



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
National Marine Sanctuary Program

West Coast Region
99 Pacific Street, Bldg. 200, Suite K
Monterey, CA 93940

August 3, 2006

Raynor Tsuneyoshi, Director
California Department of Boating and Waterways
2000 Evergreen Street, Suite 100
Sacramento, CA 95815-3888

Dear Director Tsuneyoshi:

I think you are aware that I have taken some new responsibilities to serve as the acting West Coast Regional Superintendent for the National Marine Sanctuary Program. I just became aware that I had not completed this letter to you and transmitted information you had previously requested. This has "slipped through the cracks" and I want to apologize for the delay.

In November 2005, I accepted an invitation from the Boating and Waterways Commission to speak about the management plan review process being conducted jointly for the Cordell Bank, Gulf of the Farallones and Monterey Bay National Marine Sanctuaries. You may recall that a substantial amount of discussion centered around the issue of regulations restricting motorized personal watercraft in the Monterey Bay National Marine Sanctuary. I appreciate the Department of Boating and Waterways Commission's (Commission) interest in becoming involved in sanctuary issues; I believe we share mutual goals to encourage safe and responsible use of the marine environment. The National Marine Sanctuary Program engages the boating community at each of California's four national marine sanctuaries to encourage multiple use of the marine environment while protecting the resources that have been designated by Congress as national treasures. I am confident that as we move forward our agencies will be able to identify many opportunities for partnership in engaging the boating community of the State of California.

Much of the Commission's meeting involved comment and discussion regarding the specific issue of the regulation of motorized personal watercraft in national marine sanctuaries. As I stated at the meeting, motorized personal watercraft are prohibited at the Gulf of the Farallones National Marine Sanctuary, restricted to specific zones at the Monterey Bay National Marine Sanctuary, and proposed for restrictions in nearshore areas at the Channel Islands National Marine Sanctuary. Because the bulk of the Commission's questions at the hearing focused on motorized personal watercraft at the Monterey Bay National Marine Sanctuary, the following discussion concentrates on that sanctuary's programs, including its regulation and information developed to support it.

The proposed programs to address wildlife disturbance and user conflicts associated with motorized personal watercraft involve a combination of regulations, education, monitoring, and enforcement. These programs were developed through recommendations gathered during scoping meetings, prioritization by the Sanctuary Advisory Council, input from a multi-stakeholder working group, and final recommendations by the Sanctuary Advisory Council after

Olympic Coast
National Marine Sanctuary
115 E. Railroad Ave., Ste 301
Port Angeles, WA 98362

Cordell Bank
National Marine Sanctuary
P.O. Box 159
Olema, CA 94950

Gulf of the Farallones
National Marine Sanctuary
Building 991, Presidio of SF
San Francisco, CA 94129

Monterey Bay
National Marine Sanctuary
299 Foam Street
Monterey, CA 93940

Channel Islands
National Marine Sanctuary
113 Harbor Way
Santa Barbara, CA 93109

significant public input. During the designation of the Monterey Bay National Marine Sanctuary in 1992, the restriction of motorized personal watercraft to address user conflicts and wildlife disturbance was identified as a significant issue and a regulation was overwhelmingly supported by the public and specific boating user groups, such as recreational sailors. In addition, local agencies including the City and County of Monterey, City of Capitola, City and County of Santa Cruz and the Association of Monterey Bay Area Governments (AMBAG), also supported a prohibition on motorized personal watercraft, as did elected state representatives including Assemblyman Sam Farr.

In response to a request from one of your commissioners, I committed to providing information that was used to support the restrictions at the time of designation of the Monterey Bay National Marine Sanctuary as well as information that has been gathered since that time. (You subsequently told me to send you the information and you would provide it to the Commission members.) The following paragraphs summarize the reasons and rationale for the Monterey Bay National Marine Sanctuary's restrictions on motorized personal watercraft.

Motorized personal watercraft (MPWC) can operate closer to shore at high speeds and make quicker turns than other types of motorized vessels. MPWC have a disproportional thrust capability and horsepower to vessel length and/or weight, in some cases four times that of conventional vessels (U.S. Dept. of Interior, 1998). Research indicates that environmental impacts associated with MPWC tend to be locally concentrated, producing effects that are more geographically limited yet potentially more severe than motorboat use, due to repeated disruptions and an accumulation of impacts in a shorter period of time (Snow, 1989). MPWC are generally of smaller size, with a shallower draft (4 to 9 inches), and lower horsepower (around 75, as compared to up to 250 for large pleasure craft) than most other kinds of motorized watercraft (Snow, 1989). The smaller size and shallower draft of MPWC means they are more maneuverable, and operate closer to shore and in shallower waters than other types of motorized watercraft. These characteristics greatly increase the potential for MPWC to disturb fragile nearshore habitats and organisms.

MPWC operation poses particular risk to sensitive estuarine and still water areas within the Monterey Bay National Marine Sanctuary. Research in Florida indicates that MPWC can increase turbidity and may redistribute benthic invertebrates, and these impacts may be prolonged as a result of repeated use by multiple machines in a limited area. That research has also shown that MPWC can increase local erosion rates by launching and beaching repeatedly in the same locations (Snow, 1989). Such impacts could be expected and would be significant in a sensitive sanctuary area such as Elkhorn Slough. Past research in the Everglades National Park indicated that fishing success dropped to zero when fishing occurred in the same waters used by MPWC, and scientists in the Pacific Northwest have raised concerns about the effects of MPWC on spawning salmon (Snow, 1989; Sutherland and Ogle, 1975). Salmon are a Federally listed species that migrate through the sanctuary, aggregating offshore local streams where they spawn.

Research in Florida also found that MPWC cause wildlife to flush at greater distances, with more complex behavioral responses than observed in disturbances caused by automobiles, all-terrain vehicles, foot approach, or motorboats. This was partially attributed by the scientists to a common operational characteristic of MPWC, where operators of these craft accelerate and

decelerate repeatedly and unpredictably, and travel at rapid speeds directly toward shore, while motorboat operators generally slow down as they approach shore (Rodgers and Smith, 1997). A study of a pinniped species common in the sanctuary, harbor seals, was conducted adjacent to the sanctuary in San Francisco Bay between 1998 and 2001. That study concluded that watercraft exhibiting sudden speed and directional changes were much more likely to flush seals than vessels passing at a steady speed and constant course (Green and Grigg, 2001). Scientific research also indicates that even at slower speeds, MPWC pose a significantly stronger source of disturbance to birds than conventional motorboats. Levels of disturbance are further increased when MPWC are operated at high speeds or outside of established boating channels (Burger, 1998). Research in the Imperial National Wildlife Refuge directly attributed declining nesting success of grebes, coots, and moorhens to the noise and physical intrusion of MPWC (Snow, 1989).

Numerous shoreline roost sites exist within the sanctuary and research has shown that human disturbance at bird roost sites can force birds to completely abandon an area. Published evidence strongly suggests that estuarine birds may be seriously affected by even occasional disturbance during key parts of their feeding cycle, and when flushed from feeding areas, such as eelgrass beds, will usually abandon the area until the next tidal cycle (Kelly, 1997). Seabirds such as common murre and sooty shearwaters often form large aggregations on the surface of the ocean. Feeding aggregations of sooty shearwaters, several species of which migrate to central California from Argentina and New Zealand, can often number in the tens of thousands and cover significant offshore areas. These feeding flocks are ephemeral in nature and their movement is dictated by the availability of their prey. These seabirds are especially susceptible during these critical periods and disturbance could have negative impacts on them. Repeated disturbance of seabirds by MPWC in quiet estuarine areas of the Gulf of the Farallones National Marine Sanctuary led to a complete prohibition on MPWC operations in that sanctuary.

Researchers note that MPWC may be disruptive to marine mammals because operators of these craft change speed and direction frequently, are unpredictable, and may transit the same area repeatedly in a short period of time. In addition, because MPWC do not produce low-frequency long distance sounds underwater, they do not signal surfacing mammals or birds of approaching danger until they are very close to them (Gentry, 1996; Osborne, 1996). Possible disturbance effects of MPWC on marine mammals could include shifts in activity patterns and site abandonment by harbor seals and Steller sea lions; site abandonment by harbor porpoise; injuries from collisions; and avoidance by whales (Gentry, 1996; Richardson et al., 1995).

The Commission also discussed the rationale for differentiating between motorized personal watercraft and other types of vessels. Since 1992, the National Oceanic and Atmospheric Administration (NOAA), the administrative agency for national marine sanctuaries, has consistently asserted that MPWC have several characteristics that distinguish them from other vessels. The U.S. Court of Appeals for the District of Columbia Circuit issued a ruling in 1995 confirming that "NOAA did explain and support the distinction." The Court stated that:

It [NOAA] said that personal watercraft were small, highly maneuverable, and fast, and it indicated that they operated close to shore, in areas of high concentrations of kelp forests, marine mammals and seabirds. That differentiated all larger craft, all slower craft, all less maneuverable craft, and all craft that did not tend to use the same areas in the same manner.

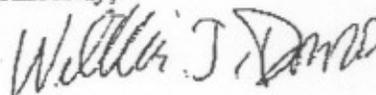
As if this were not enough, NOAA also stated why it had decided not to regulate vessels other than personal watercraft at this time. NOAA said that it was working with the United States Coast Guard "to determine the need for additional measures to ensure protection of Sanctuary resources and qualities from vessel traffic," ... (US Court of Appeals, 1995)

In fact, MBNMS staff met with representatives of the Coast Guard, the State of California, and the shipping industry for many months to address vessel traffic threats in offshore areas of the sanctuary. These discussions resulted in the establishment of shipping lanes within the sanctuary by the International Maritime Organization and a change to the vessel traffic approach lanes for San Francisco Bay and off the Santa Barbara Channel that placed shipping and hazardous cargos farther offshore and away from sensitive coastal resources. Thus, the MBNMS has reviewed the full spectrum of vessel traffic and proposed action only for those segments of the maritime community that pose immediate threats to sanctuary resources and qualities. Most recreational vessels were not found to pose a significant threat to sanctuary resources in 1992, and they do not pose such a threat today.

We encourage you to continue your participation in the update of the management plans for the various sanctuaries and to continue to work collaboratively with National Marine Sanctuary Program staff to address these important issues. I know you testified recently at hearings on the draft management plan for the Channel Islands National Marine Sanctuary; within the next month or two, management plan documents will be released for public review for the three national marine sanctuaries offshore central California. More significantly, on behalf of all the four California national marine sanctuaries, we all look forward to working with the Department of Boating and Waterways and your Commission as a partner in helping protect the nation's coastal and marine resources, and to promote safe, responsible boating.

If you have any questions about the Monterey Bay National Marine Sanctuary regulation, please work directly with the current acting superintendent for that site, Dr. Holly Price. She can be reached at 831-647-4201.

Sincerely,



WILLIAM J. DOUROS
West Coast Regional Superintendent (acting)
National Marine Sanctuary Program

cc: Brian Baird, Assistant Secretary, California Resources Agency, w/out attachments
Dan Howard, Superintendent, Cordell Bank NMS, w/out attachments
Maria Brown, Superintendent, Gulf of the Farallones NMS, w/out attachments
Holly Price, Superintendent (acting) Monterey Bay NMS, w/out attachments
Chris Mobley, Superintendent, Channel Islands NMS, w/out attachments

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