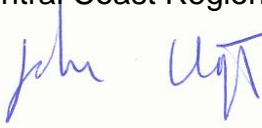


Memorandum

Date: November 1, 2007

To: Marine Life Protection Act North Central Coast Regional Stakeholder Group

From: **John Ugoretz**
Department of Fish and Game 

Subject: **Special Closures as they apply to the Marine Life Protection Act (MLPA)**

Several preliminary discussions of options for marine protected areas (MPAs) in the MLPA North Central Coast Study Region have included potential recommendations for seasonal or year-round areas closed to all access. These closed areas are proposed to help protect sea bird nesting, breeding, and roosting areas and/or marine mammal rookeries, haul-outs, and breeding colonies. The Department recommends that the Special Closure designation be used for any areas closed to access in order to be consistent with existing regulations adopted by the California Fish and Game Commission (Commission). This memo provides the background and rationale for the Department recommendation.

Use of Special Closures in past processes

The Special Closure designation is currently used for areas that have area-specific restrictions which confer some protection to species but are not based on direct take of living resources. The two most recent special closure designations were for areas at the northern Channel Islands previously included in ecological reserve designations (Anacapa and San Miguel islands, see attached). When the Commission updated the Title 14 regulations for these areas to comply with the Marine Managed Areas Improvement Act, the restrictions on access were removed from the MPA designations and re-established as separate special closures.

At Anacapa Island, the Special Closure prohibits entry into a specific area during the brown pelican fledgling period. This seasonal restriction is intended to protect newly fledged brown pelicans which may be in the water but unable to fly away from a moving vessel. The San Miguel Island Special Closure prohibits boats from entering a specific distance from shore, which varies seasonally and allows exceptions for commercial sea urchin harvesters. The San Miguel Island Special Closure also establishes specific anchorage areas with all other areas prohibited for overnight anchoring and prohibits access to all offshore rocks of the island. The San Miguel restrictions are intended to protect major elephant seal and harbor seal rookeries with additional area buffers during critical life stages. While the Anacapa Special Closure uses a depth contour as a boundary and the San Miguel Special Closure uses a distance from shore, neither has been reviewed in the Marine Life Protection Act process and these boundaries are not preferred.

At the Channel Islands, the reasons for using the Special Closure designation, as opposed to inclusion within MPA designations, were multi-fold. First, enforcement concerns had been raised regarding public confusion and lack of knowledge regarding the access restrictions. The public generally did not notice the access restriction regulations, which were buried within the take restrictions for the areas. Also, the access restrictions had different boundaries than the broader MPA, being closer to shore and sometimes having different shoreline boundaries. Finally, the purposes and goals of the access restrictions were separate from and different than the goals of the MPAs.

Application of Special Closures to the MLPA Process

Proposals for the MLPA north central coast study region should conform to this existing policy for area-based restrictions on access. The Department recommends that any no-access regulations be proposed as Special Closures. These areas may coincide with, overlay, or be separate from proposed MPAs. While distance from shore is not a preferred boundary determinant, it may be appropriate for special closures in some cases. If a distance from shore boundary is used, it must be great enough to be easily enforced. Special Closure proposals should include information on the rationale behind the proposal, species involved, and specific information on why other existing State and Federal protections are not adequate.

The Department also recommends that year-round access restrictions be analyzed in the same manner as state marine reserves, as year-round prohibitions on all access clearly provide the same or greater protection to living marine resources as no-take restrictions. Seasonal access restrictions are not equivalent to MPAs and should be analyzed based on their take restrictions, if different from general regulations.

Attachment

cc: MLPA Blue Ribbon Task Force
MLPA Initiative Staff
MLPA Science Advisory Team

Attachment
From Title 14, California Code of Regulations
Section 632(b):

...

(59) San Miguel Island Special Closure. Special restrictions on boating and access apply to San Miguel Island as follows.

(A) Boating is allowed at San Miguel Island except west of a line drawn between Judith Rock (34° 01.50' N. lat. 120° 23.30' W. long.) and Castle Rock (34° 03.30' N. lat. 120° 26.30' W. long.) where boats are prohibited closer than 300 yards from shore.

1. Notwithstanding the 300-yard boating closure between Judith Rock and Castle Rock, the following shall apply:

a. Boats may approach San Miguel Island no nearer than 100 yards from shore during the period(s) from March 15 through April 30, and October 1 through December 15; and

b. Boats operated by commercial sea urchin divers may enter waters of the 300-yard area between the western boundary of the Judith Rock State Marine Reserve at 120° 26.60' W. long. and Castle Rock for the purpose of fishing sea urchins during the period(s) from March 15 through April 30, and October 1 through December 15.

2. The department may rescind permission for boats to enter waters within 300 yards between Judith Rock and Castle Rock upon finding that impairment to the island marine mammal resource is imminent. Immediately following such closure, the department will request the commission to hear, at its regularly scheduled meeting, presentation of documentation supporting the need for such closure.

(B) Other Requirements:

1. Boats traveling within 300 yards of the shoreline or anchorages shall operate with a minimum amount of noise and shall not exceed speeds of five miles per hour.

2. Except as permitted by federal law or emergency caused by hazardous weather, boats may be anchored overnight only at Tyler Bight and Cuyler Harbor.

3. Landing is allowed on San Miguel Island only at the designated landing beach in Cuyler Harbor.

4. No person shall have access to all other offshore rocks and islands at San Miguel Island.

...

(68) Anacapa Island Special Closure.

(A) No net or trap may be used in waters less than 20 feet deep off the Anacapa Islands commonly referred to as Anacapa Island.

(B) A brown pelican fledgling area is designated from the mean high tide mark seaward to a water depth of 20 fathoms (120 feet) on the north side of West Anacapa Island between a line extending 000° True off Portuguese Rock (34° 00.91' N. lat. 119° 25.26' W. long.) to a line extending 000° True off the western edge of Frenchy's Cove (34° 00.4' N. lat. 119° 24.6' W. long.), a distance of approximately 4,000 feet. No person except department employees or employees of the National Park Service in the performance of their official duties shall enter this area during the period January 1 to October 31.