



April 18, 2005

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

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 (MPA)s. 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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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

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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 Branham, 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 Tsuneyoshi, 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