

Comments on The Center for Regulatory Effectiveness'

Comments on NOAA's Proposes System of Marine Protected Areas

Representing the Alliance of Communities for Sustainable Fisheries

(<http://www.alliancefisheries.com>) I would like to provide comments on Mr. Tozzi's "analysis" and also on comments regarding a response received from Mr. Steve Nelson of George Mason University.

My organization represents recreational and commercial fishing men and women of the Central Coast in California, along with their communities. We have a great deal of experience in dealing with California's Marine Protected Area process, the designation and management of the Monterey Bay National Marine Sanctuary, and the recent effort by the Monterey Sanctuary to create additional Marine Protected Areas within the Sanctuary (which is in itself an MPA.)

First I will reiterate a written comment which the ACSF provided to the NOAA MPA Center regarding nominations for MPAs. Our comment was in regard to the nomination and acceptance of the California Marine Life Protection Act MPAs into the network. We commented that if this network was accepted into the Federal network, without any analysis it would indicate an inherent flaw in the nomination system for MPAs. To be specific, regarding the California MPA's:

- California MPAs have essentially zero support from California's recreational and commercial fishing men and women.
- Fisherman and their communities feel utterly marginalized in the California process.
- California process refused to consider the conservation benefits of fishery management and other conservation oriented regulations as towards meeting the goals of the Marine Life Protection Act.
- There was very little socio-economic analysis done, and what was done was severely flawed.
- There was a flat denial that displaced effort would be a problem for the environment or fishermen as a result of the way and location that the State placed its MPAs.
- There was no modeling of potential MPA effects on either species or economies.
- Private foundation monies directly influenced, if not dictated, the development of California Public Policy.
- Many people feel that the State's MPA system was essentially "bought" by these NGOs.
- Upon peer review, respected fisheries biologists offered the opinion that the State's science guidelines offered only "the illusion of protection." This expert opinion was never reconciled with the State's MPA guidelines.
- Because of all of the above, the State cannot possibly claim that they utilized eco-system based management in the creation of its MPA Network.

Our experience is that the Federal guidelines for nomination and acceptance into the Federal MPA system allowed for all of these mistakes to happen without comment. If the above list of problems with the California MPA system were put into question form, to serve as an analysis for future inclusion into the Federal Network, then this might be a place to begin in fleshing out some real criteria; i.e. “What credible evidence has been provided that there is widespread community support for the MPA Network, including support from those who seemingly have a direct cost in providing for the MPA?”, etc.

Mr. Nelson makes reference to “highlighting emerging trends in resource management, and how they may effect marine designation and management”. With regard to this comment as well as the general question of community support for MPAs, I would direct the public’s attention to an opinion poll, published on our web site: <http://www.alliancefisheries.com> under “Reports”. The poll is entitled “*National Public Opinion Poll on the Public’s Attitudes About Ocean Conservation Issues*”. This poll reveals that the public’s core value in ocean management is the sustainability of resources. The public does not want to see the ocean harmed or damaged, and is willing to set aside unique, rare and fragile habitats, for special protection, but generally, does not want to exclude the public from using ocean resources. This seems to us to be an extremely important consideration for the design of a Federal MPA system. It will be particularly relevant to make sure that MPAs are designed to be fully integrated with existing fishery management, and not simply layered on top of fishery management. If they are integrated with fishery management, they may contribute to sustainability, but if they are simply layered on top of fishery management, they may actually interfere with sustainable use of resources and cause other environmental problems such as through displaced fishing efforts. The National MPA Center will need to develop a metric. As an aside, our experience shows us that both the State of California, and the Monterey Sanctuary in their MPA effort, appeared to confuse strong support from NGO constituencies with general public support. A sound MPA designation process would need to have a method to sort out the true level of support.

Regarding the National Marine Sanctuary standard for designation of a Sanctuary, we agree that this is a more thorough process than what is proposed by the National MPA Center. However, a distinction needs to be made between a designation process for the Sanctuary, which requires an EIS and a wide variety of public support, from the way in which the National Marine Sanctuaries may be managed on a day to day basis. For the routine management of the Sanctuaries, this is where in our opinion, the high standard breaks down. We note that when queried, the Monterey Bay National Marine Sanctuary could not supply any metric as to the degree to which its own regulations meet the policies and purposes of the National Marine Sanctuary Act. Nor upon query could the Monterey Bay Sanctuary provide any measurement as to how the rules, regulations and policies of other entities, such as how fishery management rules also contribute to the conservation goals of the Act. This situation occurs even though the Sanctuary was designated in 1992. We note that the National Marine Sanctuaries Act does not contain any explicit mandate to utilize the best available science, let alone a mandate to attempt to reconcile competing scientific opinions through the peer review process. Likewise the Sanctuary’s public decision making process, which utilizes a Sanctuary Advisory Council, is also seriously flawed. The National Marine Sanctuaries Act should be much more explicit about how these councils will be created and operate. These councils are appointed by the Sanctuary site

superintendents, and there is essentially no mechanism to assure that stakeholders or constituencies can hold these representatives accountable. Likewise Sanctuary Advisory Councils cannot set their own agenda, it must have the concurrence of the Sanctuary Superintendent, and they cannot communicate outside of the Sanctuary Program. In other words they cannot communicate directly with members of Congress, the media etc. This is despite the fact that these councils, by statute, are explicitly exempted from FACA. Without a credible public body advising or in partnership with the Sanctuary, then Sanctuary resource management decisions, let alone adaptive management decisions, are always suspect.

Based on this experience, National MPA Center Standards should have very strong and detailed regulations for the continued management of MPA's.

The very definition of MPA provided by the National MPA Center also begs some discussion, among the definition concepts is that the MPA provide "lasting protection" What does this mean? In particular, how does "lasting protection" match up with "adaptive management" as a cornerstone of eco-system based management? Whether it be the Sanctuary or other MPAs designated by States, the semi-permanency of the MPA are in itself controversial. Most MPA advocates view MPAs that might go away after they have accomplished a specific goal—like sustainability—as a problem rather than a metric of success. The National MPA standards need to accommodate this.

Generally, and to conclude, the National MPA Center needs to create realistic goals for MPA's, require a detailed management plan, have a credible measure for public support, and view MPA's as one tool out of many that can help achieve healthy ecosystems. The Center should be able to accommodate the use of other tools when appropriate.

Sincerely,

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