



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

February 16, 2005

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

Re: Review of Possible Amendments to the Channel Islands National Marine Sanctuary (Sanctuary) Designation Document Related to the Consideration of Marine Reserves, Marine Parks and Marine Conservation Areas

Dear Dr. McIsaac:

OVERVIEW AND PURPOSE OF LETTER

The National Oceanic and Atmospheric Administration's (NOAA) National Ocean Service's, National Marine Sanctuary Program (NMSP) has initiated a process to consider the establishment of a network of marine reserves, marine parks and marine conservation areas in the Sanctuary¹ pursuant to the National Marine Sanctuaries Act, 16 U.S.C. sec. 1431 *et seq.*, (NMSA). This action is being considered to ensure the long-term protection of Sanctuary resources by maintaining natural biological communities, and protecting, restoring, and enhancing natural habitats, populations, and ecological processes in the Sanctuary. The proposed action is also intended to supplement the ecosystem-based protection to Sanctuary resources afforded by the State of California's network of marine reserves and marine conservation areas. The NMSP is conducting this process to help fulfill the purposes and policies of the NMSA.

The terms of designation of a sanctuary include its geographic area, the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational and esthetic value, and the types of activities that will be subject to regulation to protect those characteristics. The establishment of marine reserves, marine parks and marine conservation areas would require changes to the terms of designation, specifically the types of activities subject to regulation, for the Sanctuary. Pursuant to section 303(b)(2) of the NMSA, 16 U.S.C. sec. 1433(b)(2), the Secretary of Commerce (Secretary), through the NMSP, is consulting with appropriate Federal and State government agencies, the Pacific Fishery Management Council (PFMC), and other

¹ The Sanctuary is an area of approximately 1,252.5 square nautical miles (NM) and extends seaward to a distance of six NM offshore of the following islands and offshore rocks: San Miguel Island, Santa Cruz Island, Santa Rosa Island, Anacapa Island, Santa Barbara Island, Richardson Rock, and Castle Rock. These islands and offshore rocks are located offshore from Santa Barbara and Ventura Counties in California.



interested parties. Therefore, the purpose of this letter is to inform these parties that the NMSP is considering amending the terms of designation, as described below, and to solicit input on possible amendments. Please note that this is a preliminary step in the environmental review process; please see enclosure 1 – the environmental review process timeline.

The NMSP is preparing a draft environmental impact statement, and will provide the PFMC an opportunity to prepare draft Sanctuary fishing regulations for the Exclusive Economic Zone portion of the Sanctuary for any marine reserve, marine park and marine conservation area proposal, pursuant to section 304(a)(5) of the NMSA, 16 U.S.C. sec. 1434(a)(5). Interested parties will also have the opportunity to review and provide comments on the draft environmental impact statement when it is released to the public.

INTENT

As indicated above, as part of this review, the NMSP is considering certain changes to the Sanctuary's terms of designation (as defined by sec. 304(a)(4) of the NMSA; 16 U.S.C. sec. 1434(a)(4)). The potential amendments below are similar to how the NMSP has addressed the issue in the Florida Keys National Marine Sanctuary. The potential amendments are drafted to be compatible with the State of California Marine Managed Areas Improvement Act (MMIA) classifications for designating marine reserves, marine parks and marine conservation areas as established in California Public Resources Code, Section 36700 through 36710; please see enclosure 2 – the MMIA classifications. The potential amendments are intended to 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. The potential amendments also reflect input from the PFMC (letter to Sanctuary dated April 24, 2003) regarding the extent of broadening Sanctuary authority:

As the Sanctuary analyzes changes in its designation document, Council members would like one of the alternatives to provide for extending Sanctuary authority only enough to allow the Sanctuary to create the proposed marine reserves, without extending authority over other types of fishing regulations. (PFMC, 2003)

POTENTIAL AMENDMENTS

Specifically, in order to establish marine reserves, marine parks and marine conservation areas that prohibit or limit fishing activities in these portions of the Sanctuary, NOAA would need to amend Article 4, Section 1, and Article 5, Section 1 of the Designation Document; please see enclosure 3 - the Channel Islands National Marine Sanctuary Designation Document.

For example, the potential change to Article 4, Scope of Regulation, Section 1 "Activities Subject to Regulation" could include adding the following activities to those that may be

regulated within the Sanctuary to the extent necessary to ensure the protection and preservation of its marine features and the ecological, recreational, and esthetic value of the area:

- *In a marine reserve, marine park and marine conservation area, harvesting, removing, taking, injuring, destroying, possessing, collecting, moving, or causing the loss of any living or dead organism, geological resource, cultural or historical resource or other Sanctuary resource, or attempting any of these activities.*

The potential change to Article 5, Relation to Other Regulatory Programs, is highlighted in bold.

Section 1. Fishing. The regulation of fishing is not authorized under Article 4, except in a marine reserve, marine park and marine conservation area. However, fishing vessels may be regulated with respect to discharges in accordance with Article 4, Section 1, paragraph (b) and aircraft conducting kelp bed surveys below 1000 feet can be regulated in accordance with Article 4, Section 1, paragraph (e). All regulatory programs pertaining to fishing, including particularly regulations promulgated under the California Fish and Game Code and Fishery Management Plans promulgated under the Fishery and Conservation Act of 1976, 16 USC 1801 et seq., shall remain in effect. All permits, licenses and other authorizations issued pursuant thereto shall be valid within the Sanctuary unless authorizing any activity prohibited by any regulation implementing Article 4. Fishing as used in this article and in Article 4 includes kelp harvesting.

Additionally, if marine reserve, marine park or marine conservation areas are designated, minor Sanctuary boundary modifications may be desirable. Specifically, for better management, resource protection and enforcement, it may be desirable to draw boundaries of certain areas on straight lines of latitude and longitude. In some cases these straight-line boundaries would extend slightly beyond the current curved outer boundaries of the Sanctuary (e.g., the proposed Harris Pt. Marine Reserve off San Miguel Island). A preliminary range of alternatives can be viewed in the *Staff Preliminary Working Draft Environmental Document to Consider Marine Reserves and Marine Conservation Areas in the Channel Islands National Marine Sanctuary*. This document was released to the public in May 2004 and is available at http://www.cinms.nos.noaa.gov/marineres/enviro_review.html.

REVIEW CONSIDERATIONS

In responding to this letter, please take into account the following factors the Secretary is to consider at the time of designation of a Sanctuary, to the extent they are applicable to the potential changes to the Sanctuary's terms of designation as described above (16 U.S.C. sec. 1433(b)(1)):

(A) the area's natural resource and ecological qualities, including its contribution to biological productivity, maintenance of ecosystem structure, maintenance of ecologically or commercially important or threatened species or species assemblages, maintenance of critical habitat of endangered species, and the biogeographic representation of the site;

(B) the area's historical, cultural, archeological, or paleontological significance;

(C) the present and potential uses of the area that depend on maintenance of the area's resources, including commercial and recreational fishing, subsistence uses, other commercial and recreational activities, and research and education;

(D) the present and potential activities that may adversely affect the factors identified in subparagraphs (A), (B), and (C);

(E) the existing State and Federal regulatory and management authorities applicable to the area and the adequacy of those authorities to fulfill the purposes and policies of the NMSA;

(F) the manageability of the area, including such factors as its size, its ability to be identified as a discrete ecological unit with definable boundaries, its accessibility, and its suitability for monitoring and enforcement activities;

(G) the public benefits to be derived from sanctuary status, with emphasis on the benefits of long-term protection of nationally significant resources, vital habitats, and resources which generate tourism;

(H) the negative impacts produced by management restrictions on income-generating activities such as living and nonliving resources development;

(I) the socioeconomic effects of sanctuary designation;

(J) the area's scientific value and value for monitoring the resources and natural processes that occur there;

(K) the feasibility, where appropriate, of employing innovative management approaches to protect sanctuary resources or to manage compatible uses; and

(L) the value of the area as an addition to the National Marine Sanctuary System.

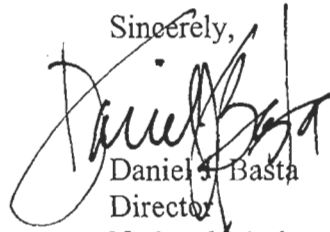
To ensure that any information, recommendations, or comments are considered in the preparation of the draft environmental impact statement, I request your response within 60 days of receipt of this letter.

A map of the Sanctuary, including the State of California marine protected areas, is enclosed for your reference; please see enclosure 4. If you have any questions regarding

A map of the Sanctuary, including the State of California marine protected areas, is enclosed for your reference; please see enclosure 4. If you have any questions regarding this process, contact Elizabeth Moore, Acting Chief, NMSP Conservation Policy and Planning Branch at (301) 713-3125x170. Please direct your response to:

Elizabeth Moore
NOAA- National Marine Sanctuary Program
1305 East-West Highway, N/ORM-6
Silver Spring, MD 20910-3281
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We would appreciate your important input and look forward to working with you through this process.

Sincerely,

Daniel S. Basta
Director
National Marine Sanctuary Program

Enclosures

- Enclosure 1 – Environmental Review Process timeline
- Enclosure 2 - Excerpt from CA Marine Managed Areas Improvement Act
- Enclosure 3 - Sanctuary Designation Document
- Enclosure 4 - Sanctuary map