

CALIFORNIA COASTAL COMMISSION

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August 22, 2001

Ms. Patricia Wolf
Regional Manager
Marine Region
California Department of Fish and Game
4665 Lampson Avenue
Los Alamitos, California 90720

SUBJECT: Coastal Commission Jurisdiction over Designation of Marine Managed Areas

Dear Ms. Wolf:

I understand you recently had discussions with John Dixon, the Coastal Commission's marine ecologist and representative on the Marine Life Protection Act ("MLPA") team, as to whether the creation under the MLPA of new, expanded, or altered marine managed areas ("MMAs") in state waters will require a coastal development permit from the Coastal Commission.

This letter is to inform you that after discussing this matter internally, we have determined that no coastal development permit is necessary if the MMA only prohibits the capture, removal or disturbance of living biological resources, and does not limit the public's access to state waters. Although we believe that even as so understood the establishment of MMAs could still be considered to result in a "change in the intensity of use of water" for purposes of section 30106 of the Coastal Act, we agree with the California Department of Fish and Game ("CDFG") that the establishment of such MMAs constitutes a "wildlife and fishery management program" within the meaning of Coastal Act § 30411(a). Coastal Act § 30411(a) recognizes that the CDFG and Fish and Game Commission are the principal state agencies responsible for the establishment and control of wildlife and fishery programs and that "the [Coastal] Commission shall not establish or impose any controls with respect thereto that duplicate or exceed regulatory controls established by these agencies...." Therefore, no coastal development permit will be required for the establishment of MMAs whose sole purpose is to limit the extraction of marine resources.

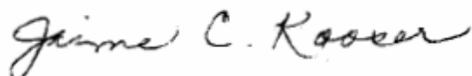
We also want to clarify that the proposed action of the Channel Islands National Marine Sanctuary ("CINMS") to establish similar marine reserves will be subject to the consistency review requirements of section 307(c)(1) of the Coastal Zone Management Act (CZMA; 16 USC §1456(c)(1)) and its implementing regulations (15 CFR Part 930, Subpart C). The Commission's review will have as its purpose ensuring that the proposed marine reserves are consistent with the California Coastal Management Program ("CCMP"). However, we

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anticipate that the subject of such a federal consistency review will be a negative determination prepared by the CINMS. See 15 CFR § 930.35.

We look forward to continue working with you on this important MLPA program. If you have any questions, please call me at (415) 904-5265. Thank you.

Sincerely,



Jaime C. Kooser, Ph.D.
Deputy Director
Energy, Ocean Resources and Water Quality

cc: Matt Pickett, Manager, Channel Islands National Marine Sanctuary
Brian Baird, Resources Agency
Paul Reilly, California Department of Fish and Game
John Dixon, Coastal Commission