

## Enclosure 1

### REVISED

#### Proposed Activities and Timeline - Channel Islands National Marine Sanctuary (CINMS) Environmental Review Process to Consider Marine Reserves

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##### 1999-2001

Channel Islands Marine Reserves Community Based Process – Joint Partnership between the State of Calif. and NOAA to consider marine reserves in state and federal waters of the CINMS

##### 2001 – 2002

Fish and Game Commission and Department of Fish and Game State Environmental Review Process and Decision

##### April 2003

Channel Islands Marine Protected Areas implemented in State waters of the CINMS

##### 2003

National Marine Sanctuary Program/CINMS Federal Environmental Review Process

- Sanctuary prepared and released in the Federal Register a Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).
- Briefed Pacific Fishery Management Council (PFMC) on Sanctuary initiation of Environmental Review Process.
- Briefed Sanctuary Advisory Council (SAC) on Sanctuary initiation of Environmental Review Process.
- Sanctuary submitted a letter to PFMC describing Environmental Review Process for discussion at April PFMC meeting.
- Sanctuary hosted public scoping meetings in Ventura and Santa Barbara Counties.
- Sanctuary briefed PFMC, State of CA, and SAC on progress.
- Sanctuary drafted *Staff Preliminary Working Draft Environmental Document to Consider Marine Reserves and Marine Conservation Areas in the Channel Islands National Marine Sanctuary (Preliminary Draft)*.

##### 2004

- Sanctuary released to the public the *Preliminary Draft* at the May SAC and June PFMC meetings and coordinated their review.
- PFMC, SAC and public reviewed *Preliminary Draft* and submitted comments to Sanctuary.

## **CINMS Marine Reserves Environmental Review Process Proposed Activities and Timeline (Continued)**

**2005**

- Sanctuary will notify PFMC, NOAA Fisheries, State of California and other entities regarding a potential change to the terms of designation of the Sanctuary (60 day response period). (i.e., the letter above).
- Sanctuary will notify PFMC of opportunity to prepare draft National Marine Sanctuaries Act (NMSA) fishing regulations for the Exclusive Economic Zone portion of the Sanctuary (NMSA regulations allow for 120 days for PFMC response). Model regulatory language and supporting environmental analysis will be provided to the PFMC.
- PFMC considers preparing draft NMSA fishing regulations and if it chooses prepares draft NMSA regulations. Sanctuary staff will assist PFMC staff as requested.
- Sanctuary releases to the public and Congress the DEIS, proposed regulations and related proposed change to the terms of designation.
- Public review of the DEIS, proposed regulations and related proposed change to the terms of designation. This will include an opportunity for public comment of at least 45 days and must include at least one public hearing if the rulemaking necessitates a change in a term of designation.
- Sanctuary prepares responses to comments.

**2006**

- Sanctuary drafts Final EIS, and if necessary for chosen action, drafts final regulations and revises terms of designation.
- Sanctuary releases the Final EIS by publishing a notice of availability in the Federal Register and by providing copies to interested parties.

After a 30-day “cooling off” period, the final regulations appear in the Federal Register and the Sanctuary sends the final regulations and revised terms of designation to Congress and to the governor’s office, if State waters are involved. The final regulations will take effect after the close of a review period of 45 days of continuous session of Congress. If State waters are involved, and the governor certifies that the change in terms of designation (and therefore the final regulations or portions thereof) is unacceptable, the affected final regulations will not take effect in State waters.

## Enclosure 2

### CALIFORNIA CODES PUBLIC RESOURCES CODE SECTION 36700-36900

#### Marine Managed Areas Improvement Act

36700. Six classifications for designating managed areas in the marine and estuarine environments are hereby established as described in this section, to become effective January 1, 2002. Where the term "marine" is used, it refers to both marine and estuarine areas. A geographic area may be designated under more than one classification.

(a) A "state marine reserve" is a nonterrestrial marine or estuarine area that is designated so the managing agency may achieve one or more of the following:

(1) Protect or restore rare, threatened, or endangered native plants, animals, or habitats in marine areas.

(2) Protect or restore outstanding, representative, or imperiled marine species, communities, habitats, and ecosystems.

(3) Protect or restore diverse marine gene pools.

(4) Contribute to the understanding and management of marine resources and ecosystems by providing the opportunity for scientific research in outstanding, representative, or imperiled marine habitats or ecosystems.

(b) A "state marine park" is a nonterrestrial marine or estuarine area that is designated so the managing agency may provide opportunities for spiritual, scientific, educational, and recreational opportunities, as well as one or more of the following:

(1) Protect or restore outstanding, representative, or imperiled marine species, communities, habitats, and ecosystems.

(2) Contribute to the understanding and management of marine resources and ecosystems by providing the opportunity for scientific research in outstanding representative or imperiled marine habitats or ecosystems.

(3) Preserve cultural objects of historical, archaeological, and scientific interest in marine areas.

(4) Preserve outstanding or unique geological features.

(c) A "state marine conservation area" is a nonterrestrial marine or estuarine area that is designated so the managing agency may achieve one or more of the following:

(1) Protect or restore rare, threatened, or endangered native plants, animals, or habitats in marine areas.

(2) Protect or restore outstanding, representative, or imperiled marine species, communities, habitats, and ecosystems.

(3) Protect or restore diverse marine gene pools.

(4) Contribute to the understanding and management of marine resources and ecosystems by providing the opportunity for scientific research in outstanding, representative, or imperiled marine habitats or ecosystems.

(5) Preserve outstanding or unique geological features.

(6) Provide for sustainable living marine resource harvest.

36710. (a) In a state marine reserve, it is unlawful to injure, damage, take, or possess any living geological, or cultural marine resource, except under a permit or specific authorization from the managing agency for research, restoration, or monitoring purposes. While, to the extent feasible, the area shall be open to the public for managed enjoyment and study, the area shall be maintained to the extent practicable in an undisturbed and unpolluted state. Access and use for activities including, but not limited to, walking, swimming, boating, and diving may be restricted to protect marine resources. Research, restoration, and monitoring may be permitted by the managing agency. Educational activities and other forms of nonconsumptive human use may be permitted by the designating entity or managing agency in a manner consistent with the protection of all marine resources.

(b) In a state marine park, it is unlawful to injure, damage, take, or possess any living or nonliving marine resource for commercial exploitation purposes. Any human use that would compromise protection of the species of interest, natural community or habitat, or geological, cultural, or recreational features, may be restricted by the designating entity or managing agency. All other uses are allowed, including scientific collection with a permit, research, monitoring, and public recreation, including recreational harvest, unless otherwise restricted. Public use, enjoyment, and education are encouraged, in a manner consistent with protecting resource values.

(c) In a state marine conservation area, it is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource for commercial or recreational purposes, or a combination of commercial and recreational purposes, that the designating entity or managing agency determines would compromise protection of the species of interest, natural community, habitat, or geological features. The designating entity or managing agency may permit research, education, and recreational activities, and certain commercial and recreational harvest of marine resources.

## Enclosure 3

65200 Federal Register / Vol. 45 No. 193 / Thursday, October 2, 1980 / Rules and Regulations

### *Final Designation Document*

### *Designation of the Channel Islands National Marine Sanctuary*

#### *Preamble*

Under the authority of the Marine Protection, Research and Sanctuaries Act of 1972, Pub. L. 92-532 (the Act) the waters surrounding the northern Channel Islands and Santa Barbara Island are hereby designated a Marine Sanctuary for the purpose of preserving and protecting this unique and fragile ecological community.

#### *Article 1. Effect of Designation*

Within the area designated as the Channel Islands National Marine Sanctuary (the Sanctuary), described in Article 2, the Act authorizes the promulgation of such regulations as are reasonable and necessary to protect the values of the Sanctuary. Article 4 of this Designation lists those activities which may require regulation but the listing of any activity does not by itself prohibit or restrict it.

#### *Article 2. Description of the Area*

The Sanctuary consists of an area of the waters off the coast of California, of approximately 1252.5 square nautical miles (nm), adjacent to the northern Channel Islands and Santa Barbara Island seaward to a distance of 6 nm. The precise boundaries are defined by regulation.

#### *Article 3. Characteristics of the Area That Give it Particular Value*

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. Consequently, the Sanctuary contains an exceptionally rich and diverse biota, including 30 species of marine mammals and several endangered species of marine mammals and sea birds. The Sanctuary will provide recreational experiences and scientific research opportunities and generally will have special value as an ecological, recreational, and esthetic resource.

#### *Article 4. Scope of Regulation*

Section 1. *Activities Subject to Regulation.* In order to protect the distinctive values of the Sanctuary, the following activities 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:

- a. Hydrocarbon operations
- b. Discharging or depositing any substance
- c. Dredging or alteration of, or construction on, the seabed
- d. Navigation of vessels except fishing vessels or vessels traveling within a Vessel Traffic Separation Scheme or Port Access Route designated by the Coast Guard outside of 1 nm from any island
- e. Disturbing marine mammals or birds by overflights below 1000 feet
- f. Removing or otherwise deliberately harming cultural or historical resources

Section 2. *Consistency with International Law.* The regulations governing the activities listed in Section 1 of this article apply to foreign flag vessels and persons not citizens of the United States only to the extent consistent with recognized principles of international law including treaties and international agreements to which the United States is signatory.

Section 3. *Emergency Regulations.* Where essential to prevent immediate, serious and irreversible damage to the ecosystem of the area, activities other than those listed in Section 1 may be regulated within the limits of the Act on an emergency basis for an interim period not to exceed 120 days, during which an appropriate amendment of this article would be proposed in accordance with the procedures specified in Article 6.

*Article 5. Relation to Other Regulatory Programs*

Section 1. *Fishing.* The regulation of fishing is not authorized under Article 4. 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.

Section 2. *Defense Activities.* The regulation of those activities listed in Article 4 shall not prohibit any activity conducted by the Department of Defense that is essential for national defense or because of emergency. Such activities shall be consistent with the regulations to the maximum extent practicable.

Section 3. *Other Programs.* All applicable regulatory programs shall remain in effect and 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. The Sanctuary regulations set forth any necessary certification procedures.

*Article 6. Alterations to this Designation*

This designation can be altered only in accordance with the same procedures by which it has been made, including public hearings, consultation with interested Federal and State agencies and the Pacific Fishery Management Council, and approval by the President of the United States.

[End of Designation Document]

Only those articles listed in Article 4 are subject to regulation in the Sanctuary. Before any additional activities may be regulated, the Designation must be amended through the entire designation procedure including public hearings and approval by the President.

*Dated: September 28, 1980.*

*Michael Glazer,*

*Assistant Administrator for Coastal Zone Management*

**Enclosure 4 – Map of the Channel Islands National Marine Sanctuary including State Marine Protected Areas.**

