



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802- 4213

APR 13 2007

I/SWR/2006/07391:CCF

William J. Douros
West Coast Regional Superintendent
National Marine Sanctuary Program
99 Pacific Street, Bldg. 200, Suite K
Monterey, California 93940

Dear Mr. Douros:

This responds to your memorandum, received in our office on September 1, 2006, requesting concurrence with your determination that the establishment of a network of marine zones within the Channel Islands National Marine Sanctuary (CINMS or Sanctuary) is not likely to adversely affect species listed as threatened or endangered under the Endangered Species Act (ESA) or their critical habitat under the jurisdiction of NOAA's National Marine Fisheries Service (NMFS). The purpose of proposing the designation of marine reserves within the Sanctuary's waters is to help rebuild depleted fish and invertebrate populations, reduce bycatch and discards, and reduce ecosystem effects of fishing. The Draft Environmental Impact Statement (DEIS) analyzes three principal alternatives, the no action alternative and two different spatial compositions for the proposed marine zone network. Alternative 1a (the preferred alternative) extends the existing state marine zone boundaries, established in 2003, into federal waters. This alternative would add nine new marine zones, eight of which are no-take marine reserves (total (state and federal) area covering 138 square nautical miles (nmi²)) and one a limited take marine conservation area (total area covering 1.7 nmi²).

The following restrictions would apply to Alternative 1a:

- In the marine reserves it is unlawful to harvest, remove, take, injure, destroy, possess, collect, move, or cause the loss of any living or dead organism, historical resource, or other Sanctuary resource, or attempt any of these activities. It is also unlawful to possess fishing gear on board a vessel unless such gear is stowed and not available for immediate use.
- In the marine conservation areas, it is unlawful to harvest, remove, take, injure, destroy, possess, collect, move, or cause the loss of any living or dead organism, historical resource, or other Sanctuary resource, or attempt any of these activities, except that certain commercial and recreational fishing for lobster and recreational fishing for pelagic finfish are allowed. It is also unlawful to possess fishing gear on board a vessel, except legal fishing gear used to fish for lobster or pelagic finfish, unless such gear is stowed and not available for immediate use.



The DEIS does not specifically list or address impacts to species listed under the ESA; in addition, your August 25, 2006, memorandum does not provide the reasoning or argument in support of your determination that the proposed action is not likely to adversely affect listed species. The DEIS, however, does provide an overall assessment of impacts to the ecological environment. Marine species listed under the ESA and under the jurisdiction of NMFS which may be found within Sanctuary waters are provided as an attachment. Critical habitat for these species has not been designated in any areas within or near the Sanctuary.

Under the preferred alternative, protecting areas from all extractive activities in marine reserves is likely to lead to increases in abundance, size, biomass, and diversity of resident fish and invertebrate species, many of which provide an important prey source to marine mammals and anadromous fish, such as salmonids and the recently listed green sturgeon (*Acipenser medirostris*). The elimination of fishing activity within marine reserves will also reduce the threat of gear interactions with vulnerable species, including marine mammals and sea turtles. The DEIS identifies potential negative impacts on surrounding resources resulting from the displacement of fishing activity from the marine zones to adjacent areas. Because limited fishing activity currently takes place within the proposed marine zones, any increased fishing effort in other areas is not expected to be great. In addition, most fishing within federal waters is managed under fishery management plans, which have undergone extensive environmental review, including analysis of effects to listed species.

Based on our review of the preferred alternative for the establishment of marine reserves in the DEIS, NMFS concurs with your determination that the action is not likely to adversely affect endangered or threatened species under NMFS' jurisdiction. Should additional information on the action arise that was not completely analyzed in the DEIS or new information on listed species or critical habitat becomes available, this determination may be reconsidered. These comments are provided in accordance with Section 7 of the ESA (16 U.S.C. 1531 et seq.).

We appreciate your efforts to comply with federal requirements. If you have any questions regarding this letter, please contact Ms. Christina Fahy of the Southwest Regional Office at (562) 980-4023 or by e-mail at Christina.Fahy@noaa.gov.

Sincerely,



Rodney McInnis
Regional Administrator

Enclosure

cc: Chris Mobley, Superintendent, CINMS

Species that are provided protection under the ESA and under NMFS' jurisdiction that may occur in CINMS waters.

Marine Mammals

	<u>Status</u>
Blue whale (<i>Balaenoptera musculus</i>)	Endangered
Fin whale (<i>Balaenoptera physalus</i>)	Endangered
Humpback whale (<i>Megaptera novaeangliae</i>)	Endangered
Sei whale (<i>Balaenoptera borealis</i>)	Endangered
Sperm whale (<i>Physeter macrocephalus</i>)	Endangered
Killer whale - southern resident DPS (<i>Orcinus orca</i>)	Endangered
Northern Right Whale (<i>Eubalaena glacialis</i>)	Endangered
Steller sea lion - eastern distinct population segment (DPS) (<i>Eumetopias jubatus</i>)	Threatened
Guadalupe fur seal (<i>Arctocephalus townsendi</i>)	Threatened

Sea turtles

Leatherback turtle (<i>Dermochelys coriacea</i>)	Endangered
Loggerhead turtle (<i>Caretta caretta</i>)	Threatened
Olive ridley (<i>Lepidochelys olivacea</i>)	Endangered/Threatened
Green turtle (<i>Chelonia mydas</i>)	Endangered/Threatened

Marine fish

Green Sturgeon, southern DPS (<i>Acipenser medirostris</i>)	Threatened
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Marine invertebrates

White abalone (<i>Haliotis sorenseni</i>)	Endangered
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Salmonids

Chinook (<i>Oncorhynchus tshawytscha</i>)	Sacramento River winter, evolutionarily significant unit (ESU)	Endangered
	Central Valley Spring ESU	Threatened
	California Coastal ESU	Threatened
Steelhead (<i>Oncorhynchus mykiss</i>)	Southern California DPS	Endangered
	South-Central California DPS	Threatened