

Alliance of Communities for Sustainable Fisheries

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Mr. Sean Hastings

Channel Islands National Marine Sanctuary

113 Harbor Way

Suite 150

Santa Barbara, CA 93109

Dear Mr. Hastings,

Please accept the following comments on behalf of the Alliance of Communities for Sustainable Fisheries (ACSF). The ACSF is a 501(c) 3 organization designed to represent fishing families and fishing communities throughout Central California. We're writing to comment regarding the Channel Islands National Marine Sanctuary (CINMS) proposal as published in the August 11, 2006 Federal Register to establish MPA's in Federal Waters of that Sanctuary.

Our organization has grave concerns about any change to a designation document of any Sanctuary which would provide it new authority to create fishing regulations within that Sanctuary. Sanctuary designation documents were drafted as the basis of the understanding struck between the community and the Sanctuary program at the time that the Sanctuary was being proposed. While we will be the first to agree that the Sanctuary should have the ability to amend its management plans, amending the designation document should occur only with the most significant science based need as a justification, and for which there is no other practical legal method for the Sanctuary to accomplish its goals. Again there must be an overarching need for the Sanctuary program to do this, filled by no other agency. This is not the case with the CINMS proposal.

While we acknowledge the usefulness of creating an MPA for scientific study purposes, we feel this is hardly an urgent need in the case of CINMS. Nor has CINMS made any credible case for the rebuilding of depleted fish stocks or enhancement of biodiversity that have not already been accomplished through the Council's EFH and other actions.

Section 1434 (a) (5) of Title 16, United States Code provides regional fisheries management councils "with the opportunity to prepare draft regulations for fishing within the exclusive economic zone as the Council may deem necessary to implement the proposed designation." A Council's opportunity to carry out this function is only denied if the Council declines to act or acts inappropriately. In the case of CINMS the PFMC is in the process of creating regulations that can cover, in nearly all circumstances, fishing activities both on the bottom and in the water column in the proposed MPA. Because the Council is making progress on this, it is substantially premature for the National Marine Sanctuary Program to propose its own regulations. I will also add that the Sanctuary has existing authority to prohibit removal of Sanctuary Resources other than for harvest. Secondly it is highly unlikely that vessels from out of State will be fishing in these areas. This possibility is so remote that it should not be a significant factor in this decision making.

I also point out that MSA National Standard 7 stipulates that "the conservation and management measures shall to the extent possible minimize cost and avoid duplication." The CINMS regulatory proposal is in

fact a wasteful duplication of effort and creates public confusion. Congress has created the MSA precisely to make sure that both the food production capabilities of our Nation along with proper conservation measures are maintained. Through the Council process there is a fair public and scientifically based process to deal with conservation and/or fishery management questions.

This is not the case with the National Marine Sanctuary Program. This program does not maintain the expertise to manage fisheries in any regard, nor does it have the public decision making process required for the public to feel that a fair and equitable process has been maintained. With regard to the Sanctuary and fisheries management, we hear that it does not feel that creating MPAs is fisheries management. However these proposed closures will effect the Nation's food supply. They will effect the behavior of fishermen as they transfer their efforts to other locations and could require Council or further State actions to mitigate those consequences. With regard to the Sanctuaries public decision making process, they are currently reliant on the Sanctuary Advisory Councils. Because these councils are largely appointed by Sanctuary Management, this has caused the public to wonder whether the SACs represent the public, or the wishes of Sanctuary Management. This has been hugely controversial in the Monterey Bay region and to a lesser degree in Channel Islands region. As it stands, it is our opinion that the public is rightfully skeptical of the advice provided by the Sanctuary Advisory Councils.

It should also be noted that the Sanctuary's proposed language is, prepared under section 922.73 As such it would preclude any future action by the PFMC. This would mean that the Nation would loose these resources forever. It also means that the Council would forever loose its ability to modify these MPAs based on emerging sound science.

There is also considerable irony in this situation in as much as MSA National Standard #1 stipulates that the Nation's fisheries resources are to be used for the highest food benefit sustainably possible. How is it that the goals of the National Marine Sanctuary Act outweigh the goals of the Magnuson Stevens Fishery Conservation Act? We don't think that they should, nor is a conflict necessary.

I urge NOAA to allow sufficient time for the PFMC to do its work in evaluating this issue and creating any needed regulations that will benefit the existing designation document and the management plan of the Channel Islands National Marine Sanctuary. There is no urgency in this matter that would require the shoving aside of the PFMC and the substitution of the authority under the National Marine Sanctuary Act.

Thank you for considering these comments.

Kathy Fosmark
Co-Chair
Alliance of Communities for Sustainable Fisheries

C: Vice Admiral Conrad Lautenbacher, USN (ret.)