UNITED STATES DEPARTMENT OF COMMERCE
The Under Secretary of Commerce
for Oceans and Atmosphere
Washington, D.C. 20230

Dr. Donald McIsaac
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OCT 19 2005

Mr. Donald Hansen
Chairman
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384

Dear Sirs:

Over the past year, the National Oceanic and Atmospheric Administration (NOAA) has made significant progress in its review of management plans governing the Cordell Bank, Monterey Bay, and Channel Islands National Marine Sanctuaries, and in considering establishment of marine reserves and marine conservation areas in the Channel Islands National Marine Sanctuary. As part of the process, we have sought the Council's views, and in particular, the Council's recommendations for regulation of fishing to meet the goals and objectives of each Sanctuary.

I appreciate the Council's work in developing a proposal for regulating fishing for all three Sanctuaries, as reflected in the proposal adopted at its June 2005 meeting. NOAA's National Marine Sanctuary Program and NOAA's National Marine Fisheries Service have carefully reviewed and studied the Council's proposal. Based on that review, NOAA finds in all but one limited instance, the Council's proposal to regulate fishing under the Magnuson-Stevens Fishery Conservation and Management Act (MSA) is a viable approach for meeting the Sanctuaries' goals and objectives under the National Marine Sanctuaries Act (NMSA). While any MSA regulatory action must still undergo the administrative process required by the MSA and Administrative Procedure Act and receive final approval from the Department of Commerce, NOAA supports the Council's pursuit of this approach as outlined below.

Cordell Bank National Marine Sanctuary

In its June 2005 action, the Council proposed prohibiting use of all bottom-contact fishing gear within a 50-fathom isobath surrounding the Cordell Bank. Based on our review of the existing factual and scientific evidence, there is a credible basis to propose issuance of these regulatory prohibitions under the MSA. NOAA supports this approach and therefore will not propose amending the Sanctuary's designation document to allow NOAA to regulate fishing under the NMSA.

THE ADMINISTRATOR

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Monterey Bay National Marine Sanctuary

As part of its ongoing review of this Sanctuary's management plan, NOAA is considering expansion of the Sanctuary's boundary to include Davidson Seamount. Davidson Seamount is a deep water seamount, the peak of which is at a depth of approximately 670 fathoms (4,000 feet). In order to protect the Seamount, the Council proposed prohibiting use of all fishing gear at depths below 500 fathoms in the Davidson Seamount area (i.e., at depths below 3,000 feet). Based on our review of the existing factual and scientific evidence, there is a credible basis to propose issuance of these regulatory prohibitions under the MSA. NOAA supports this approach and therefore will not propose amending the Sanctuary's designation document to allow NOAA to regulate fishing under the NMSA.

To address scientific collection and monitoring or educational collection not restricted under the MSA, NOAA anticipates proposing an NMSA regulation prohibiting such collection below 500 fathoms in the Davidson Seamount area without an NMSA permit. While the designation document for the Monterey Bay National Marine Sanctuary will need to be amended to include Davidson Seamount within its boundaries, a regulation affecting scientific and educational collection will not require amendment of the designation document.

Channel Islands National Marine Sanctuary

With respect to the Channel Islands National Marine Sanctuary, the Council proposed prohibiting fishing throughout the proposed marine reserves and marine conservation areas identified through the multi-party collaborative process. Based on our review of the existing factual and scientific evidence, there is a credible basis to propose issuance of regulations prohibiting the use of bottom-contact fishing gear in these areas under the MSA. NOAA supports the Council's pursuing these regulatory prohibitions under the MSA.

With respect to regulation of fishing throughout the remainder of the water column, however, there is an insufficient factual and scientific basis to support pursuit of this aspect of the Council's proposal under the MSA. The Council also recommended NOAA explore filling any regulatory gaps with regulations by the State of California. California regulations, however, could not fill the entire gap because California would have no jurisdiction over vessels of other states that fished outside of state waters and did not land in the State of California. Because of these uncertainties, NOAA will pursue regulatory action under the NMSA to establish limited take or no-take zones throughout the remainder of the water column, and will propose amending the sanctuary designation document to allow establishment of no-take zones in the marine reserves and limited take in the marine conservation areas. NOAA therefore invites the Council to prepare draft regulations for fishing under the NMSA for this purpose by the current November 23, 2005, deadline. In order to facilitate the Council's development of proposed regulations, NOAA will make personnel from NOAA's Fisheries Service and National Marine Sanctuary program available to work with the Council. Mark Helvey and Chris Mobley will contact you the week of October 24, 2005, to discuss how NOAA can best support you in this effort.

I want to again extend my sincere appreciation for the hard work the Council and Council staff have contributed toward the process of review of the sanctuary management plans for the Cordell Bank, Monterey Bay, and Channel Islands National Marine Sanctuaries, and creation of marine reserves and marine conservation areas in the Channel Islands National Marine Sanctuary. We look forward to continuing our collaborative efforts as we complete these processes.

Sincerely,

Conrad C. Lautenbacher, Jr.
Vice Admiral, U.S. Navy (Ret.)
Under Secretary of Commerce for
Oceans and Atmosphere