



Environmental Compliance Consultation Letters for Channel Islands National Marine Sanctuary Management Plan Revision Process

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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Channel Islands National Marine Sanctuary
University of California Santa Barbara
Ocean Science Education Building 514, MC 6155
Santa Barbara, CA 93106-6155

December 17, 2021

Paul Souza, Regional Director
Pacific Southwest Region Headquarters and Organization
2800 Cottage Way
Sacramento, CA 95825

Dear Mr. Souza:

The National Oceanic and Atmospheric Administration (NOAA) Office of National Marine Sanctuaries (ONMS) is contacting you to initiate informal consultation under Section 7(a)(2) of the Endangered Species Act for the adoption and implementation of a new management plan for Channel Islands National Marine Sanctuary, as described in the enclosed environmental assessment. NOAA's preferred alternative is to adopt a revised sanctuary management plan and to continue implementing routine field activities for sanctuary management. On December 17th, NOAA released for public comment a draft of the revised sanctuary management plan and an accompanying environmental assessment. The documents are available for public comment until February 24, 2022 at <https://channelislands.noaa.gov/manage/plan/revision.html>.

To support this request for informal Section 7 consultation, the enclosed environmental assessment provides the following information:

- A description of the action, including mitigation measures (sections 3.2 and 3.2.2.1);
- A description of the action area (section 1.4);
- A description of any listed species or designated critical habitat that may be affected by the action (section 4.2.2.1 and Table 4.2);
- A description of habitat requirements, occurrence patterns, and federal status for each of the listed species (sections 4.2.2.1 and 5.2.2.3); and,
- An analysis of the potential routes of effect to any listed species or designated critical habitat (section 5.2.2.3).

NOAA used the USFWS's Environmental Conservation Online System Information for Planning and Conservation (IPaC) tool to identify listed species or critical habitat that may be present in the action area. This search identified 24 endangered or threatened species under USFWS jurisdiction, and designated critical habitat for one species (IPaC letter dated October 19, 2021; consultation code 08EVEN00-2021-SLI-0378). NOAA evaluated the species' habitat requirements, habitat availability within the action area, and the components of the proposed action, and determined that four of these listed species and designated critical habitat for one species may occur in the action area and may be affected by the proposed action. NOAA determined that the proposed action would have no effect on the remaining 20 listed species

because the species are not likely to occur within the action area, and suitable habitat for the species or the species' range does not overlap with marine-based sanctuary operation areas.

In section 5.2.2.3 of the enclosed environmental assessment, NOAA analyzed the potential for beneficial or adverse impacts on short-tailed albatross, marbled murrelet, western snowy plover (including critical habitat), and southern sea otters from human disturbance and habitat loss or degradation associated with NOAA staff conducting a subset of field activities to implement the draft management plan. The specific categories of field activities conducted by NOAA staff that may affect these species or critical habitat are: conducting vessel or aircraft operations as part of research, emergency response, and other sanctuary management activities; removing marine debris from sanctuary waters, beaches or other onshore fieldwork; conducting scuba operations; and, using remotely operated vehicles or other tethered research equipment. See section 3.2 for detailed descriptions of these categories of field activities.

NOAA's analysis concludes that any impacts resulting from adopting a revised sanctuary management plan and continuing implementation of routine field activities would be beneficial, insignificant, or discountable for the following reasons:

- ONMS staff would implement a relatively low level of field activities throughout the year, minimizing the likelihood that ONMS staff or vessels would interact with, strike, or entangle listed species;
- All ONMS-authorized vessels and staff would adhere to the NOAA Small Boat Program Guidelines and implement standing orders and best management practices described in section 3.2.2.1, which are intended to minimize and avoid the risk of interactions with listed species;
- Research and education programs in the field, and other on-water activities, would be led by highly-trained ONMS staff that consider the potential impact on listed species and that adhere to the best management practices described in section 3.2.2.1;
- ONMS staff would implement public outreach to help ensure that the public is aware of the need to avoid or minimize impacts to listed species;
- ONMS staff would continue to protect foraging habitats and minimize disturbance for listed species in the sanctuary by implementing sanctuary regulations and management activities aimed at research, resource protection, and stewardship;
- ONMS will not conduct uncrewed aerial systems operations if one or more threatened or endangered birds is suspected of being disturbed in/around its nest, and/or if disturbance could occur during nesting season; and
- Sanctuary management activities would not be conducted on Santa Rosa Island during the breeding season for western snowy plovers, and would not take place along mainland coast beaches where critical habitat is designated.

Therefore, NOAA determined that the proposed action **may affect, but is not likely to adversely affect** listed species and would have **no effect** on their designated critical habitat. NOAA requests your concurrence with our determinations pursuant to Section 7 of the Endangered Species Act, and the consultation procedures at 50 C.F.R. Part 402.

NOAA appreciates your cooperation in completing this informal Section 7 consultation in a timely manner. NOAA will coordinate with USFWS via email to provide any requested information or to answer any questions related to this consultation request. Please contact Michael Murray, Deputy Superintendent, at michael.murray@noaa.gov with any questions.

Sincerely,

A handwritten signature in blue ink that reads "Chris Mobley". The signature is written in a cursive style and is positioned above the printed name.

Chris Mobley

Sanctuary Superintendent

Enclosure: *Environmental Assessment for Channel Islands National Marine Sanctuary Draft Management Plan*



United States Department of the Interior

U.S. FISH AND WILDLIFE SERVICE

Ecological Services
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003



IN REPLY REFER TO:
2022-0017984-S7

March 30, 2022

Chris Mobley
Superintendent
NOAA Channel Islands National Marine Sanctuary
University of California Santa Barbara
Ocean Science Education Building 514, MC 6155
Santa Barbara, CA, 93106-6155

Subject: Informal Consultation on the Draft Channel Islands National Marine Sanctuary
Management Plan, Santa Barbara County, California

Dear Chris Mobley:

We are responding to the National Oceanic and Atmospheric Administration (NOAA) Channel Islands National Marine Sanctuary's (CINMS) request, dated December 17, 2021 and received in our office on February 17, 2021, on the proposed CINMS Draft Management Plan (Management Plan). You are seeking our concurrence with your determinations that the CINMS's proposed Management Plan may affect, but is not likely to adversely affect the federally threatened marbled murrelet (*Brachyramphus marmoratus*), southern sea otter (*Enhydra lutris nereis*), western snowy plover (*Charadrius nivosus nivosus*) and its critical habitat, and the endangered short-tailed albatross (*Phoebastria albatrus*), in accordance with section 7 of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 et seq.).

We have based this informal consultation on information that accompanied your December 17, 2021 request for consultation, including the Draft EA (NOAA, 2021a) and the Draft Management Plan (NOAA, 2021b).

Project Description

In accordance with the National Marine Sanctuaries Act (NMSA; 16 U.S.C. 1431 et seq.), NOAA is proposing a revised management plan for the CINMS that would serve as a guide for prioritizing management objectives and implementing management activities. For the purposes of this consultation, NOAA determined that the action area includes the boundaries of CINMS, the main operation routes for vessels within the sanctuary, shorelines adjacent to the CINMS where Management Plan activities may impact wildlife. NOAA's proposed

Management Plan activities include aerial surveys from aircrafts and uncrewed aerial systems (UAS), vessel operations and maintenance, scuba operations, remotely operated and autonomous underwater vehicle operations, kayak use, and removal of debris or grounded vessels. These activities are critical to ensuring effective and efficient management for research, resource protection, emergency response, and education.

Avoidance and Minimization Measures:

1. NOAA will conduct a pre-flight check for birds in the flight area prior to UAS take-off. If Endangered Species Act (ESA) listed birds are detected in the flight airspace, they will wait until they depart before initiating takeoff or provide a 50-to-100-foot buffer from areas where birds are present. This includes on land, nearshore, or on the water.
2. NOAA staff will not conduct uncrewed aerial systems operations if one or more threatened or endangered birds is suspected of being disturbed around its nest, or if disturbance could occur during nesting season.
3. Sanctuary management activities would not be conducted on Santa Rosa Island during the breeding season for western snowy plovers, and do not take place along mainland coast beaches where critical habitat is designated.
4. To avoid the potential for disturbance to marine mammals or seabirds, NOAA staff and contractors will fly at or greater than 1,000 feet above ground level while over marine waters of the sanctuary and Santa Barbara Channel.
5. While transiting in areas where southern sea otters are likely to occur, NOAA vessel operators will post a minimum of one dedicated lookout, and operators will remain vigilant at the helm controls (keeping hands on the wheel and throttle at all times) and be ready to take action immediately to avoid an animal in their path.
6. NOAA staff will implement public outreach to help ensure that the public is aware of the need to avoid or minimize impacts to listed species.
7. NOAA staff will continue to protect foraging habitats and minimize disturbance for ESA-listed species in CINMS by implementing sanctuary regulations and management activities aimed at research, resource protection, and stewardship.

Not Likely to Adversely Affect Determinations

Marbled murrelet

Marbled murrelet's have not been seen in the CINMS since the 1980s and are therefore considered unlikely to occur within the Management Plan area (Carter and Erickson 1992, as cited in NOAA 2021a, p. 48). The most recently observed marbled murrelets were seen in 2020 approximately 60 miles to the northeast of the CINMS off of Vandenberg Space Force Base (eBird 2022). No breeding habitat exists within the CINMS and any marbled murrelets who might disperse into the CINMS would likely be transient foraging individuals.

There is very limited research addressing marbled murrelet response to anthropogenic disturbance, we expect marbled murrelets to startle if exposed to CINMS sanctuary management activities. Bellefleur et al. (2009) examined the response of marbled murrelets to boat traffic. Marbled murrelets' response was dependent on the age of the birds, the distance and speed of the

boats encountered, and the season. The dominant response was to dive and resurface a short distance away. Given the scarcity and transitory nature of marbled murrelets occurring in the project's action area, it is unlikely marbled murrelets will be present during sanctuary management activities discussed in the Management Plan including vessel operations, aircraft operations, removal of marine debris or grounded vessels, or operation of uncrewed aerial systems. However, if marbled murrelets are present, we expect them to exhibit a startle response to noise associated with Management Plan activities that may cause birds to dive and resurface, before returning to normal behavior after Management Plan activities cease.

Short-tailed albatross

Short-tailed albatross occur within California very rarely with the most recent confirmed sighting in the action area being in 2005 (Service 2020, eBird 2022). In 2021 a juvenile short-tailed albatross traveled as south as San Diego County; however, this individual was never confirmed in the action area (eBird 2022). Short-tailed albatross utilize offshore California as occasional foraging habitat and there is no current breeding habitat located in the action area. In the unlikely case a short-tailed albatross is present while Management Plan activities are taking place, they may temporarily startle and flush from the immediate area. Human disturbance is not currently considered to be a significant threat to short-tailed albatross (Service 2008, p. 28).

Western snowy plover

The action area supports a year-round population of western snowy plovers including both wintering and breeding individuals on Santa Rosa Island (Service 2007, pp. 10, 28, 30). CINMS management activities that could potentially affect western snowy plovers is limited to noise disturbance from vessel operations, noise or disturbance from aircraft operations, removal of marine debris or grounded vessels, or operation of UAS. Noise from these activities could temporarily disturb western snowy plovers while they are roosting potentially causing them to temporarily walk or fly away. However, any noise from sanctuary operations would be of short in duration and limited to small portions of the shoreline within the action area. In addition to potential disturbance from noise, the western snowy plover could potentially be subjected to disturbance from sanctuary management activities such as marine debris removal from beaches and other onshore fieldwork when western snowy plovers are present. Onshore fieldwork may cause minor displacement of wrack on the beach that supports invertebrate food sources. NOAA's avoidance and minimization measures to avoid Management Plan activities near nesting western snowy plovers would remove the risk of any potential injury to western snowy plovers.

Southern sea otter

Southern sea otters are rarely seen in the CINMS (NOAA 2021a, p. 78). Management Plan activities that could disturb any southern sea otters if they are present are vessel operations, deployment of remotely operated or autonomous underwater vehicles, scuba and snorkel operations, and other resource protection or sampling activities occurring in the water or onshore. If any southern sea otters were to be in close proximity of Management Plan activities

there is the possibility that the interaction could result in a spectrum of reactions ranging from no reaction to a startled reaction, such as a rapid fleeing from the area.

Due to the rare transient nature of southern sea otters in the action area and the inclusion of avoidance and minimization measures, specifically having a lookout on the helm of NOAA vessels while transiting in the action area, the risk of injury to southern sea otters to be highly unlikely.

Conclusion

You have determined that the proposed action may affect, but is not likely to adversely affect, the marbled murrelet, short-tailed albatross, western snowy plover, and the southern sea otter. Although the marbled murrelet, short-tailed albatross, western snowy plover, and the southern sea otter may disperse into the CINMS, the proposed avoidance and minimization measures are sufficient to ensure that any effects on marbled murrelet, short-tailed albatross, western snowy plover, and the southern sea otter are discountable or insignificant. Specifically, waiting for birds to leave the UAS area or providing an adequate buffer around the birds, and having spotters on vessels for southern sea otters, will remove any risk of injury. Therefore, we concur with your determinations.

Consequently, further consultation, pursuant to section 7(a)(2) of the Endangered Species Act, is not required. If the proposed action changes in any manner that could result in adverse effects not anticipated, you should suspend all activities and contact us immediately until the appropriate level of consultation is completed.

If you have any questions about this Biological and Conference Opinion, please contact Kirby Bartlett of my staff at 805-677-3307, or by electronic mail at kirby_bartlett@fws.gov.

Sincerely,

CHRISTOPHER DIEL

Digitally signed by CHRISTOPHER
DIEL
Date: 2022.03.30 09:08:18 -07'00'

Christopher Diel
Assistant Field Supervisor

Literature Cited

Bellefleur, D., P. Lee, and R.A. Ronconi. 2009. The impact of recreational boat traffic on marbled murrelets (*Brachyramphus marmoratus*). *J. Environ. Manage.* 90:531–538.

eBird. 2022. eBird: An online database of bird distribution and abundance [web application]. The Cornell Lab of Ornithology, Ithaca, New York. Available on the internet at <<http://www.ebird.org>>.

[NOAA] National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries. 2021a. Channel Islands National Marine Sanctuary Draft Environmental Assessment. Silver Spring, MD.

[NOAA] National Oceanic and Atmospheric Administration, Office of National Marine Sanctuaries. 2021b. Channel Islands National Marine Sanctuary Draft Management Plan. Silver Spring, MD.

[Service] U.S. Fish and Wildlife Service. 2007. Recovery Plan for the Pacific Coast Population of the Western Snowy Plover (*Charadrius alexandrinus nivosus*). In 2 volumes. Sacramento, California. xiv + 751 pages.

[Service] U.S. Fish and Wildlife Service. 2008. Short-tailed Albatross Recovery Plan. Anchorage, AK, 105 pp.

[Service] U.S. Fish and Wildlife Service. 2020. Short-tailed albatross (*Phoebastria albatrus*) 5-Year Review: Summary and Evaluation. Anchorage, Alaska. 47 pp.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Channel Islands National Marine Sanctuary
University of California Santa Barbara
Ocean Science Education Building 514, MC 6155
Santa Barbara, CA 93106-6155

December 17, 2021

Chris Yates, Assistant Regional Administrator
Protected Resources Division
NOAA Fisheries West Coast Regional Office
1201 Northeast Lloyd Blvd.
Portland, OR 97232

Dear Mr. Yates:

The National Oceanic and Atmospheric Administration (NOAA) Office of National Marine Sanctuaries (ONMS) is contacting you to initiate informal consultation under Section 7(a)(2) of the Endangered Species Act (ESA) for the adoption and implementation of a new management plan for Channel Islands National Marine Sanctuary (CINMS), as described in the enclosed environmental assessment. ONMS's preferred alternative is to adopt a revised sanctuary management plan and to continue implementing routine field activities for sanctuary management. On December 17th, ONMS released for public comment a draft of the revised sanctuary management plan and an accompanying environmental assessment. The documents are available for public comment until February 24, 2022 at <https://channelislands.noaa.gov/manage/plan/revision.html>.

Impacts on listed species and critical habitat

To support this request for informal Section 7 consultation, the enclosed environmental assessment provides the following information:

- A description of the action, including mitigation measures (sections 3.2 and 3.2.2.1);
- A description of the action area (section 1.4);
- A description of any listed species or designated critical habitat that may be affected by the action (section 4.2.2.1 and Table 4.1);
- A description of habitat requirements, occurrence patterns, and federal status for each of the listed species (sections 4.2.2.1 and 5.2.2.3); and,
- An analysis of the potential routes of effect to any listed species or designated critical habitat (section 5.2.2.3).

ONMS used the NMFS Threatened and Endangered Species Directory to identify any ESA-listed species or critical habitat that may be present in the action area. ONMS evaluated the species' habitat requirements, habitat availability within the action area, and the components of the proposed action and determined that 17 listed species and designated critical habitat for two species may occur in the action area and may be affected by the proposed action. ONMS determined that the proposed action would have no effect on an additional eight species because suitable habitat for the species is not likely to occur within the action area or it is outside of the species current range.

In section 5.2.2.3 of the enclosed environmental assessment, ONMS analyzed the potential for beneficial or adverse impacts on the 17 listed species identified in Table 4.1 and designated critical habitat for two species from human disturbance, and risk of vessel strike or entanglement associated with ONMS staff conducting a subset of field activities to implement the draft management plan. The specific categories of routine field activities conducted by ONMS staff that may affect these species or critical habitat are: conducting vessel or aircraft operations for research, emergency response and other sanctuary management activities; deploying mooring buoys and research or monitoring equipment; and, using uncrewed underwater systems such as remotely operated vehicles.

ONMS's analysis concludes that any impacts resulting from adopting a revised sanctuary management plan and continuing implementation of routine field activities would be beneficial, insignificant, or discountable for the following reasons:

- ONMS staff would implement a relatively low level of field activities throughout the year, minimizing the likelihood that ONMS staff or vessels would interact with, strike, or entangle listed species;
- All ONMS-authorized vessels and staff would adhere to the NOAA Small Boat Program Guidelines and implement standing orders and best management practices described in section 3.2.2.1, which are intended to minimize and avoid the risk of interactions with listed species;
- Research and education programs in the field, and other on-water activities, would be led by highly-trained ONMS staff that consider the potential impact on listed species and that adhere to the best management practices described in section 3.2.2.1;
- ONMS staff would implement public outreach to help ensure that the public is aware of the need to avoid or minimize impacts to listed species;
- ONMS staff and partners would continue to implement vessel speed reduction programs that contribute to reducing the risk of fatal ship strikes to listed whale species, and implement a citizen science program to promote public reporting of any potential endangered white abalone sightings;
- ONMS staff would continue to protect foraging habitats and minimize disturbance for listed species in the sanctuary by implementing sanctuary regulations and management activities aimed at research, resource protection, and stewardship.
- Where directed take is involved during ONMS or partner research operations, such as in whale-tagging operations, sanctuary staff would ensure that appropriate permits are obtained from NMFS pursuant to applicable statutes.

Therefore, ONMS determined that the proposed action **may affect, but is not likely to adversely affect** listed species and their designated critical habitat. ONMS requests your concurrence with our determinations pursuant to Section 7 of the Endangered Species Act, and the consultation procedures at 50 C.F.R. Part 402.

Impacts on Essential Fish Habitat

ONMS also evaluated the potential impacts of the proposed action on Essential Fish Habitat (EFH) and Habitat Areas of Particular Concern (HAPC). The enclosed environmental assessment provides the following information related to this analysis:

- A description of the action, including mitigation measures (sections 3.2 and 3.2.2.1);
- A description of EFH and HAPC found in the sanctuary (section 4.2.3.3); and

- An analysis of the potential impacts on EFH and HAPC from implementing the proposed action (section 5.2.2.3).

CINMS encompasses EFH for various life stages of fish species managed under the Pacific Coast Salmon, Pacific Coast Groundfish, Coastal Pelagic Species, and Highly Migratory Species Fishery Management Plans. HAPC found within CINMS include seagrass, canopy kelp, rocky reefs, and the Channel Islands network of federal and state marine reserves and marine conservation areas. ONMS routine field activities within CINMS may affect designated EFH or HAPC. However, ONMS does not expect that the intensity of ONMS-led on-water activities would increase under the proposed action when compared to current levels of routine field activities. Based on this assumption and a re-evaluation of the potential impacts on EFH, ONMS determined that these routine activities would continue to have no more than minimal adverse effects on EFH and therefore continue to meet the criteria for inclusion in the existing General Concurrence.

In 2016, ONMS determined and NMFS concurred that ONMS' routine field activities within West Coast national marine sanctuaries (including CINMS) would have minimal adverse effects on designated EFH, except for the removal or relocation of grounded vessels and removal of large marine debris. NMFS provided a General Concurrence for all field operations within West Coast national marine sanctuaries except for these two activities, stating that the removal or relocation of grounded vessels and the removal of large marine debris do not meet the criteria for general concurrence and should be consulted on individually as necessary. As previously determined, ONMS will consult with NMFS on an individual basis, as necessary, on any ONMS actions involving the removal of large marine debris and the removal or relocation of grounded vessels.

Conclusion

ONMS appreciates your cooperation in completing this informal Section 7 consultation in a timely manner. ONMS will coordinate with NMFS via email to provide any requested information or to answer any questions related to this consultation request. Contact Michael Murray, Deputy Superintendent, at michael.murray@noaa.gov with any questions.

Sincerely,



Chris Mobley
Sanctuary Superintendent

cc: Gretchen Hanshaw, Essential Fish Habitat Coordinator (Acting),
West Coast Regional Office

Enclosure: *Environmental Assessment for Channel Islands National Marine Sanctuary Draft Management Plan*



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

January 13, 2022

Refer to NMFS No:
WCRO-2021-03207

Chris Mobley
Sanctuary Superintendent
NOAA Channel Islands National Marine Sanctuary
University of California Santa Barbara
Ocean Science Education Building 514, MC 6155
Santa Barbara, CA, 93106-6155

Re: Endangered Species Act Section 7(a)(2) Concurrence Letter and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the Channel Islands National Marine Sanctuary (CINMS) Draft Management Plan

Dear Mr. Mobley:

This letter responds to your December 17, 2021, request for concurrence from the National Marine Fisheries Service (NMFS) pursuant to Section 7 of the Endangered Species Act (ESA) for the subject action. Your request qualified for our expedited review and concurrence because it contained all required information on your proposed action and its potential effects to listed species and designated critical habitat.

We reviewed the National Oceanic and Atmospheric Administration (NOAA) Office of National Marine Sanctuaries (ONMS) consultation request for the adoption and implementation of a new draft management plan for Channel Islands National Marine Sanctuary (CINMS), along with an associated draft environmental assessment (DEA). Under the proposed action, CINMS will conduct routine field activities within the CINMS described in the draft management plan. Based on our knowledge, expertise, and your action agency's materials including the draft management plan and DEA, we concur with the action agency's conclusions that the proposed action is not likely to adversely affect the NMFS ESA-listed species and/or designated critical habitat. Through consultation, CINMS clarified that the East Pacific Distinct Population Segment of green sea turtles were analyzed and included in this request for concurrence, although this species was not included in the table of listed species in the DEA. CINMS indicated that appropriate updates will be added into Table 4.1 of the Final EA.

This letter underwent pre-dissemination review using standards for utility, integrity, and objectivity in compliance with applicable guidelines issued under the Data Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001, Public Law 106-554). The concurrence letter will be available through NMFS' Environmental Consultation Organizer [WCRO-2021-03207](https://www.nmfs.gov/consultation-organizer). A complete record of this consultation is on file at the Long Beach, CA office.



Reinitiation of consultation is required and shall be requested by ONMS by NMFS, where discretionary Federal involvement or control over the action has been retained or is authorized by law and (1) the proposed action causes take; (2) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered; (3) the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the written concurrence; or (4) a new species is listed or critical habitat designated that may be affected by the identified action (50 CFR 402.16). This concludes the ESA consultation.

Magnuson-Stevens Fishery Conservation and Management Act

NMFS also reviewed the proposed action for potential effects on essential fish habitat (EFH) designated under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), including conservation measures and determinations made regarding the potential effects of the action. This review was pursuant to section 305(b) of the MSA, implementing regulations at 50 CFR 600.920, and agency guidance for use of the ESA consultation process to complete EFH consultation.

Section 305 (b) of the MSA directs Federal agencies to consult with NMFS on all actions or proposed actions that may adversely affect EFH. Under the MSA, this consultation is intended to promote the conservation of EFH as necessary to support sustainable fisheries and the managed species' contribution to a healthy ecosystem. For the purposes of the MSA, EFH means "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity", and includes the associated physical, chemical, and biological properties that are used by fish (50 CFR 600.10). Adverse effect means any impact that reduces quality or quantity of EFH, and may include direct or indirect physical, chemical, or biological alteration of the waters or substrate and loss of (or injury to) benthic organisms, prey species and their habitat, and other ecosystem components, if such modifications reduce the quality or quantity of EFH. Adverse effects may result from actions occurring within EFH or outside of it and may include direct, indirect, site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions (50 CFR 600.810). Section 305(b) of the MSA also requires NMFS to recommend measures that can be taken by the action agency to conserve EFH. Such recommendations may include measures to avoid, minimize, mitigate, or otherwise offset the adverse effects of the action on EFH (50 CFR 600.0-5(b)).

EFH for various life stages of fish species managed by NMFS under the Pacific Coast Groundfish, Coastal Pelagic Species, and Highly Migratory Species Fishery management plans are located throughout the West Coast and within CINMS. Habitat areas of particular concern (HAPCs) found within CINMS include seagrass, canopy kelp, rocky reefs, and the Channel Islands network of federal and state marine reserves and marine conservation areas. More details on EFH and descriptions of HAPCs present within the sanctuary are found at Section 4.2.3.3 of the CINMS DEA. EFH and HAPCs could be affected by ONMS field activities in CINMS, and analysis of potential impacts on EFH and HAPC from implementing the proposed action can be found in Section 5.2.2.3 within the DEA.

NMFS concurs with ONMS that field operations under the new draft management plan would have minimal adverse impacts on designated EFH. On July 29, 2016, NMFS provided OCNMS, CBNMS, GFNMS, MBNMS, and CINMS, General Concurrence for all field operations, except for removal or relocation of grounded vessels and removal of large marine debris. NMFS agreed

that deployment of equipment on the seafloor would meet the criteria for General Concurrence under 50 CFR § 600.920(g)(2) provided that a minimization measure of limiting deployment to sandy substrate was followed for all deployments. Additionally, NMFS stated that the activity of removal or relocation of grounded vessels and removal of large marine debris does not meet the criteria stated in 50 CFR § 600.920(g)(2) and should be consulted on an individual basis as necessary. Consistent with the 2016 General Concurrence, we did not identify any other field operation activities in the draft management plan that would adversely impact EFH.

As per the July 29, 2016, General Concurrence, NMFS requests that ONMS track the actions covered by this General Concurrence and provide an official annual report to NMFS, due on January 1st each year. The annual report should include the number and type of actions, the amount and type of EFH adversely affected, and the baseline environmental conditions against which the effects are being evaluated. Failure to fulfill this requirement will invalidate the General Concurrence until this requirement is met.

ONMS must reinstate EFH consultation with NMFS if the proposed action is substantially revised in a way that may adversely affect EFH, or if new information becomes available that affects the basis for NMFS' EFH conservation recommendations (50 CFR 600.920(l)). This concludes the MSA consultation.

Please direct questions regarding this letter to Laura Casali at Laura.Casali@noaa.gov, at the Long Beach, CA, Protected Resources Division (562) 522-9098.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Dan Lawson', is positioned above the printed name.

Dan Lawson
Acting Long Beach Office Branch Chief
Protected Resources Division

cc: Michael.Murray@noaa.gov
Bryant.Chesney@noaa.gov
Administrative File: 151422WCR2021PR00253



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Channel Islands National Marine Sanctuary
University of California Santa Barbara
Ocean Science Education Building 514, MC 6155
Santa Barbara, CA 93106-6155

December 17, 2021

Kate Huckelbridge
Deputy Director of Energy, Ocean Resources, & Federal Consistency
California Coastal Commission
45 Fremont Street, Suites 1900 & 2000
San Francisco, California 94105-2219

Dear Deputy Director Huckelbridge:

The National Oceanic and Atmospheric Administration's (NOAA's) Office of National Marine Sanctuaries (ONMS) is pleased to provide notice of the availability of a Draft Management Plan and associated Draft Environmental Assessment for Channel Islands National Marine Sanctuary (CINMS). These documents are available online at channelislands.noaa.gov/manage/plan/revision.html. The documents are available for public comment through February 24, 2022 at <https://www.regulations.gov/docket/NOAA-NOS-2019-0110>.

The purpose of this letter is to ensure compliance with the requirements of Section 307 of the Coastal Zone Management Act (CZMA, 16 U.S.C. § 1456) related to the adoption and implementation of this Draft Management Plan for CINMS. NOAA submits, pursuant to 15 CFR § 930.35, the following negative determination for your consideration.

Description of the Proposed Action

As required by the National Marine Sanctuaries Act (16 U.S.C. § 1434(e)), NOAA initiated a management plan review in October 2019 for CINMS. The purpose of this management plan review is to evaluate the substantive progress toward implementing the sanctuary's existing management plan and the goals for the sanctuary and to revise the sanctuary's management plan and regulations as necessary to fulfill the purposes and policies of the NMSA. At this time, NOAA is proposing a new Draft Management Plan for CINMS to guide activities that will help address a variety of current and emerging issues that can pose threats to marine ecosystem functions and sensitive species found in and around the sanctuary. These issues include climate change pressures, marine debris, and non-native species. NOAA is not proposing any changes at this time to the CINMS boundaries or regulations. NOAA's proposed action also includes continuing to conduct routine field activities to further the sanctuary's research and resource protection goals, promote stewardship among visitors and local stakeholders, and educate the public about the sanctuary.



The Draft Management Plan includes ten action plans covering issue- and program-based themes that would guide sanctuary staff over the next several years: Climate Change; Marine Debris; Vessel Traffic; Zone Management; Introduced Species; Education and Outreach; Research and Monitoring; Resource Protection; Maritime Heritage; and, Operations and Administration. Across these ten action plans, ONMS also emphasizes four important cross-cutting themes: addressing climate change, fostering diversity and inclusion, relying on partnerships and collaborations, and supporting community-based engagement. Implementing this Draft Management Plan would enhance efforts to conduct effective research and monitoring activities, education and outreach programs, resource protection measures, maritime heritage programs, and community-based initiatives.

As part of implementing the action plans in the Draft Management Plan and NOAA's ongoing management responsibilities for the sanctuary, NOAA's routine field activities include:

- Vessel operations and maintenance
- Scuba or snorkel operations
- Deployment of equipment on or above the seafloor
- Sampling
- Use of uncrewed underwater and surface systems
- Use of uncrewed aerial systems
- Aerial surveys from aircraft
- Tagging fish and marine mammals
- Shoreline activities or marine debris clean ups

These activities are generally conducted in and above sanctuary waters, in waters immediately adjacent to the sanctuary, coastal areas where onshore fieldwork or citizen science activities occur, and along transit routes to and from the sanctuary. In order to minimize impacts on living marine resources, seafloor habitat, and cultural and historical resources, NOAA conducts all field activities in accordance with self-imposed best management practices and standing orders. Section 3.2.2 in the Draft Environmental Assessment describes these routine field activities and sanctuary resource protection mitigation measures in greater detail.

Summary of Environmental Analysis and Evaluation of Coastal Effects

As required under the National Environmental Policy Act (NEPA; 42 U.S.C. § 4321 et seq.), NOAA prepared a Draft Environmental Assessment to accompany this Draft Management Plan. The Draft Environmental Assessment describes the proposed action in detail, the purpose and need for this management plan revision, and the affected environment, and summarizes the potential environmental consequences on the human environment of implementing the proposed action. It includes a description and analysis of a No Action Alternative, wherein NOAA would not adopt a revised sanctuary management plan but would continue to implement the existing sanctuary management plan.

As detailed in chapters 4 and 5 of the Draft Environmental Assessment, NOAA evaluated the potential impacts from implementing the Draft Management Plan on the following resources:

- Habitat
- Water quality
- Living resources, including protected species and their habitats
- Commercial shipping and vessel traffic
- Commercial and recreational fishing

- Recreational visitor use of the sanctuary
- Ecosystem services
- Historical and cultural setting of the sanctuary, including maritime heritage resources
- Other uses of sanctuary waters including energy development, military, and aquaculture activities

Overall, NOAA's analysis found that no significant impacts to sanctuary resources and the human environment are expected to result from this proposed action. A summary of the types of impacts evaluated is provided below:

Impacts of Draft Management Plan: NOAA's analysis found that implementing research and monitoring programs would provide sanctuary managers with improved information to inform decisions related to management of sanctuary resources, resulting in enhanced resource protection. Specifically, continuing to support and coordinate scientific research, characterization, and long-term monitoring of habitat and water quality in the sanctuary would enhance understanding of the sanctuary's physical processes, and improve decision-making related to the protection of marine species and their habitat. This improved resource protection would also provide important benefits to people who use the sanctuary and depend on a functioning, healthy, and resilient ecosystem for cultural practices, recreation, and livelihoods, and would promote ocean literacy and stewardship related to the cultural and historical setting of the sanctuary.

Impacts of Continued Implementation of Sanctuary Regulations: NOAA's analysis found that implementing the existing sanctuary-wide regulations would continue to limit discharges into the sanctuary that could compromise water quality, would limit activities that could result in disturbance of the seafloor environment or damage to habitats within the sanctuary, and would protect cultural and historical resources in the sanctuary from direct injury. Continuing to protect the sanctuary's important resources would also provide benefits to recreational, tourism, and commercial users of the sanctuary and the local region.

Impacts of Continued Routine Field Activities: NOAA's analysis found that conducting routine sanctuary management activities could potentially result in disturbance of habitat, living resources, or maritime heritage resources in the sanctuary from intentional or accidental contact with the seafloor during research, monitoring, or resource protection activities or from the presence of vessels or scuba divers in sanctuary waters. Vessel operations and deploying uncrewed surface or subsurface systems could also have minor adverse impacts on the acoustic setting within the sanctuary due to the movement of vessels through water, engine noise, and other underwater sound generated from propulsion machinery or depth sounders.

NOAA expects that the likelihood of these adverse impacts occurring would be very low because: (1) sanctuary-led field activities and operations would occur infrequently, be periodic, and be spread out in space and time; (2) all ONMS vessels must comply with the operational protocols and procedures in the NOAA Small Boats Policy (NAO 209-125) and ONMS best management practices, which reduces the risk of adverse impacts; (3) NOAA divers are highly trained and avoid harming or disturbing seafloor habitat, living marine resources, and maritime heritage resources; and (4) NOAA would comply with Section 106 of the National Historic Preservation Act (54 U.S.C. § 300101 et seq.) consultation requirements and Executive Order

13175 before conducting any management actions that could potentially adversely affect cultural resources or historic properties within the sanctuary.

Negative Determination

As required by 15 CFR § 930.33(a)(1), this CZMA negative determination is based on a review of the potential effects of the proposed action on California's coastal uses and resources and the California Coastal Management Program's enforceable policies.


Based on the findings of the Draft Environmental Assessment, NOAA has determined that the proposed action would have no reasonably foreseeable effects on coastal uses or resources of California's coastal zone. Specifically, this determination is based on the following:

- NOAA's proposed action would improve understanding, management, and protection of sanctuary resources;
- NOAA's proposed action would revise the priority focus areas for management of CINMS but would not result in any change in the estimated intensity or frequency of ONMS-led field work in the sanctuary, compared to the status quo;
- NOAA's proposed action would not change any sanctuary regulations or what activities are prohibited or allowed within the sanctuary, therefore it would not have any significant adverse effect on the operations of recreational, research, or commercial users of the sanctuary;
- ONMS-led field activities will be low intensity and frequency and NOAA will implement self-imposed best management practices and mitigation measures when conducting routine field activities, therefore any adverse impacts from conducting routine research, monitoring, education, or resource protection actions would be avoided as much as possible, and if they did occur, would be negligible or minor; and
- NOAA's analysis found that no significant adverse impacts to any resource area are expected to result from the proposed action and the incremental impact of the proposed action in combination with ongoing resource protection, research, and stewardship programs, and ongoing or future commercial and industrial activities in the region, would be negligible.

Pursuant to 15 CFR § 930.35(c), the California Coastal Commission has 60 days to complete its review of this negative determination subject to a right of extension up to 15 days upon notice to the Office of National Marine Sanctuaries. If no response is received within this timeframe, state concurrence with this action will be conclusively presumed.

If you have any questions or comments regarding the Draft Management Plan or this negative determination, please contact Michael Murray at michael.murray@noaa.gov.

Sincerely,



Chris Mobley

Sanctuary Superintendent

cc: Cassidy Teufel, Ocean Resources and Federal Consistency, California Coastal Commission (member, Channel Islands National Marine Sanctuary Advisory Council, Coastal Commission seat)

Jacqueline Phelps, District Supervisor, California Coastal Commission, Ventura (alternate, Channel Islands National Marine Sanctuary Advisory Council, Coastal Commission seat)

CALIFORNIA COASTAL COMMISSION

455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105
FAX (415) 904-5400
TDD (415) 597-5885



March 1, 2022

Michael R. Murray
Deputy Superintendent for Programs
NOAA Channel Islands National Marine Sanctuary
University of California Santa Barbara
Ocean Science Education Building 514, MC 6155
Santa Barbara, CA, 93106-6155

Re: Negative Determination No. ND-0005-22: Channel Islands National Marine Sanctuary
Draft Management Plan, Santa Barbara County

Dear Michael R. Murray:

We have received your letter dated December 17, 2021, in which you have determined that the above-referenced proposal for the Channel Islands National Marine Sanctuary's Draft Management Plan in Santa Barbara County would have no adverse effect on coastal resources for the reasons identified in Negative Determination No. ND-0005-22. The Coastal Commission staff agrees that the proposed project will not adversely affect coastal zone resources. We therefore **concur** with your negative determination made pursuant to 15 CFR Section 930.35 of the NOAA implementing regulations.

Please contact Alexis Barrera at alexis.barrera@coastal.ca.gov if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Cassidy Teufel".

CASSIDY TEUFEL
Federal Consistency Coordinator
(for)

JOHN AINSWORTH
Executive Director