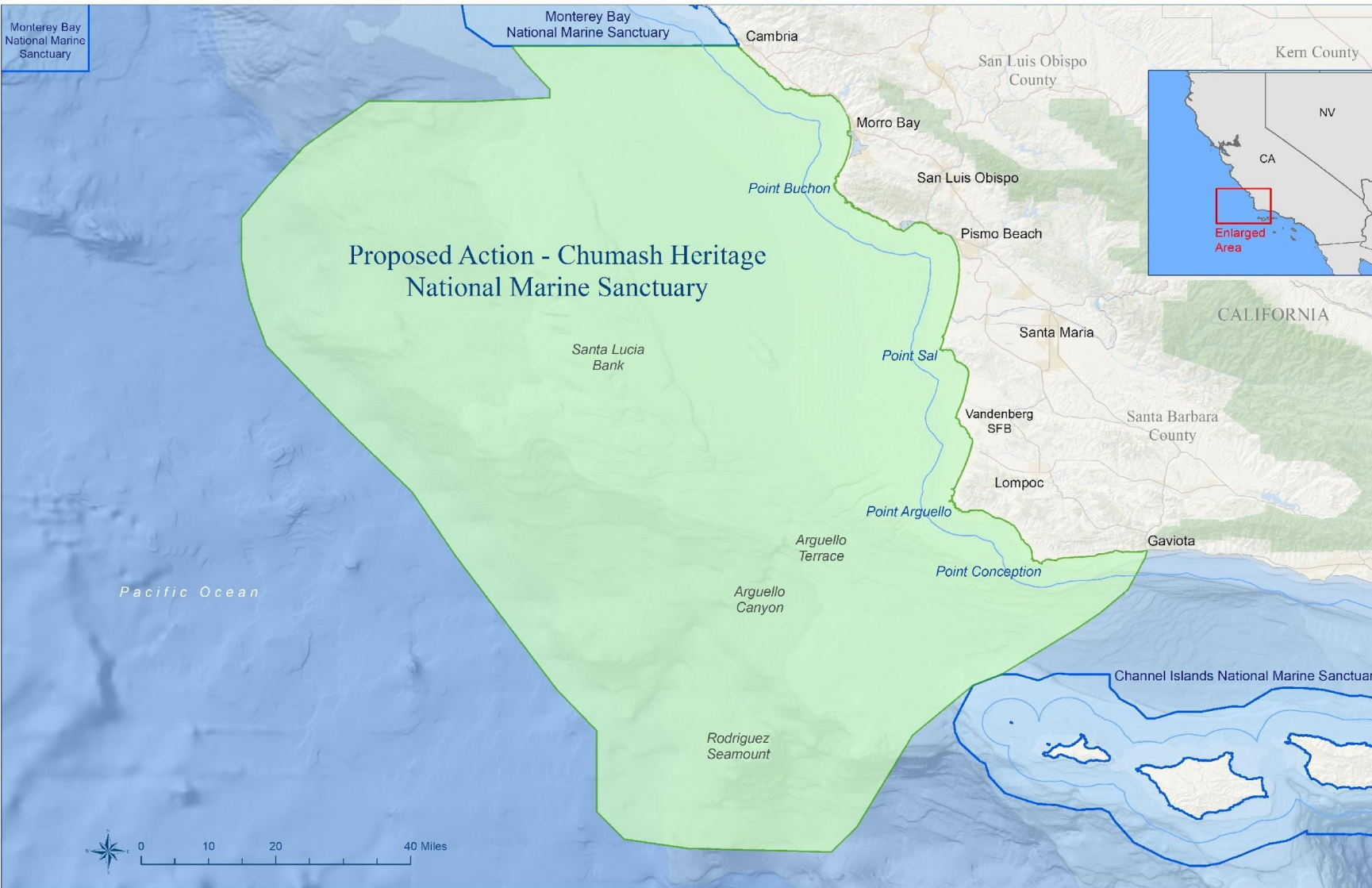
- 1. White shark attraction at MBNMS (1994)**
- 2. Fishing at Davidson Seamount below 3,000 ft water depth (2006)**
- 3. Additional protection at Cordell Bank - ban bottom contact gear (2006)**
- 4. Special MPA network within CINMS (2006)**
- 5. Ban on harvest of krill in west coast sanctuaries - became entire west coast (2009)**
- 6. EFH adjustments in MB, GF, and CBNMS during 5-year review (2020)**

Chumash Heritage NMS Designation

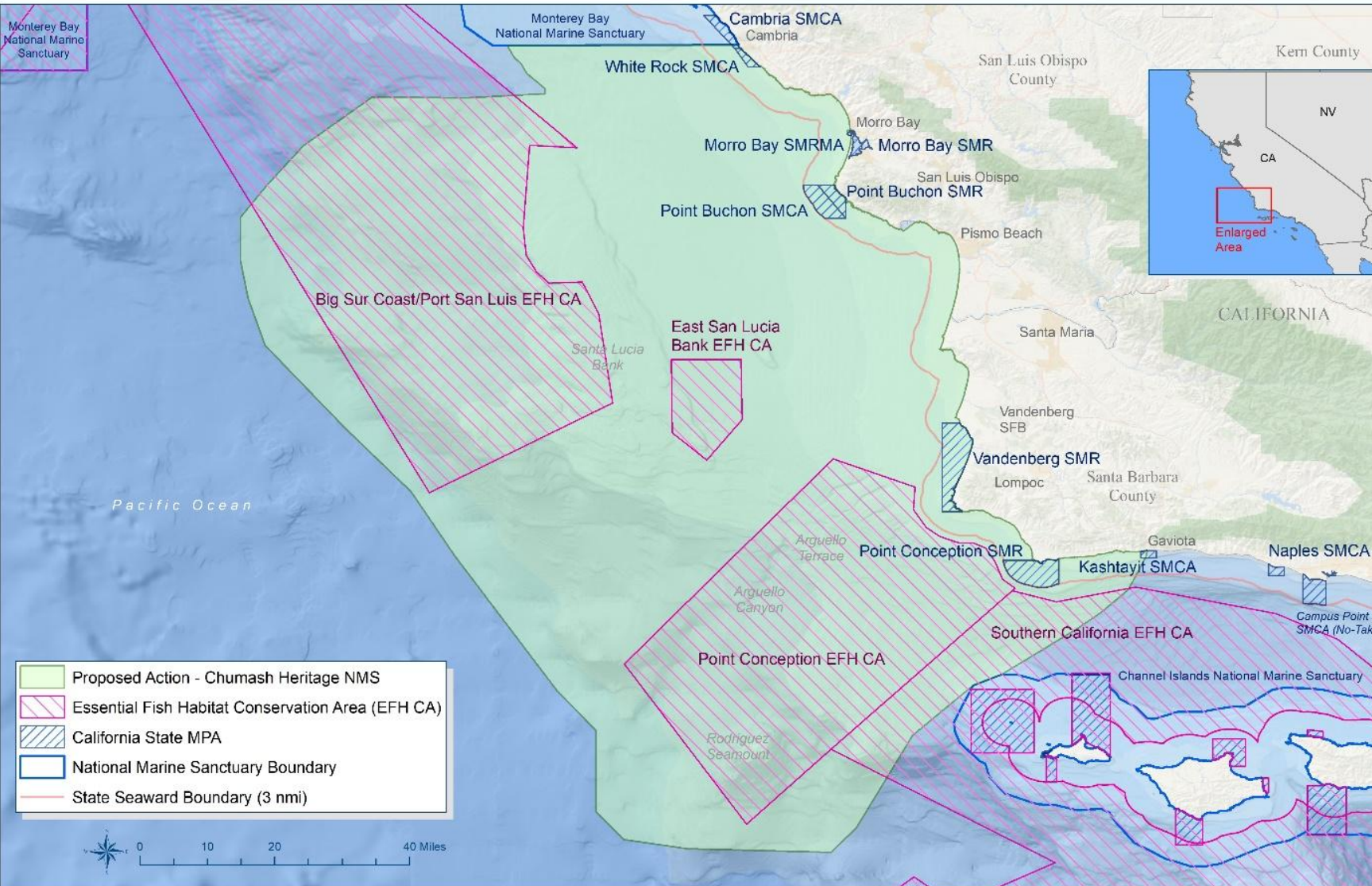


Goals for the Proposed Sanctuary:

1. **Protect nationally significant natural and historical resources**
2. **Guide comprehensive ecosystem-based management for myriad threats to these resources**
3. **Recognize and aid public awareness of Indigenous tribal heritage and culture in the area**



State MPAs and EFH Conservation Areas



Within Proposed Action area:

- **7 State MPAs:**

- Cambria SMCA
- White Rock SMCA
- Point Buchon SMR
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- Vandenberg SMR
- Point Conception SMR
- Kashtayit SMCA

- **4 Groundfish EFH Conservation Areas:**

- Big Sur Coast/Port San Luis EFH CA
- East San Lucia Bank EFH CA
- Point Conception EFH CA
- Southern California EFH CA

Designation Timeline

- Nov 2021 – NOAA initiated designation process
- **Late 2022 or Early 2023 – NOAA will release draft designation documents and public comment period will begin**

The Designation Timeline





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