

Alliance of Communities for Sustainable Fisheries
P O Box 1309, Carmel Valley, CA 93924 (831) 659-2838

February 3, 2004

The Honorable Sam Farr, US House of Representatives, 1221 Longworth House Office Bldg., Washington, DC 20515

The Honorable Anna Eshoo, US House of Representatives, 205 Cannon House Office Bldg., Washington, DC 20515

The Honorable Lois Capps, US House of Representatives, 1707 Longworth House Office Bldg., Washington, DC 20515

The Honorable Michael Honda, US House of Representatives, 1713 Longworth House Office Bldg., Washington, DC 20515

Dear Representatives Farr, Eshoo, Capps, and Honda,

Our organization, the Alliance of Communities for Sustainable Fisheries (ACSF), was formed to represent the economic, social, and cultural interests of the recreational and commercial fishing industry in the geographic region from Port San Luis to Pillar Point Harbors. As the name implies, we are committed to the preservation of sustainable fisheries, and link fishing activities with the greater communities that support our industry. The City Councils of Monterey and Morro Bay, the elected Commissions of the San Mateo County, Moss Landing and Port San Luis Harbor Districts, and the Santa Cruz Port District adopted resolutions supporting ACSF efforts. The ACSF offers itself as an accurate sounding board to the Monterey Bay National Marine Sanctuary for fishing issues that occur in this area. We have many shared goals, and seek a constructive relationship with the Monterey Bay National Marine Sanctuary.

We are writing in the hope of gaining your help in the upcoming reauthorization of the National Marine Sanctuary Act (NMSA). We believe that there are several areas of the NMSA that must be clarified to work better with other existing federal laws and other regulatory processes if the National Marine Sanctuary Program is to continue to enjoy widespread public support and more fully accomplish its goals.

Although the Sanctuary Program enjoys support, it is largely from a public with only a general understanding of its mission and authorities. We further perceive that the closer different communities or industries work with the Program, concerns about the broad authority of the Program often arise. Indeed, there appears to be a drumbeat of skepticism from a variety of ocean users and agencies towards the Federal Agency which implements the NMSA. We think, in fairness to this agency and its staff, much of the problem lies in the NMSA, which is overly broad and vague in stating its mission.

Regulatory Authority

It is our feeling that the Sanctuary Program should distinguish itself from state and federal regulatory agencies by accomplishing its goals through education, facilitation, and cooperation amongst different communities and industries, rather than regulation. Particularly with fishermen, we note that when regulation is threatened, resistance rises. However, when there is an offer to work in a context of mutual respect, very positive ideas and changes may come forward. This is just human nature.

Our perceptions of these problems are not limited to the fishing community, although we are a prime example. We are solidly in favor of the broad conservation, research and educational efforts of the Sanctuary Program. However, we have felt ourselves very much at odds with the Program over its assertion of regulatory authority superior to the established fishery management agencies. This is about more than the violation of a promise made to the fishing community that the Sanctuary would not involve itself in fishery management. For Sanctuaries to assert authority over the Magnuson-Stevens Fishery Conservation Act (please note the attached Sanctuary-authored policy paper) causes confusion in the industry and between agencies, and most importantly, can have a negative consequence on the sustainable production of food for our nation. The fishing industry, both recreational and commercial, will not be likely to support new or expanded sanctuaries, and will remain resistant and highly skeptical of the existing Sanctuary Programs, as long as this area of sanctuary management is not clarified and limited. At the same time, we will welcome working with the Sanctuary Program to identify problems and solutions that affect sanctuary resources. We seek a partnership that will benefit and empower all interests. We have attached an amended version

of the NMSA Section 1434(5), which reflects the change we hope to see in this federal law. It essentially clarifies that the Sanctuary Program's role in matters that affect fishing is to comment to the appropriate agencies.

We have found that the agriculture, business and harbor communities, as well as numerous agencies share our concern about the broad regulatory authority of the NMSP. To be clear, it is our belief that support for the Sanctuary Program will be strengthened if the regulatory authority of the Program is much more narrowly defined.

Sanctuary Advisory Council

Another quite divisive issue for the Sanctuary Program is over the construction and rules surrounding the Sanctuary Advisory Council. We are aware that in the protracted discussions that occurred in the northern San Luis Obispo County area regarding the possibility of the Monterey Bay National Marine Sanctuary expanding southwards, one of the central issues was the loss of local control. As best we could tell, local officials down there were simply not impressed that the Sanctuary Advisory Council, as currently constructed, would ever provide them with a meaningful voice to the Federal Program. We are also aware that similar concerns exist from the public and some current and former SAC members of the Channel Islands National Marine Sanctuary. Certainly, our own experience tells us that the rules mandated on the Sanctuary Advisory Council by NOAA need to be fundamentally changed to allow it more of a partnership role with the Sanctuary Program, and insure a strong, independent voice. The fact that the current NMSA exempts SAC's from the Federal Advisory Commission Act would indicate that Congress does want SAC's to operate with more independence. However, NOAA is still not clear enough on this point. This issue could be dealt with in the reauthorization of the NMSA and would go a long way toward assuring continuing community support and removing obstacles for the Sanctuary Program's future. It must be clear that SAC's can communicate with whomever they wish, that the Sanctuary Program not control the SAC appointments, and that conflicts of interest be declared. We are aware that numerous other organizations and agencies have all asked for the SAC to more strongly represent local interests. Surely, you must be aware that this has become a very divisive issue for the MBNMS, with an increasingly frustrated public.

Definitions and Clarity Needed

The existing NMSA is lacking in critical definitions, or, is overly broad. For example, even the term "Sanctuary" is never defined; nor is "injure" - such as in "to injure a Sanctuary resource", nor is "protect" or "protection" - even though the NMSA and Program appears to be founded on the idea of the protection of resources.

On this last point, we offer, as a constructive suggestion, that the NMSP and the public would be better served if the Program were founded on a "conservation" goal rather than "protection". "Protection" is hard to define to reasonable limits, while "conservation" is readily defined as the sustainable use of resources. When Sanctuaries move beyond the protection of discrete and unique features - such as a ship wreck or coral reef, and encompass vast tracks of ocean with historic recreational and commercial uses - then we submit that the hard-to-define concept of "protection" will lead to a Sanctuary staff with undefined guidance, and create a frustrated public. Further, the vagueness of the NMSA will, in our opinion, doom it to litigation when opposing groups fight over its interpretation.

Our organization would very much appreciate working with you to either sponsor or support bills that are put forth in the reauthorization of the National Marine Sanctuary Act that resolve the issues that we have expressed above. We have gone so far as to offer a suggested language change to the fishing section of the current National Marine Sanctuary Act that would clearly not allow the Sanctuary Program to create regulations and limit its role to commenting to the agencies. It is, after all, our opinion that the nation's food supply should be managed through the Magnuson-Stevens Sustainable Fishery Act. We have other suggestions for specific language improvements that we would be pleased to share with you.

Thank you for your attention to this matter. We look forward to working with you on the reauthorization of the National Marine Sanctuary Act.

By direction of the Board,

Mike Ricketts, Co-Chair, ACSF
Kathy Fosmark, Co-Chair, ACSF

Supporting Associations & Organizations

Pacific Coast Federation of Fishermen's Association, Port San Luis Commercial Fishermen's Association
Morro Bay Commercial Fishermen's Association, Monterey Commercial Fishermen's Association
Fishermen's Association of Moss Landing, Santa Cruz Commercial Fishermen's Marketing Association
Half Moon Bay Fishermen's Marketing Association, Fishermen's Alliance, Western Fishboat Owners Association
Ventura County Commercial Fishermen's Association, Federation of Independent Seafood Harvesters
Golden Gate Fishermen's Association, Port San Luis Harbor District, City of Morro Bay Harbor, City of Monterey Harbor
Moss Landing Harbor District, Santa Cruz Port District, Pillar Pt. Harbor, San Mateo County Harbor District