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Does 'Sanctuary' Mean Secure?

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The Monterey Bay National Marine Sanctuary off central California is the only U.S. marine sanctuary that has a naturally occurring population of sea otters. Indeed, it is in these waters that the California sea otter made its acclaimed comeback from near extinction. Today, the sanctuary continues to serve as the sea otters' life-support system, while the well-being of the otter serves as an important indicator of the sanctuary's health.

The creation of the Monterey Bay National Marine Sanctuary in 1992 was the culmination of more than 15 years of unwavering public support and tireless efforts of government officials and environmental groups to provide one of this nation's most beautiful and bountiful marine areas with a special and long-lasting level of protection.

But what does it really mean to give 'sanctuary' to a part of the ocean? Perhaps most importantly it is an act of foresight, a recognition of the value of our marine heritage, and an acknowledgment that we have an obligation to maintain these public waters, like public lands, for future generations.

The National Marine Sanctuary program is a unique federal program created in 1972 to protect entire marine ecosystems, rather than individual components such as fish or marine mammals. The aim is to safeguard healthy marine environments, rather than restore damaged ones. Administered by the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA), sanctuaries are managed through an integrated approach of enhanced resource protection, scientific research, and public education efforts. While the word sanctuary is associated with a place of refuge, national marine sanctuaries are developed with the purpose of achieving conservation while still allowing human uses. "Sanctuary" does not mean that we remove ourselves from the system, but that we honor the life within it. Importantly, however, while sanctuaries do recognize the contribution of marine resources to the economic vitality of coastal communities, their use must be compatible with the program's primary goal of resource protection. Human activities that would harm sanctuary resources are regulated.

Closing the door to oil drilling

The core of the sanctuary designation process is the issuance and review of the Draft Environmental Impact Statement and Draft Management Plan. Much of the discussion is focused on sorting out questions regarding the compatibility of existing and future uses and protection of sanctuary resources. In some cases this tug-of-war over issues has seriously stalled the designation process. In 1983, the Reagan Administration published a notice declaring that Monterey Bay was to be removed from the list of active sanctuary candidates (48 Federal Register 56253). This prompted an intense campaign to counter the sanctuary's abrupt delisting, which many viewed as an orchestrated attempt to prepare the area for the oil-drilling auction block. With the backing and activism of environmental organizations and local governments in 1988, former Congressman Leon Panetta pushed through legislation requiring sanctuary designation no later than December 31, 1989 (Pub. Law 100-627, section 205). While this congressional mandate got the designation process back on track, it was repeatedly delayed due to the continuing controversy over proposed oil and gas activities. Ultimately it was the outpouring of public support for the sanctuary that sent a message that political leaders could not ignore. A comprehensive ban on offshore oil and gas activities was eventually supported by the Bush Administration and included by NOAA in the sanctuary's final regulations.

It's not what you see, it's what you don't

Given the well-documented vulnerability of sea otters to oil, the sanctuary's prohibition of offshore oil and gas activities provides California's threatened sea otter population with an important measure of protection. Taken together with the adoption of the most comprehensive boundaries for the sanctuary (encompassing more than 5,300 square miles), California sea otters are now protected from this threat throughout most of their range. Only through an act of Congress would the specter of oil rigs again loom on the horizon of this special area.

Additional sanctuary-imposed safeguards include a prohibition on the establishment of new dump sites for the disposal of dredged materials within sanctuary boundaries and a prohibition on the discharge of primary-treated sewage. A sanctuary permit is required for activities such as (1) the discharge or deposit of materials (except those incidental to routine fishing and vessel operations); (2) the moving, removing or injuring of a sanctuary historical resource; (3) alteration of the seabed (except routine anchoring, fishing, navigation or other harbor maintenance activities); (4) "taking" of marine mammals, sea turtles, or seabirds (except as permitted under existing federal wildlife laws); (5) the operation of motorized aircraft below 1,000 feet in certain areas; and (6) possession of any historical resource, marine mammal, sea turtle, or seabird. Permits granted under local, state or other federal authorities prior to sanctuary designation still stand, although NOAA does have the authority to make them more protective of the sanctuary. Any new permits, granted by local, state, or other federal authorities after sanctuary designation must be reviewed by the sanctuary program and comply with terms and conditions necessary to protect sanctuary resources (U.S. Department of Commerce 1992).

A court decision in the spring of 1995 upheld a sanctuary regulation limiting the operation of motorized personal watercraft (e.g., jet skis) within the Monterey Bay National Marine Sanctuary (Personal Watercraft Industry Association; A. Mason Killebrew, Jr; Derek Coppersmith. v. Department of Commerce, National Oceanic and Atmospheric Administration, U.S. Court of Appeals, March 3, 1995). This regulation designates four zones and access routes for the operation of these craft. As noted in the court's decision, the intention of the regulation is to provide enhanced resource protection by prohibiting operation of motorized personal watercraft in areas of high marine mammal and seabird concentrations, kelp forest areas, rivermouths, estuaries, lagoons and other similar areas where sensitive marine resources are concentrated and most vulnerable to disturbance and other injury from personal watercraft. The court found that NOAA was acting well within its authority in setting down rules for the sanctuary that it determined were necessary and reasonable and that the record amply supported NOAA's judgement on this issue.

The coast is still not clear

Although the comprehensive boundaries and management plan adopted for the sanctuary provide meaningful protection against threats from offshore oil drilling, large-scale dumping proposals within its borders, and other potentially harmful activities within its boundaries, at this point it does little to directly elevate the protection needed from vessel-related oil spills, and point and non-point source pollution.

Most troubling is the sanctuary's failure to put forth specific regulations to keep oil tanker and barge traffic further away from sensitive areas, sea otters, and other living resources of the sanctuary. The devastating impacts of the Exxon Valdez spill—and the array of spills and close calls along the California coast and elsewhere in the world—should serve as potent reminders that an ounce of prevention is worth a pound of cure. Yet despite public outcry and concerns raised by environmental organizations and government agencies such as the California Coastal Commission, no immediate measures were put forth as part of the Monterey Bay National Marine Sanctuary designation or its management plan to control the thousands of vessels which pass through and near the sanctuary annually. As a result of citizen and environmental group advocacy, the U.S. Congress did require NOAA and the U.S. Coast Guard to prepare a report, within 18 months from the time of the site's designation, evaluating measures needed to regulate vessel traffic (Pub. Law 102-587). Despite the congressional mandate, the report has still not been released as of January 1, 1997. Meanwhile, the threat of a tanker and barge spill remains (see Bonnell et al., this issue).

In 1994 the Center for Marine Conservation released its own independent analysis of vessel traffic oil spill risks and possible solutions. *Safe Passage: Preventing Oil Spills in Our Marine Sanctuaries* (Townsend and Glazer 1994) sets forth ten detailed recommendations which, taken together, seek to:

(1) create a management regime that includes areas to be avoided (ATBA) that keep vessels further offshore, providing more time for response vessels to reach a disabled ship before it drifts ashore and/or giving spill responders time to mobilize vessels and other equipment in the event of a spill (see Figure 1);

Figure 1. Boundary for proposed area to be avoided (ATBA).

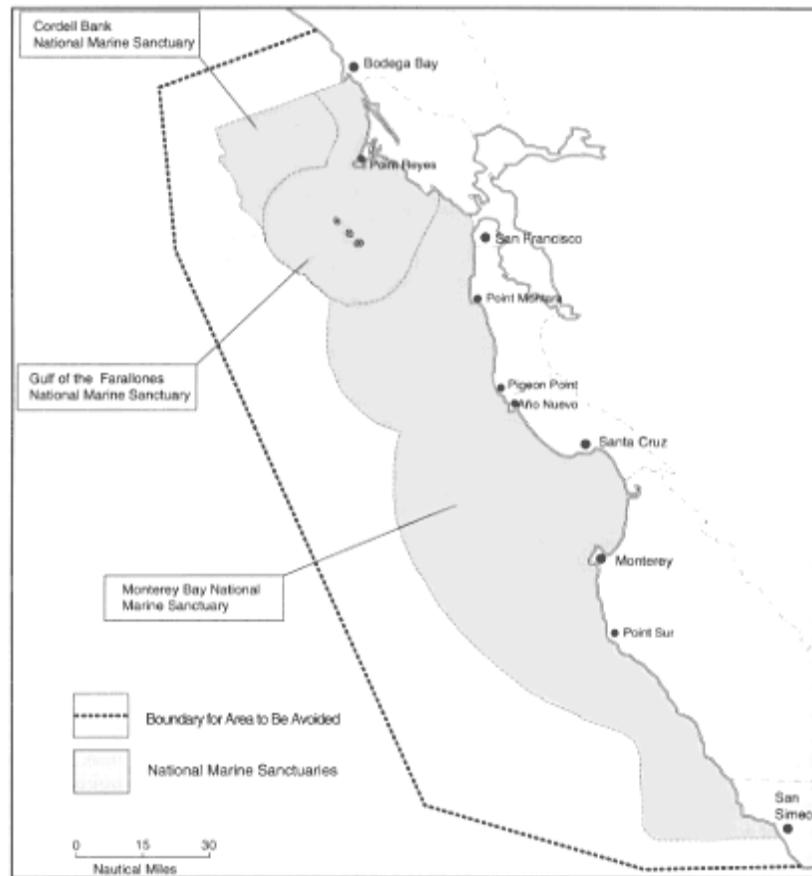


Figure 1. Boundary for proposed area to be avoided (ATBA).

(2) lessen the risks posed by vessels approaching San Francisco by employing a new traffic separation scheme that has all vessels using a common point outside of the ATBA as a staging area when entering or leaving the San Francisco Bay Area (see Figure 2), in an effort to minimize collisions and maximize the distance from the mainland and island hazards;

Figure 2. Proposed new traffic separation scheme (TSS) for vessels approaching and departing the San Francisco Bay Area.

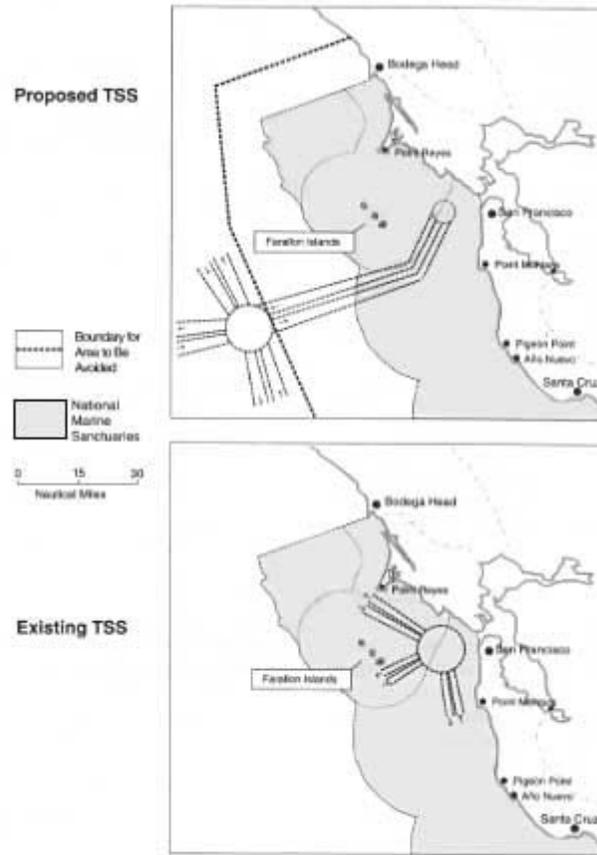


Figure 2. Proposed new traffic separation scheme (TSS) for vessels approaching and departing the San Francisco Bay Area.

(3) establish a means to respond quickly to aid a disabled vessel and control its movements by strategically stationing rescue vessels with emergency towing capability; and

(4) improve tracking of vessel movements by upgrading radar monitoring capabilities, employing state-of-the-art surveillance technology and other information gathering programs and giving vessel traffic managers more authority to track and direct vessel movements within San Francisco Bay and in the approaches to the Bay.

The recommendations presented in Safe Passage have generated much discussion and have garnered support from congressional members, the Monterey Bay National Marine Sanctuary Advisory Council, and from individuals within the U.S. Coast Guard and maritime shipping industry. However, the U. S. Coast Guard continues to fail in its responsibility to make a determination about oil spill prevention for the region. It steadfastly refused to recommend oil tanker buffer zones in its recent report Evaluation of Oil Tanker Routing (U.S. Coast Guard 1996), despite information contained in the report that shows that this region has environmental sensitivity equal to or greater than two other sanctuaries that now have buffer zones (southern California's Channel Islands and Washington's Olympic Coast). It has also engaged in a tug-of-war with NOAA over the strength of recommendations to be contained in the congressionally-mandated report on vessel traffic within the sanctuary. This struggle and the resulting wall of delay in the report's release cannot bode well for resource protection. The fact remains, however, that oil spill prevention and natural resource protection should be at the forefront of vessel traffic management. New efforts to prevent oil spills in or near sanctuaries must be taken; once the oil hits the water, the battle has been lost. Until meaningful measures are in place, the coast cannot be considered clear for the recovering California sea otter population or the other living resources of the Monterey Bay National Marine Sanctuary.

Pollutants don't respect sanctuary boundaries

Clean water is the sanctuary's life support system. Aside from oil spills, inadequately treated sewage and industrial discharges, storm drain overflows, and pesticide runoff can also compromise the sanctuary. Sanctuary activists advocated an active role for sanctuary management in protecting water quality. However, at the completion of the designation process, the State of California had retained prime authority on most water quality issues.

Moreover, a 71 square nautical mile area near San Francisco was also excised out of the sanctuary, potentially weakening the sanctuary's control over activities within it (such as high volume discharges from the San Francisco outfall).

Thus far it does appear that the sanctuary program has forged productive working relationships with existing state and federal water quality agencies and has effectively weighed in on behalf of sanctuary resources. The sanctuary has also taken a promising, proactive posture in initiating a comprehensive water quality protection program for the sanctuary and its watersheds. The Monterey Bay National Marine Sanctuary's Water Quality Protection Program is leading a core group of over two dozen representatives of public and private agencies and organizations at the federal, state, and local level in examining water quality problems and designing and implementing conservation strategies. These strategies will address issues such as urban runoff, marina and boating activities, and point-source pollution. The Program has also initiated the development of a regionally consistent water quality data base and a regional monitoring program, and is forging a stewardship approach to reduce pollution associated with the agricultural sector.

Conclusions and recommendations

It is clear that while drawing a boundary line on a map and proclaiming an area a sanctuary is an essential first step, boundaries alone do not guarantee protection. Management and regulation of potentially detrimental activities are also vital.

Today, as throughout the designation process, the sanctuary has been a focal point for important issues and healthy debate on the management of our coastal and marine resources. However, if the sanctuary is to be held up as a model for marine conservation, existing weaknesses in the sanctuary plan will need to be addressed. Crucial to protection of the sanctuary and the recovery of California's threatened sea otters is the creation and enforcement of tangible oil spill prevention policies. Given that a large proportion of the existing sea otter population is located within the boundaries of the sanctuary and that vessel-related oil spills remain a threat, it is incumbent upon the U.S. Fish and Wildlife Service (FWS) to immediately start working with the sanctuary program, the U.S. Coast Guard, and sanctuary advocates to secure these long-overdue protections. Specifically, the FWS should:

(1) provide a rigorous review and critique of the congressionally-mandated U.S. Coast Guard report on reducing the spill threat to sanctuary resources;

(2) request that public hearings be held on the report within each county adjoining the sanctuary so that report findings may be presented and public comments made;

(3) request the U.S. Coast Guard to provide a timeline for implementation of tangible oil spill prevention measures (such as those identified in the Center's Safe Passage report); and

(4) support the adoption of a specific buffer area large enough to adequately protect sea otters and other sanctuary resources. The FWS would also do well to coordinate with sanctuary management on their Water Quality Protection Program and on enforcement and monitoring issues of mutual concern, as the sanctuary is still in the early stages of constructing and implementing a more comprehensive enforcement plan.

Sanctuary designation marked the beginning, not the end, of a long-term commitment to conserve and effectively manage a world-class resource. It is a work in progress. Ensuring a truly protected future will require that all of us who use and enjoy sanctuary waters continue to carry the sanctuary torch, stay involved, and speak out. As Brooks (1985) once said about Rachel Carson, we must be "stonemasons who never lose sight of the cathedral."

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