

California Department of Fish and Wildlife's Evaluation of 2023 Decadal Management Review Marine Protected Area Petition:

Amend Existing Anacapa Island SMCA or Special Closure to Protect Eelgrass (2023-27MPA_AM)



I. PETITION SUMMARY

CFGC Tracking Number	2023-27MPA_AM
Petition Contact/Affiliation	Azsha Hudson, Environmental Defense Center
Number of Proposed Actions	1
Affected MPAs	Anacapa Island State Marine Conservation Area (SMCA) or Special Closure
Petition Summary	Amend existing Anacapa Island SMCA or Special Closure with one of three options to best protect eelgrass (<i>Zostera</i> spp.) meadows while allowing for community access (removed classification change and modified take regulations as amended). See detailed options in Section II.
Link to StoryMap page	2023-27MPA_AM



II. CDFW RECOMMENDATIONS AND BRIEF JUSTIFICATION

Note: If a change to the Marine Protected Area (MPA) regulations is not needed to address the proposed change, the California Department of Fish and Wildlife (CDFW) did not evaluate the proposed change using the framework. However, CDFW may recommend an alternative pathway to achieving the desired outcome of the proposed change.

Petition Action ID and Proposed Action	Petitioner’s Stated Rationale and Brief Justification for Proposed Actions	CDFW Recommendation and Brief Justification
<p>2023-27MPA_1_AM1 Amend existing Anacapa Island SMCA or Special Closure, evaluating three options (solutions) and choose the one that best protects the eelgrass meadow while allowing for community access:</p> <p>Option 1: Change Anacapa Island SMCA regulations to disallow commercial California spiny lobster (<i>Panulirus interruptus</i>) fishing year-round.</p> <p>Option 2: Change Anacapa Island SMCA regulations to disallow hard bottomed</p>	<p>The petitioner’s stated intent for the proposed change is to protect eelgrass meadows located in the Anacapa Island SMCA from hard bottomed objects such as the gear type listed for the commercial lobster fishery and anchors used for vessels.</p>	<p>Deny the petition, including all three options. CDFW acknowledges the significant ecological importance and value of eelgrass meadows. Although there has been a decline and lack of eelgrass recovery at Frenchy’s Cove, there is no indication that the primary driver of the decline or lack of recovery of eelgrass in Frenchy’s Cove is bottom contact fishing gear and anchoring that may occur during the two-month window when fishing is allowed in the brown pelican (<i>Pelecanus occidentalis</i>) fledgling area. The proposed options are unlikely to have a biologically meaningful impact on eelgrass at this location beyond what is already offered by the Anacapa Island SMCA and Special Closure and brown pelican fledgling area, and it would unnecessarily restrict an important fishing ground that was carefully contemplated and deliberated during the Northern Channel Islands MPA planning and implementation process.</p>

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<p>fishing gear (including anchoring if applicable) near eelgrass meadows.</p> <p>Option 3: Change the border of the Anacapa Island Special Closure, prohibiting the deployment of lobster traps in waters from 0-30 meters (0-98.43 feet) deep instead of the existing 0-20 feet (0-6.1 meters) deep off Anacapa Island.</p>		

III. BIN 2 PETITION GROUPING: IDENTIFY TRIBALLY-LED PETITIONS

The 2023 MPA Petition Companion Document (Attachment 1) includes a summary of the process for identifying Tribally-led petitions, CDFW’s outreach to all California Native American tribes¹ (tribes) throughout the petitions process, and a summary of outreach and engagement with Tribally-led petitioners. Tribally-led petitions were evaluated with CDFW 2023 MPA Bin 2 Petition Evaluation Framework.

Tribal Components Questions	Answer and Explanation
<p>Was the petition submitted by a California Native American tribe, representative designated by a tribe or tribal organization, or have a tribal co-sponsor? If yes,</p> <ul style="list-style-type: none"> a. Does the proposed change explicitly aim to advance tribal co-management, subsistence harvesting, stewardship, and/or provide a tribal benefit through recognizing the cultural significance of an area? b. Is the proposed regulatory change explicitly linked to a tribe or tribes? (i.e. tribal exemption, tribal take only MPA, or new MPA for co-management). 	<p>No, this petition was not submitted by a tribe or representative designated by a tribe or tribal organization, and it does not have a tribal co-sponsor.</p>

¹ California Native American tribe is the preferred term to use per the Governor’s Office of Tribal Affairs when generally mentioning tribes of California, both federally and non-federally recognized.

IV. PETITION EVALUATION

EVALUATION NARRATIVE AND OVERVIEW FOR 2023-27MPA_1_AMI

The petitioner has requested consideration of three options for regulatory change to enhance protection of eelgrass within Frenchy's Cove at Anacapa Island SMCA and Special Closure. The petitioner asserts that the proposed options are "intended to protect the Anacapa Island SMCA eelgrass meadow and associated biodiversity from lobster trapping [and anchoring] which occurs during the months of November and December [when the California brown pelican fledgling area is open]."

The three options proposed by the petitioner include:

1. Change Anacapa Island SMCA regulations to disallow commercial lobster fishing year-round,
2. Change Anacapa Island SMCA regulations to disallow hard bottomed fishing gear (including anchoring if applicable) near eelgrass meadows, or
3. Change the border of the Anacapa Island Special Closure, prohibiting the deployment of lobster traps in waters from 0-30 meters (0-98.43 feet) deep instead of the existing 0-20 feet (0-6.1 meters) deep off Anacapa Island.

Frenchy's Cove is a popular recreational and fishing destination on the western islet of Anacapa Island that includes a small beach and tidepools and is situated within both the island-wide nearshore Anacapa Island Special Closure and the larger Anacapa Island SMCA. The Anacapa Island Special Closure prohibits setting nets and traps around the island in waters less than 20 feet deep year-round to protect seabirds and prohibits public activities from occurring within the 20 fathom (120 feet) brown pelican fledgling area from January 1 – October 31 to protect nesting birds, nests, and fledglings during brown pelican nesting season. The west and east borders of the brown pelican fledgling area include the west end of the beach at Frenchy's Cove and Portuguese Rock, which is ~0.8 miles (~1.3 km) to the east. The Anacapa Island SMCA regulations allow commercial and recreational take of lobster and recreational take of pelagic finfish² (Cal. Code Regs., tit. 14, § 632 subd. (a)(3)).

CDFW acknowledges the significant ecological importance and value of eelgrass meadows and shares concern regarding the lack of eelgrass recovery at Frenchy's Cove.

² Pelagic finfish as defined for MPA regulations include: northern anchovy (*Engraulis mordax*), barracudas (*Sphyraena* spp.), billfishes (family Istiophoridae), dolphinfish (*Coryphaena hippurus*), Pacific herring (*Clupea pallasii*), jack mackerel (*Trachurus symmetricus*), Pacific mackerel (*Scomber japonicus*), salmon (*Oncorhynchus* spp.), Pacific sardine (*Sardinops sagax*), blue shark (*Prionace glauca*), salmon shark (*Lamna ditropis*), shortfin mako shark (*Isurus oxyrinchus*), thresher sharks (*Alopias* spp.), swordfish (*Xiphias gladius*), tunas (family Scombridae) including Pacific bonito (*Sarda chiliensis*), and yellowtail (*Seriola dorsalis*).

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The petitioner asserts that the proposed options to enhance eelgrass protection at this location align with one or more of the MLPA Goals and Decadal Management Review (DMR) Recommendations. However, given the biology of eelgrass and other factors discussed below, CDFW's evaluation finds the options proposed by the petitioner:

- Are inconsistent with the goals of this MPA, as defined during the implementation process around the Northern Channel Islands and the MLPA Initiative planning process,
- Do not align with original intent of this MPA or the full Anacapa Island Special Closure,
- Would not advance management of the MPA Network or address a current or emerging MPA management challenge,
- Would not advance management of the MPA Network, and
- Do not enhance or improve enforcement of the MPA and Special Closure regulations.

Eelgrass, a seagrass that is found in the very low intertidal to subtidal zone, is inherently episodic and variable, and the persistence of a stable meadow can be affected by many physical factors (i.e., temperature, sedimentation, currents) (Livingston 1984, Frederiksen et al. 2004, Krumhansl et al. 2021, DuBois et al. 2022). Before the MPAs were established around the Northern Channel Islands in 2003, eelgrass meadows at Anacapa Island nearly disappeared after white urchin (*Lytechinus pictus*) numbers increased and heavily grazed the eelgrass in the wake of the 1982-1983 El Niño (Alstatt 2003, 2014, 2021, Engle and Miller 2005). While many eelgrass meadows around Anacapa Island recovered and are present today, eelgrass did not re-colonize the historical site in Frenchy's Cove, and a restoration plan was developed and implemented in 2002. Restoration efforts were successful at re-establishing eelgrass in Frenchy's Cove yet monitoring and mapping efforts have observed a steady decline since (Fig. 1) (Alstatt 2014, 2021). The last mapping effort of eelgrass meadows around the Northern Channel Islands occurred in 2015, coinciding with the 2014-2016 Marine Heat Wave (MHW). The most recent diver surveys were conducted in 2019. Both efforts showed little-to-no eelgrass present at the restoration site in Frenchy's Cove (Fig. 1). However, stable eelgrass meadows occur elsewhere around Anacapa Island and other Channel Islands, including in areas where fishing and boating activities occur. While the Special Closure, including the brown pelican fledgling area, was designed to protect sea birds around the island, at Frenchy's Cove the seabird protections also provide 10 months of ancillary eelgrass protection within waters less than 120 feet (~36.5 meters) deep in the brown pelican fledgling area and year-round ancillary eelgrass protection within waters less than 20 feet (~6 meters) deep. Although there is potential for impacts from bottom contact fishing gear and anchoring to occur during the two-month window when fishing is

allowed in the brown pelican fledging area (i.e., >20 feet deep November 1 – December 31), it is likely there are additional factors, including the 2014-2016 MHW, and site-specific attributes such as temperature, currents, and suitable substrate to sustain eelgrass, that are also contributing to the lack of recovery of eelgrass in Frenchy's Cove. Thus, prohibiting commercial lobster fishing in the Anacapa Island SMCA year-round (Option 1) is unlikely to address the petitioner's stated problem.

Another proposed option offered by the petitioner would extend the Special Closure depth limit to 98 feet (30 meters) to prohibit the deployment of lobster traps in water depths less than this limit (Option 3). Although the deepest observations of persistent eelgrass meadows around Anacapa Island have occurred at a maximum depth of about 45 feet (13.7 meters) (Engle and Miller 2005, Alstatt 2014, 2021, Sherman and DeBruyckere 2018), eelgrass around the Channel Islands typically occurs within shallower depths of 0 to 20 feet (~6 meters) (Engle and Miller 2005, Sherman and DeBruyckere 2018). Given the brown pelican fledging area currently offers protection to eelgrass at Frenchy's Cove within the 120 foot (~36.5 meters) depth limit for 10 months out of the year and within the 20 foot (~6 meters) depth limit year round, it is unlikely that extending the island-wide Special Closure boundary to 98 feet (30 meters) would provide measurable benefits or protection to eelgrass in Frenchy's Cove beyond what the Special Closure and associated brown fledging area already provide. The second option presented by the petitioner to prohibit hard bottomed fishing gear (including anchoring if applicable) near eelgrass meadows is inherently problematic for MPA regulations due to the dynamic nature of eelgrass and associated enforcement feasibility concerns.

CDFW also finds that the proposal's potential impacts to consumptive and non-consumptive users are anticipated to be significant, as the Anacapa Island SMCA continues to be an important fishing ground, especially for the recreational and commercial lobster fisheries and an important site for non-consumptive users (Fig. 2). The proposed option to extend the depth limit of the Special Closure into deeper waters would further restrict all access to Anacapa Island for all users and not just commercial lobster activities. Given the proposal is not expected to provide measurable benefits or enhanced protection for eelgrass in Frenchy's Cove, it would unnecessarily restrict an important area to consumptive and non-consumptive users that was carefully contemplated and deliberated during Northern Channel Islands MPA planning and implementation (MRWG n.d.). All proposed options deviate from the original intent of the Anacapa Island SMCA, which was to provide commercial and recreational fishing opportunities in lieu of a State Marine Reserve (SMR) at this location and to compensate for consumptive losses around the other Northern Channel Islands due to implementation of other SMRs (MRWG n.d., MLPA 2009).

RECOMMENDATION FOR 2023-27MPA_1_AMI

Given these considerations and the information in the evaluation below, **CDFW recommends the California Fish and Game Commission (CFGC) DENY petition 2023-27MPA27**, including all three options proposed within **2023-27MPA_1_AMI** to "...amend existing Anacapa Island SMCA or Special Closure, evaluating three options (solutions) and choose the one that best protects the eelgrass meadow while allowing for community access."

In lieu of a regulatory change to the MPA Network, CDFW recommends continued eelgrass research and monitoring at Frenchy's Cove and other areas where eelgrass persists around the Northern Channel Islands. This could provide more insight into the suite of drivers that may be impacting eelgrass persistence at this location and would better inform potential management actions. Although there is no quantitative evidence to support the presumption that bottom contact or fishing activities are the primary driver of eelgrass loss in this area, the installation of mooring buoys at Frenchy's Cove is an MPA adaptive management measure that has potential to address some of the petitioner's concerns at this site when it is accessible to boating activities, while also maintaining the MPA's intended goals.

The information below applies to the three options, and in certain cases, there is additional option-specific information.

EVALUATION QUESTIONS

2023-27MPA_1_AMI: Amend Anacapa Island SMCA or Special Closure with one of three options (see petition summary above for options) to best protect eelgrass meadows while allowing for community access.

QUESTION 1: DOES THE PROPOSED CHANGE SUPPORT THE MPA NETWORK IN MEETING ONE OR MORE OF THE MLPA GOALS AND ALIGN WITH MPA MASTER PLAN ADAPTIVE MANAGEMENT OBJECTIVES?

The MLPA Goals and Master Plan objectives are inextricably linked and act as the foundational tools that CDFW utilizes for effective adaptive management of the MPA Network. Individual MPAs in the Network were not necessarily designed to address all six Goals of the MLPA but instead were intended to act as an important component of a functioning Network that was designed to holistically address the MLPA Goals. As such, CDFW has evaluated this action within the broader adaptive management framework and how the proposed action may or may not align with the MLPA Goals/Master Plan objectives and advance MPA Network management. See Question 1 of Attachment 1 for the MLPA Goals and Master Plan objectives.

The petitioner asserts that amending the Anacapa Island SMCA or Special Closure regulations would better protect eelgrass meadows at Frenchy's Cove during the two-month window when the brown pelican fledgling area is open and that this proposed amendment is consistent with MLPA Goals/MPA Master Plan objectives 1, 2, 3, and 5, which are related to enhancing natural diversity, sustaining marine life populations, providing recreational, educational, and research opportunities, and ensuring science-informed management measures.

Although the petitioner asserts the proposed actions would align with the MLPA Goals and MPA Master Plan objectives, in the broader adaptive management framework, the proposed change would not advance management of the MPA Network.

Anacapa Island SMCA was designed with the goals of balancing ecosystem level biodiversity protections, recognizing the rich marine heritage that the marine waters around the Channel Islands provide, and maintaining important fisheries in a portion of state waters and the Channel Island National Marine Sanctuary (CINMS). These goals are aligned with MLPA Goals 2, 3, 4, and 5 and are still relevant today. Thus, the proposed change would offer no change in the design of the affected MPA for these goals.

CDFW recognizes the important role that eelgrass plays as a foundational species that enhances biodiversity (Duffy 2006, Nordlund et al. 2016, Sherman and Debruyckere 2018) (Goal 1) and the importance of protecting unique habitats such as eelgrass meadows (Goal 4). However, given the typical shallow distribution of eelgrass and many factors potentially influencing its persistence at this site, the proposed options for change in the Anacapa Island SMCA or Special Closure are unlikely to benefit eelgrass at Frenchy's Cove beyond what is currently offered by the Special Closure and brown pelican fledgling area.

Additionally, all the proposed options would conflict with the intended goal to maintain important fisheries (Goal 3). Given the data gaps that exist regarding the presence of eelgrass currently in Frenchy's Cove and the drivers contributing to its population dynamics, more work is needed to make a science-informed decision regarding the management of this species in this location (Goal 5).

QUESTION 2A: DOES THE PROPOSED CHANGE ADVANCE ADAPTIVE MANAGEMENT RECOMMENDATIONS IN THE DECADAL MANAGEMENT REVIEW?

No. The petitioner asserts that the proposed options would advance two prioritized DMR Recommendations #4: to apply what is learned from the DMR to support proposed changes to the MPA Network, and #9: to advance OPC's 2020-2025 Strategic Plan priorities specific to protecting and restoring eelgrass habitat in the state's coastal waters (OPC Strategic Plan Target 3.1.4). However, given the typical shallow depth

distribution of eelgrass and many factors potentially influencing its persistence in the area, the proposed options are unlikely to result in measurable, biologically meaningful benefits to eelgrass in Frenchy's Cove beyond what the Special Closure and brown pelican fledgling area currently offer. Thus, the proposed options in the petition would not advance management of the MPA Network. See Question 2a of Attachment 1 for the Decadal Management Review and adaptive management Recommendations.

QUESTION 2B: IF NOT, DOES THE PROPOSED CHANGE ADDRESS A CURRENT OR EMERGING MPA MANAGEMENT CHALLENGE?

No. The proposed options in the petition would not address a current or emerging MPA management challenge. While the lack of eelgrass recovery at Frenchy's Cove is a concern, eelgrass restoration is not currently an MPA management challenge. It is important for any eelgrass restoration effort to implement intervention measures that address the site-specific ecological drivers of eelgrass loss, and there is insufficient evidence to support the assertion that bottom contact or fishing activities that are occurring in a two-month period annually is the primary driver contributing to eelgrass loss or lack of recovery in Frenchy's Cove.

CDFW recommends continued research and monitoring at Frenchy's Cove and other areas where eelgrass persists around the Northern Channel Islands. This could provide more insight into the suite of drivers that may be impacting eelgrass persistence at this location and would better inform potential management actions.

QUESTION 3: DOES THE PROPOSED CHANGE HAVE THE POTENTIAL TO AFFECT EXISTING CFGC NON-MPA REGULATIONS, PERMITS, OR LEASES (E.G., KELP LEASES, AQUACULTURE LEASES, EXPERIMENTAL FISHING PERMITS)?

No. CDFW does not anticipate that CFGC would need to make conforming changes to other regulations, permits, or leases in response to the proposed change to these MPA regulations.

QUESTION 4: DOES THE PROPOSED CHANGE HAVE THE POTENTIAL TO AFFECT EXISTING REGULATIONS, PERMITS, LEASES, OR MANAGEMENT ACTIVITIES OF ANY OTHER AGENCY OR ENTITY?

Yes. The following is a list of tribes, agencies, and other entities that may be impacted by the proposed change.

National Oceanic and Atmosphere Administration (NOAA), CINMS: CINMS manages an MPA (Anacapa Island Federal Marine Conservation Area (FMCA)) in federal waters

directly adjacent to the state Anacapa Island SMCA. For reasons such as ease of enforcement, the federal and state MPAs around the Northern Channel Islands have the same regulations. This change would make the regulations inconsistent and CINMS and NOAA would need to pursue updating the federal regulations to end commercial lobster fishing in the federal Anacapa Island SMCA if CFGC chooses to grant Option 1. Furthermore, NOAA is the lead federal agency that administers the Marine Mammal Protection Act and CDFW shares jurisdiction of the Anacapa Island Special Closures. If CFGC chooses to grant the petition, CDFW would need to coordinate enforcement, updates to signage, and outreach efforts with CINMS.

National Park Service: CDFW shares jurisdiction of the Anacapa Special Closures with Channel Islands National Park and would need to coordinate enforcement, updates to signage, and outreach efforts.

State Water Resources Control Board and Regional Water Quality Control Board (Water Boards): The Anacapa Island MPAs all fall within an existing Area of Special Biological Significance. It is unclear whether the proposed change would have direct or indirect effects on the management activities of the Water Boards for these ASBS.

State Lands Commission (SLC): The Anacapa Island Special Closure overlaps with active SLC lease 8390 for the Anacapa Island boat dock. It is unclear whether the proposed change would have direct or indirect effects on SLC's regulatory or management activities.

Santa Ynez Band of Chumash Indians: There is a tribal exemption for the Anacapa Island SMCA for the Santa Ynez Band of Chumash Indians.

This list may not be exhaustive. The proposed change may have the potential to affect existing regulations, permits, leases, or management activities of Tribal governments, other agencies, and entities not identified here.

QUESTION 5: ARE THERE SIGNIFICANT INFORMATION GAPS THAT NEED TO BE FILLED TO INFORM THE EVALUATION OF THE PROPOSED CHANGE?

No. CDFW has sufficient information to evaluate and make a recommendation on this proposal. When evaluating this petition, CDFW reviewed the information in the petition as well as information including but not limited to:

- Results from ongoing eelgrass monitoring at this site and other locations around the Channel Islands,
- Eelgrass mapping around Anacapa Island, including Frenchy's Cove (available through 2015) and additional diver survey data from 2019,

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- Existing science and guidance pertaining to eelgrass recovery and restoration in California (including OPC's 2026-2030 Strategic Plan statewide targets for eelgrass restoration),
- Fishing block data for the commercial California spiny lobster fishery, and
- MLPA Initiative planning documents, historical documentation of the implementation of MPAs around the Northern Channel Islands, and other related information (e.g. MLPA Goals and MPA Master Plan adaptive management objectives).

The information provided in the petition, along with other information CDFW reviewed, did not demonstrate that the proposed change would advance MPA adaptive management or that a change in MPA regulations is warranted.

Without more definitive evidence of a place-based need linking eelgrass declines to specific drivers, including fishing and boating activities in Frenchy's Cove, it is unlikely the options presented in the petition would result in measurable, biologically meaningful benefits to eelgrass beyond what the Special Closure and brown pelican fledgling area currently provide.

CDFW will continue to work with tribes and other partners to identify priorities and critical data gaps to fill to better inform management actions to benefit eelgrass at this location and statewide.

QUESTION 6: ARE THERE SIGNIFICANT MANAGEMENT GAPS THAT NEED TO BE FILLED TO INFORM THE EVALUATION OF THE PROPOSED CHANGE?

No. CDFW has sufficient management information to proceed with the evaluation of this proposed change, including the foundational principles of the MLPA and information guiding management of MPAs and eelgrass.

QUESTION 7A: WAS THE PROPOSED CHANGE CONSIDERED DURING THE MLPA INITIATIVE PLANNING PROCESS OR THE IMPLEMENTATION PROCESS OF MPAS AROUND THE NORTHERN CHANNEL ISLANDS?

No. Before the Northern Channel Islands MPA planning process, protections in this area were already in place in the form of an ecological reserve. During the Northern Channel Islands MPA planning process, the Anacapa Island Special Closure was intentionally designed to retain the existing regulations of the ecological reserve at the time and to serve a targeted conservation purpose beyond the broader protection of the MPA Network (MRWG n.d.). The Anacapa Island Special Closure, which prohibits setting nets and traps within 20 feet of shore around the island, was established primarily to protect feeding and roosting seabirds, including the California brown pelican.

Subsequently, during the MLPA Initiative planning process in the South Coast Region (MLPA 2009), and following CFGC guidance, this Special Closure was left unchanged.

QUESTION 7B: IS THERE NEW INFORMATION AVAILABLE, CHANGING CONDITIONS SINCE THE MLPA IMPLEMENTATION PHASE, AND/OR INFORMATION PRESENTED IN THE DMR THAT WARRANTS REEVALUATION OF THE PROPOSED CHANGE?

No. DMR Recommendation 18 identifies the need to develop a framework to evaluate appropriate restoration and mitigation actions within MPAs, which could include eelgrass habitats that have been affected by anthropogenic and environmental factors. However, Recommendation 18 also stresses the need to align regional restoration and mitigation actions with a statewide framework, which has not yet been developed.

While our knowledge regarding the success of eelgrass restoration and the effects of climate change on eelgrass species has advanced since the implementation of the Northern Channel Islands MPAs (Ward and Beheshti 2023), there is a need for more recent eelgrass survey data around the islands, including Frenchy's Cove. CDFW recommends continued research and monitoring of eelgrass and the factors that could affect its persistence at Frenchy's Cove. Such efforts are more likely to inform appropriate management and restoration measures and have greater potential to be more effective in addressing the petitioner's stated problem than amending MPA regulations for the Anacapa Island SMCA or Special Closure.

QUESTION 8: IF THE PROPOSED CHANGE AFFECTS AN EXISTING MPA, DOES THE PROPOSED CHANGE ALIGN WITH THE ORIGINAL INTENT OF THE MPA IDENTIFIED DURING THE MLPA INITIATIVE PLANNING PROCESS OR THE IMPLEMENTATION PROCESS OF MPAS AROUND THE NORTHERN CHANNEL ISLANDS?

No. The proposed options do not align with the original intent of the Anacapa Island SMCA or Special Closure, which combined were intended to provide habitat protection for feeding and nesting birds, while allowing some level of recreational and commercial take, including the take of lobster, to continue.

The original intent of the Anacapa Island Special Closure, which prohibits the setting of nets or traps in waters less than 20 feet around the island, was to decrease entanglement risk for birds feeding near roosting grounds on the island. The original intent of the seasonal brown pelican fledgling area (Jan. 1-Oct. 31) within the Anacapa Island Special Closure and larger Anacapa Island SMCA was to provide protection from human disturbance to an important brown pelican rookery area when juvenile brown pelicans are fledging from their nesting sites. Although the original intent of the Special

Closure was not to protect eelgrass meadows, it offers protection to eelgrass in the shallow waters around Anacapa Island during the closure.

QUESTION 9: DOES THE PROPOSED CHANGE IMPROVE INDIVIDUAL MPA OR MPA NETWORK DESIGN SO THAT IT BETTER ALIGNS WITH OR MEETS THE MPA SCIENCE GUIDELINES?

The MLPA requires that the design of individual MPAs and the statewide Network be based on the best readily available science and that MPAs be of adequate size, number, protection level, and location to meet MLPA Goals. The science guidelines developed by the Science Advisory Team and outlined in the Master Plan were created specifically to provide this scientific foundation and serve as the starting point for evaluating alternative MPA proposals. Alignment with these guidelines depends on LOP, which is determined by allowed take, and spatial configuration. More specifically, these guidelines require that an MPA must be at least 9 square miles and meet one of the three highest LOPs (i.e., Very High, High, or Moderate-high) to contribute to ecological goals such as habitat replication and representation.

Take of lobster and pelagic finfish are currently allowed in Anacapa Island SMCA, both of which are Moderate-low LOP activities. Under all three proposed options to protect eelgrass meadows, pelagic finfish take would remain allowed, meaning the level of protection would not increase. Since none of the options would increase the size or level of protection of the SMCA, implementation would not improve the design of the individual MPA or the MPA Network, nor would it enhance alignment with the MLPA Science Guidelines, and thus, does not warrant a change. See Question 9 of Attachment 1 for the MPA Science Guidelines and additional context.

QUESTION 10A: DOES THE PROPOSED CHANGE ALIGN WITH CDFW FEASIBILITY GUIDELINES?

Option 1 (change Anacapa Island SMCA regulations to disallow commercial lobster fishing year-round):

Yes. This proposed change aligns with the Feasibility Guidelines, as it does not intend to change the spatial design of the MPA and simplifies the take regulations.

Option 2 (change Anacapa Island SMCA regulations to disallow hard bottomed fishing gear (including anchoring if applicable) near eelgrass meadows):

No. The proposed change aligns with the Feasibility Guidelines, with the exception that it deviates from the MPA design guidance under “Multiple Zoning” to “avoid having areas split to allow for different uses in different portions of an MPA.” Furthermore, prohibiting the use of specific gear types near eelgrass meadows is not enforceable because the presence of eelgrass meadows can be highly variable and change over time.

Option 3 (change the border of Anacapa Island Special Closure, prohibiting the deployment of lobster traps from 0-30 meters (0-98.43 feet) instead of the existing 0-20 ft (0-6.1 meters) deep):

No. The proposed change does not align with the purpose of a special closure designation, which was intended during the MLPA Initiative planning process to be utilized to protect breeding seabirds and marine mammal populations from human disturbance. The Feasibility Guidelines advise that special closure restrictions should not be directly related to take of living marine resources, such as eelgrass. See Question 10a of Attachment 1 for CDFW Feasibility Guidelines.

QUESTION 10B: IF NOT, IS THERE A RATIONALE FOR MOVING FORWARD WITH THE PROPOSED CHANGE OR AN ALTERNATIVE THAT COULD MEET THE INTENT BUT BETTER ALIGN WITH FEASIBILITY GUIDELINES?

No. There is no rationale for moving forward with the proposed options and CDFW has not identified a feasible alternative that would meet the intent of the proposed options but better align with the Feasibility Guidelines.

QUESTION 11: DOES THE PROPOSED CHANGE MAINTAIN OR IMPROVE ENFORCEABILITY OF MPA REGULATIONS?

Option 1 (change Anacapa Island SMCA regulations to disallow commercial lobster year-round):

Yes. The proposed action (i.e., disallowing the commercial take of lobster but retaining the recreational take allowance) has potential to increase enforceability by removing a method of take.

Option 2 (change Anacapa Island SMCA regulations to disallow hard bottomed fishing gear (including anchoring if applicable) near eelgrass meadows):

No. The proposed action (i.e., change SMCA regulations to disallow hard bottomed fishing gear (including anchoring if applicable) near eelgrass meadows) is not enforceable as proposed. The location and extent of eelgrass meadows are not stationary and without specific boundaries, this option does not meet CDFW Feasibility Guidelines.

Option 3 (change the border of the Anacapa Island Special Closure, prohibiting the deployment of lobster traps from 0-30 meters (0-98.43 feet) instead of the existing 0-20 ft deep):

No. The proposed action (i.e., extend the existing [Anacapa Island Special Closure] prohibition of deployment of lobster traps less than 20 feet deep to apply out to 30 meters (0-98.43 feet)) would not meet CDFW Feasibility Guidelines, as depth contour boundaries are traditionally difficult to enforce.

QUESTION 12: DOES THE PROPOSED CHANGE SIMPLIFY REGULATORY LANGUAGE OR ENHANCE PUBLIC UNDERSTANDING WITHOUT CHANGING THE INTENT OF THE MPA?

No. The intent of the proposed change is not to simplify the regulatory language or enhance public understanding. However, the proposed change would change the intent of the MPA and have potential to make the regulatory language more complex. The existing regulations for Anacapa Island are already complex, and Options 2 and 3 would further complicate the regulations.

QUESTION 13: DOES THE PROPOSED CHANGE MAINTAIN OR ENHANCE PROTECTION OF MARINE RESOURCES?

Yes. Option 1 (prohibiting commercial lobster fishing) may confer some extra protection for California spiny lobster, but none of the options are likely to offer meaningful protection to eelgrass as the proposal intends.

Although there is potential for impacts from bottom contact fishing gear and anchoring to occur in Frenchy's Cove during the two-month window when fishing is allowed in the brown pelican fledging area, it is likely there are other factors, including the 2014-2016 MHW, and site-specific attributes such as temperature, currents, and suitable substrate to sustain eelgrass, that are contributing to the lack of recovery of eelgrass in Frenchy's Cove. Thus, prohibiting commercial lobster fishing in the Anacapa Island SMCA year-round (Option 1) is unlikely to enhance protection of eelgrass within Frenchy's Cove.

Additionally, although the deepest observations of persistent eelgrass meadows around Anacapa Island have occurred at a maximum depth of about 45 feet (13.7 meters) (Engle and Miller 2005, Alstatt 2014, 2021, Sherman and DeBruyckere 2018), eelgrass typically occurs within shallower depths of 0 to 20 feet (0-6 meters) (Engle and Miller 2005, Sherman and DeBruyckere 2018). Given the brown pelican fledgling area currently offers protection to eelgrass at Frenchy's Cove within the 120 foot (~36.5 meters) depth limit for 10 months out of the year and within the 20 foot (~6 meters) depth year round, it is unlikely that extending the island-wide Special Closure boundary to 98 feet (~30 meters) would provide measurable benefits or protection to any remaining eelgrass in Frenchy's Cove beyond what the Special Closure and brown pelican fledgling area currently provide.

QUESTION 14: DOES THE PROPOSED CHANGE PROVIDE MORE EQUITABLE ACCESS OPPORTUNITIES (E.G., FISHING, EDUCATIONAL, AND/OR OTHER RECREATIONAL OPPORTUNITIES) FOR TRADITIONALLY UNDERSERVED OR MARGINALIZED COMMUNITIES?

See Question 14 of Attachment 1.

QUESTION 15: DOES THE PROPOSED CHANGE HAVE THE POTENTIAL TO AFFECT CONSUMPTIVE AND/OR NON-CONSUMPTIVE ACTIVITIES? IF SO, HOW?

Yes. Significant impacts to the commercial lobster fishery would be expected. The affected MPA overlaps with CDFW fishing block 684, and commercial landings data indicate this fishing block is highly valuable to the commercial California spiny lobster fleet (Fig. 2).

Given the proposed change is not expected to provide measurable benefits or enhanced protection to any remaining eelgrass in Frenchy's Cove, it would unnecessarily restrict an important fishing ground that was carefully contemplated and deliberated during Northern Channel Islands MPA planning and implementation.

QUESTION 16: IS THE PROPOSED CHANGE CONSISTENT WITH THE CFGC JUSTICE, EQUITY, DIVERSITY AND INCLUSION POLICY?

See Question 16 of Attachment 1.

QUESTION 17: IS THE PROPOSED CHANGE CONSISTENT WITH THE CFGC COASTAL FISHING COMMUNITIES POLICY?

The following analysis was prepared by CFGC staff. See Question 17 of Attachment 1 for additional context on CFGC's response. The proposed change would reduce fishing access, particularly for the boat-based fishing participants homeported in the coastal fishing communities of:

- Channel Islands Harbor (Oxnard) (~15 nautical miles (nm) away from area of proposed change),
- Ventura Harbor (~10 nm away from area of proposed change), and/or
- Santa Barbara (~25 nm away from area of proposed change).

The three options proposed by the petitioner would have differing impacts on fishing in this area. It is unclear to what degree it would constrain access for the commercial lobster fleet homeported in the Santa Barbara fishing community, where the commercial lobster trapping fleet represents the second-highest valued homeported fishery.

QUESTION 18: DOES THE PROPOSED CHANGE INTERACT WITH OR HAVE THE POTENTIAL TO AFFECT PROPOSED CHANGES IN OTHER 2023 MPA PETITIONS?

Yes. This petition has the potential to interact with proposed changes in petition 2023-18MPA (proposed actions_6, 7) that aim to reduce the size of the brown pelican fledgling area within the Anacapa Island Special Closure to allow year-round boat access to Frenchy's Cove and to consider abolishing the Anacapa Island Special Closure around the full extent of the island.

This petition also has the potential to interact with petition 2023-14MPA (proposed action_6), which aims to allow commercial take of urchin in the Anacapa Island SMCA.

V. SUPPLEMENTAL ANALYSES, DATA AND INFORMATION, AND CITATIONS

TABLES AND FIGURES

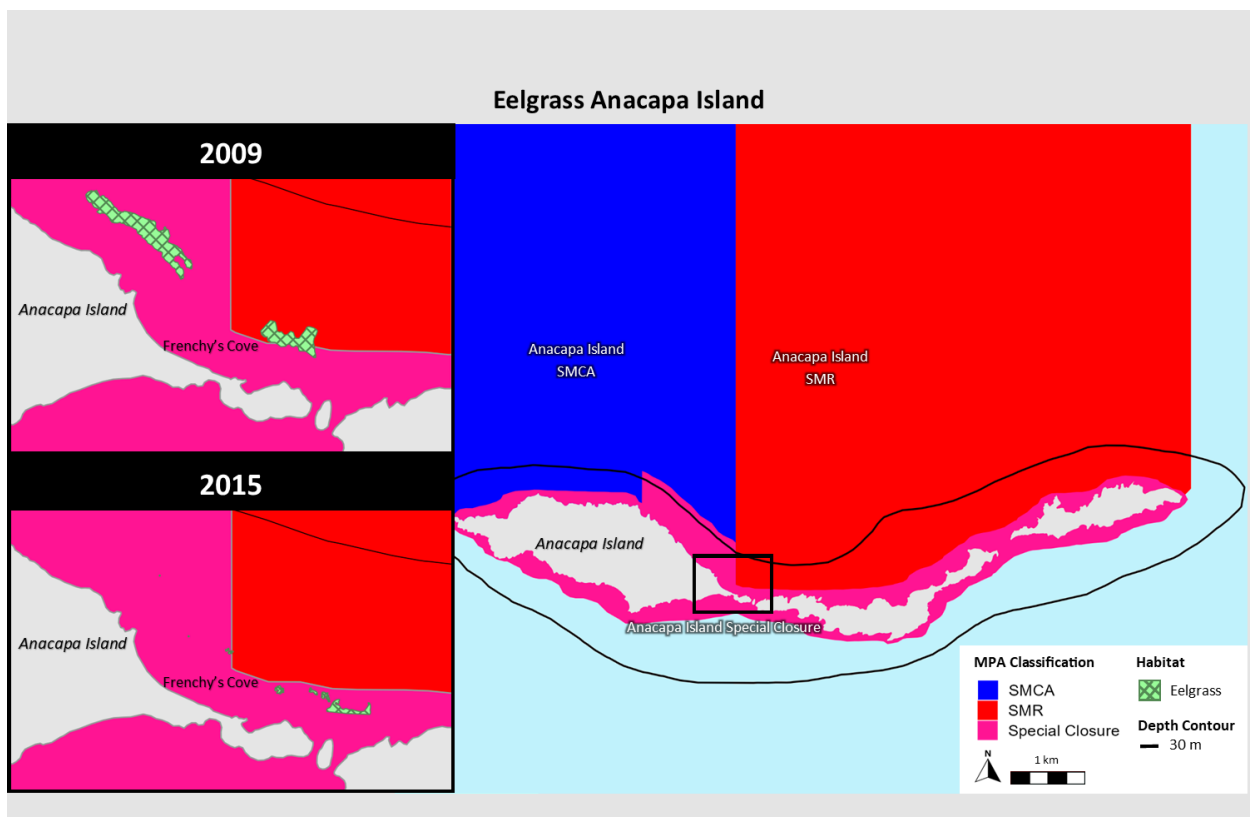


Figure 1. Eelgrass habitat maps in Frenchy's Cove on Anacapa Island, Northern Channel Islands in 2009 and 2015. These are the most recent years that coordinated eelgrass mapping surveys occurred around Anacapa Island. Eelgrass extent is depicted in green crosshatching. The Anacapa Island SMCA (blue) and SMR (red) do extend to the mean

high tide line, however, overlap with the full island Special Closure (out to 20 foot depth) and the seasonal brown pelican fledgling Special Closure in Frenchy’s Cove that extends out to 120 foot depth annually January 1-October 31 (Special Closures shown in pink).

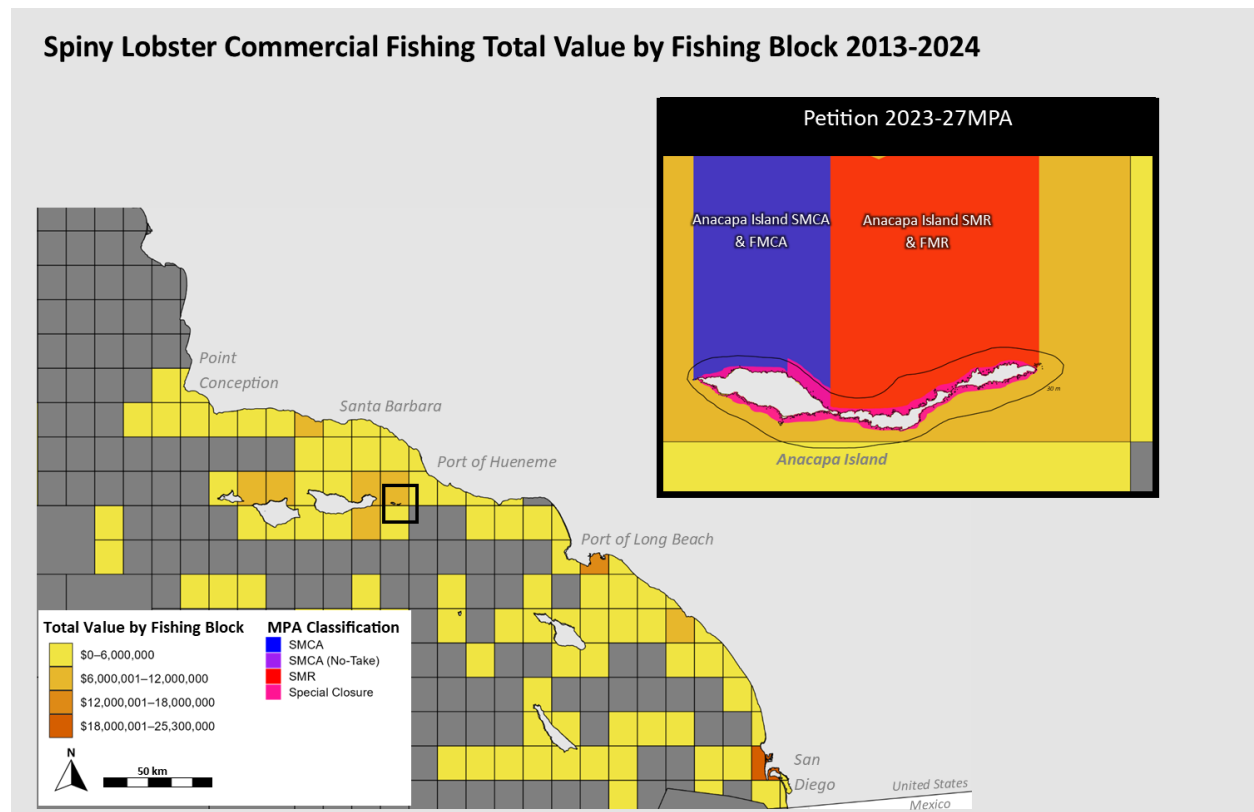


Figure 2. Total value (in millions \$US) of commercially caught California spiny lobster (*Panulirus interruptus*) from 2013 to 2024 by California Department of Fish and Wildlife fishing block for the South Coast Bioregion. Actual value provided within fishing blocks that overlap with Anacapa Island SMCA and Special Closures, and the area referenced in petition 2023-27MPA.

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