



MARINE MAMMAL COMMISSION

24 October 2023

Mr. Paul E. Michel, Regional Policy Coordinator
NOAA Sanctuaries – West Coast Regional Office
99 Pacific Street, Building 100F
Monterey, California 93940

Dear Mr. Michel:

The Marine Mammal Commission (“the Commission”), in consultation with its Committee of Scientific Advisors, has reviewed the Office of National Marine Sanctuaries’ (ONMS) 25 August 2023 proposal to designate the Chumash Heritage National Marine Sanctuary (CHNMS) in the waters along and offshore of the coast of central California (88 Fed. Reg. 58123). The Commission has also reviewed the associated draft environmental impact statement (DEIS) and draft management plan. The Commission offers the following comments and recommendations.

Proposed Designation

The Commission finds that the proposed CHNMS will provide substantial and enhanced protections for marine mammal habitats along the California central coast, and therefore the Commission recommends that ONMS proceed with designating the CHNMS as soon as possible.

Proposed Sanctuary Boundaries

The Commission supports the boundaries represented by Alternative 1 with the inclusion of sub-alternatives 5a (Morro Bay) and 5b (Gaviota Coast extension), as they would provide protection for the greatest extent of nearshore and offshore marine mammal habitat. NOAA’s Preferred Alternative 2 would eliminate from inclusion waters from Cambria to the northern portion of Montaña de Oro State Park at Hazard Canyon Reef. In contrast, Alternative 1, which includes the waters offshore Point Buchon, Morro Bay, Cayucos, and Cambria, would close the gap between the existing Monterey Bay and Channel Islands National Marine Sanctuaries. This Alternative would provide continuous protection of southern sea otter habitat, and correspondingly, uninterrupted inclusion in Sanctuary waters of cetacean migratory routes both near and offshore, and protection of foraging areas for pinnipeds, including threatened Guadalupe fur seals. Alternative 1 would include historical Chumash sites including Morro Rock and the biodiverse kelp forest and rocky intertidal habitat from Morro Bay north to Cambria. The coastal waters of Santa Barbara and Ventura counties are all within the historical range of southern sea otters and the eventual reoccupation of these areas by sea otters would be promoted by including sub-alternative 5b within the sanctuary. The selection of Alternative 1 also most closely represents the area proposed by the Northern Chumash Tribal Council in their 2015 CHNMS nomination package.

The Commission recognizes that the boundaries represented by Alternative 1 include offshore wind energy areas recently leased by the Bureau of Ocean Energy Management (BOEM), which ONMS has indicated would require flexibility in planning by BOEM, the state of California, and developers regarding the type and location of subsea electrical transmission cables. However, the Commission does not believe that planning for wind energy development and the potential disturbance of the seafloor caused by cable laying is incompatible with a sanctuary designation. The potential impacts of such activities could, with appropriate coordination and effective mitigation, be accommodated through the issuance of a special use permit, as authorized by section 310(b) of the National Marine Sanctuary Act and its implementing regulations¹, as noted by ONMS in its proposed designation (at 88 Fed. Reg. 58133). However, eliminating these areas from the sanctuary designation could expose these waters to other, more harmful activities that are detrimental to marine mammals and other marine resources. For all of these reasons, the Commission recommends that ONMS select Alternative 1, with the addition of sub-alternatives 5a (Morro Bay) and 5b (Gaviota Coast extension), as providing the boundaries of the CHNMS.

Regulations and Management Plan

The Commission believes that protections for marine mammals could be strengthened in the CHNMS regulations and management plan, and urges ONMS to reconsider the recommendations made in the Commission's [31 January 2022 letter](#)² commenting on ONMS's notice of intent to prepare a DEIS for the proposed CHNMS. In particular, we would like to reiterate the Commission's concerns regarding the threats to large whales from entanglement in fishing gear and vessel strikes. Whales that come in contact with vertical ropes linking crab/lobster/fish traps to surface buoys can become entangled and suffer a serious injury or lingering death, while whales struck by vessels typically die immediately. In both cases, many of the deaths go undetected.

Two mitigation measures that have the potential to reduce mortality and serious injury of large whales due to entanglements to sustainable levels are time-area closures and the replacement of buoy lines with "ropeless" gear, also referred to as "on-demand" or "pop-up" gear. The state of California has been imposing time-area closures on the Dungeness crab fishery, the state's largest fixed-gear fishery, for several years; however, those measures have failed to reduce mortalities and serious injuries of large whales to sustainable levels. The only viable long-term solution to the problem of large-whale entanglement in fixed gear is to replace the buoy lines with systems that "pop-up" a buoy/float and line stored with the trap(s) at the bottom "on-demand", removing the entanglement risk. Reducing the potential of vessel strikes of large whales is also challenging, but two measures that have been included in the management plans of other California national marine sanctuaries include reinforcing compliance with traffic separation schemes and expanding voluntary vessel speed reduction zones.³ The Commission recommends that ONMS include in its CHNMS final regulations and management plan measures that would reduce mortality and serious injury of large whales within the CHNMS by (1) allowing the testing and trialing of ropeless gear in fixed gear fishing areas and (2) expanding vessel speed reduction zones to include all CHNMS waters.

¹ <https://sanctuaries.noaa.gov/management/permits/special.html>

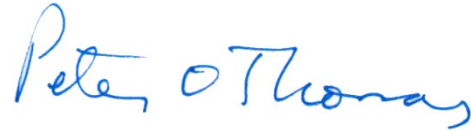
² <https://www.mmc.gov/wp-content/uploads/22-01-31-Michel-Chumash-National-Marine-Sanctuary.pdf>

³ <https://channelislands.noaa.gov/manage/resource/ship-strikes.html>

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Please contact me if you would like to discuss any of the Commission's comments and recommendations.

Sincerely,

A handwritten signature in blue ink that reads "Peter O. Thomas". The signature is written in a cursive style with a large initial "P" and a distinct "O" in the middle name.

Peter O. Thomas, Ph.D.,
Executive Director