

June 25, 2014

Maria Brown, Superintendent  
Gulf of Farallones National Marine Sanctuary  
991 Marine Drive, The Presidio  
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***Subject: DEIS - Expansion of Boundaries: Gulf of Farallones and Cordell Bank National Marine Sanctuaries***

Marin Conservation League (MCL), commemorating 80 years of protecting and preserving the natural assets of Marin County, appreciates the opportunity to comment on the DEIS for proposed expansion of the Gulf of Farallones and Cordell Banks National Marine Sanctuaries (NMSs). Over the past decade or more, requests to expand the boundaries of the two sanctuaries have been received by NOAA from legislators and the public. Former Representative Lynn Woolsey introduced legislation annually, from 2004 through 2011. Senator Barbara Boxer was also a strong supporter of the expansion. MCL consistently supported their efforts.

In response to legislative and public interest, NOAA initiated environmental review of the proposed expansion in 2012. The proposal has two basic parts – the boundary expansion itself, and changes to regulations and designations for the two NMSs. As do many other organizations and agencies that have followed the process, MCL welcomes the expansion that will more than double the 2,000+ square mile sanctuaries to better protect the waters and submerged lands off Marin, Sonoma, and Mendocino coast and the rich marine ecosystem they encompass.

As one commenter stated at the May 22 hearing at the Bay Model, “the expansion makes great sense; however, the proposal contains bad ideas along with the good ideas.” The “bad ideas” need to be addressed.

“Authorization” Provision: Under the DEIS “Preferred Alternative” many existing regulations remain unchanged and would apply to the expansion as well as existing sanctuary areas, such as the prohibition of oil and gas exploration and development, adding also the prohibition of mineral extraction to the GFNMS. The most controversial change to regulations under this alternative is a new “Authorization” provision, which could allow otherwise-prohibited activities to occur. Some prohibitions currently can be exempted, e.g., for research, education, salvage; Department of Defense activities; emergencies; or to promote public access. These are reasonable. Other commercial activities, however, could be authorized by the sanctuary Superintendent without any public notice, hearing, or right of appeal *if they were permitted by another agency*. Such activities could include discharge, construction, drilling, dredging; laying cables, pipelines, alternative energy projects; sewage outfalls, coastal armoring, new dredge disposal sites, etc.

The concept of authorization without public process was not considered during scoping for the Draft EIS, so it is surprising that it should appear in an alternative in the DEIS. The rationale given in the DEIS is that NOAA “is not aware of any user or planned uses” that would trigger this new provision. This assumption is based on a long history in which such activities were prohibited and therefore were unlikely to be proposed. In contrast, allowing a simple authorization could enable such development activities to occur in the future. The Final EIS needs to anticipate that future possibility and consider the potential adverse effects.

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A second rationale that the DEIS gives for including the authorization provision is that several more recently established sanctuaries contain this provision, and the inclusion would make rules for GFNMS and CBNMS consistent with those for other sanctuaries. This assumption of consistency does not necessarily hold true, however, given the considerable discretion granted to each individual Superintendent to determine exemptions on a case by case basis.

Therefore, MCL opposes the authorization provision in the “Preferred Alternative,” as do most commenters, including Lynn Woolsey, because it completely bypasses public process for what could be significant activities in the sanctuaries.

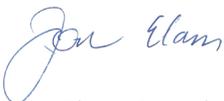
Motorized Personal Watercraft (MPWC, or “Jet Ski”) Zones. Operation of MPWCs is currently prohibited within existing GFNMS boundaries, except when necessary for rescue/safety activities. Under the “Existing Regulations Alternative,” MPWCs would also be prohibited in the expansion area. In contrast, the “Preferred Alternative” would designate four zones between Arena Cove and Bodega Head, with various seasonal closures, restrictions, and defined points of access but otherwise open to recreation – that is, not limited to search and rescue. A “MPWC Zones Subalternative” adjusts the boundaries for two of the zones but continues to permit recreational use in all four.

It is MCL’s contention that there is no justification for “inviting” recreational use of jet skis in these protected areas. Apparently there was no public comment requesting these zones during scoping, nor is there recreational use of jet skis in these areas at the present time. Establishing these zones could invite future conflicts with sensitive wildlife in nearshore habitats where conflicts currently do not exist. MCL supports the “Existing Regulations Alternative” in this instance, that is, prohibiting WPMC operation in both existing and expansion areas for any but safety operations.

Boundary Adjustment for GFNMS. The GFNMS southern boundary continues to exclude eight miles of the southern Marin Coast that have been included in the Monterey Bay NMS as an administrative convenience (There is a lengthy back story in this regard). This issue was raised in scoping comments but ignored in the DEIS. Numerous requests have been made by Supervisors of Marin, San Francisco, and San Mateo Counties to move the boundary southward to Ano Nuevo, for biological, political, and operational reasons. At the least, the last few miles of the Marin Coast, which are an integral part of the upwelling system encompassed by the two northern sanctuaries, should be within the GFNMS boundary, which could be extended administratively to Pt. Bonita, at the northern boundary of the Pacifica-San Francisco Exclusion Area. The Final EIS should discuss the beneficial impacts of this option.

In conclusion, MCL supports the basic parameters of the NMSs’ expansion proposal, with the qualifications stated above. We look forward to the opportunity to review NOAA’s responses in the Final EIS.

Sincerely,



Jon Elam, President

cc: Congressman Jared Huffman  
Lynn Woolsey  
Senator Noreen Evans  
Assembly Member Marc Levine