

Testimony of Elliott A. Norse, Ph.D., President

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Introduction

My name is Elliott Norse. I am CEO of Marine Conservation Biology Institute (**MCBI**), a nationally and globally focused science-based conservation nonprofit organization headquartered in Bellevue WA, with offices in Honolulu HI, Glen Ellen CA and Washington DC. MCBI's mission is to secure protection for marine ecosystems.

After training as a marine ecologist, I've spent my career applying science to environmental policy at federal agencies, a scientific professional society and conservation organizations. My books include *Global Marine Biological Diversity: A Strategy for Building Conservation into Decision Making* (1993) and *Marine Conservation Biology: The Science of Maintaining the Sea's Biodiversity* (2005).

I began working on National Marine Sanctuaries 30 years ago as the Marine Biologist in the Ocean Programs Branch of the US Environmental Protection Agency. My primary task was to help secure protection for the proposed Flower Gardens National Marine Sanctuary in the Gulf of Mexico at a time of growing pressure to allow offshore oil and gas development. Then, as the Staff Ecologist at the White House Council on Environmental Quality from 1979-81, I did the scientific and political analyses that helped to persuade President Carter to designate Channel Islands and Gulf of the Farallones National Marine Sanctuaries off California, Gray's Reef National Marine Sanctuary off Georgia and Looe Key National Marine Sanctuary (now part of Florida Keys National Marine Sanctuary).

Having begun my career just 6 years after passage of the National Marine Sanctuaries Act (**NMSA**), when there were only 2 sanctuaries, I've witnessed the Sanctuary Program's growth and evolution for 30 years. This has provided useful perspective on its strengths and weaknesses.

National Marine Sanctuaries: The Idea vs. the Reality

The National Marine Sanctuaries Act became law in 1972, 100 years after establishment of Yellowstone, our nation's and the world's first national park. During the Sanctuary Program's 36 years, 13 National Marine Sanctuaries have been established, many of them after very, very long consideration periods. No new sanctuaries have been established by NOAA since 2000.

The National Park Service was established in 1916. By then several presidents already had set aside a core group of national parks on federal lands. More were added, as were historic and recreational sites. Our 58 National Parks provide a high degree of protection from threats, such as hunting and habitat alteration, which have largely eliminated the abundance and diversity of life in America's landscape outside of these and other highly protected areas. Today, our National Parks have become iconic places for the American public, and for millions of visitors from other countries who wish to experience nature and wildlife. Nations all over the world have followed America's lead in establishing national park systems. That is why Pulitzer Prize-winning author Wallace Stegner called National Parks "the best idea that America ever had."

Unfortunately, no one has reason to applaud our National Marine Sanctuary System to the same degree. Although President Jimmy Carter called sanctuaries "the marine equivalents of Yosemite, Big Bend, the Great Smokies, and the Everglades," the Sanctuary System has not delivered on its promise. Less than 1% of America's ocean domain is in National Marine Sanctuaries. Moreover, these sanctuaries provide inadequate protection for marine life.

There is a very large gap between America's need for sanctuaries and what the Sanctuary System has delivered so far. When I began in marine conservation in 1978, 9 years after the Santa Barbara oil spill, people were most worried about pollution, particularly oil pollution. The threat was obvious because oil floats, platforms and tankers are such visible signs of human activity. But what's most obvious may not be what's most important. Throughout the 1990s it became increasingly clear that our oceans are imperiled most of all from overfishing and destructive fishing practices, threats that were not on anyone's radar screen until then.

In 1998, in an MCBI generated statement called *Troubled Waters: A Call for Action*, more than 1,600 scientists from 70 countries called upon the world's governments to conserve ocean life by stopping overfishing and destructive fishing methods, and by establishing marine protected areas (www.mcbi.org/publications/pub_pdfs/TroubledWaters.pdf). Support for marine protected areas, particularly fully protected, no-take marine reserves, has grown dramatically since that historic scientists' declaration.

Marine reserves that are properly enforced are especially effective for conserving marine life because they:

1. Become rich oases of marine life, resembling more closely the marine ecosystems that existed before our government assumed it could "manage" all marine resources, and contrasting with the biologically impoverished unprotected areas surrounding marine reserves; and
2. Do not require anywhere near as much information to manage as do multiple-use areas, which means that they are far easier and less expensive to manage

Our waters do not belong to private interests, but are held in public trust and are supposed to be managed by our government for the benefit of all Americans. Yet, despite overwhelming

scientific evidence that marine protected areas are a powerful tool for recovering habitats and depleted species, the Sanctuary System is unable to deliver the timely and effective protection our oceans need.

America rightly abandoned its “pioneering mentality” of user-take-all in the 19th century after market hunters and other user groups had all but eliminated American bison, passenger pigeons, wolves, bears, mountain lions and the ecosystems in which they lived. But user groups still control the agenda in the sea, and still push for the right to extract publicly-owned resources for their private benefit, no matter what the cost to the public good.

Consumptive users have all but eliminated Atlantic cod, Atlantic halibut, sea turtles, right whales, Pacific abalone and rockfish species—most of these in our lifetime. The marine life that had long sustained people from Guam to the Virgin Islands has been overfished and mismanaged to the point where its prospects for recovery are poor. This has happened largely because we have been too slow to use the most powerful tool we have for protecting marine life: marine reserves.

The time has come to align the Sanctuaries Act with the latest science and the best models of placed-based ocean conservation. In particular we must reshape the Act so it can identify, establish and manage a broad suite of marine areas primarily for their conservation benefits, just as we establish parks and refuges to protect our terrestrial ecosystems.

Recommendations

Clarify and Simplify the Act’s Mission and Purpose. The National Marine Sanctuaries Act is *the* federal government’s principal ocean conservation statute. Yet, uses are permitted under the Sanctuaries Act which conflict with the Act’s primary purpose of protecting natural and cultural resources. In fact, the National Marine Sanctuaries Act actually *requires* NOAA to “facilitate all uses” in sanctuaries, and contains a number of other provisions that work against its protection goal.

I support having multiple-use lands in our oceans, so long as there we have a good balance between fully protected and multiple-use areas that maintain biodiversity and productivity on a sustainable basis. Indeed, MCBI has long advocated developing a comprehensive mosaic of zone types, ranging from ones that are fully protected from consumptive uses to ones that allow a broad range economic and recreational uses. Our entire ocean realm is now virtually one big multiple-use zone, one where more than 100 often contradictory laws pertain.

This leads to a fundamental question: Why do we have a National Marine Sanctuary Program in the first place? If National Marine Sanctuaries aren’t really sanctuaries, but multiple-use areas, they cannot be effective conservation areas. Why? Because economic users usually trump conservation uses. And if sanctuaries are not conservation areas, why do we need them?

Belying their name, sanctuaries are actually managed more like marine National Forests or BLM lands in which multiple-use is the principal management imperative. Even this comparison underestimates the problem: There are stronger protections in National Forests than in National Marine Sanctuaries.

We cannot recover and conserve our oceans if we don't employ the right strategy. To that end, I recommend the Sanctuaries Act be amended as follows:

- Make protection of natural and cultural resources the clear and primary purpose of the Act
- Establish as the mission of the program protecting, recovering and maintaining the natural and cultural resources of the Sanctuaries System unimpaired for future generations
- Clarify that the Secretary, acting through the National Ocean Service, has sole responsibility and authority to manage the entire water body and seafloor in a sanctuary and all resources within it
- Authorize the Secretary to create marine reserves in portions of all existing sanctuaries that lack them within 5 years, and to zone a portion or all of any new sanctuary as a marine reserve
- Eliminate the Act's purpose of facilitating all uses

Program Objectives and Accountability. Another problem with the Sanctuaries Act is the lack of guidance on what specific areas are to be included in the system. The Act states only that sanctuaries must be nationally significant. The Act gives discretionary power to the Secretary of Commerce to identify sanctuary sites and propose them for designation, but with no deadlines.

But what is it exactly that we wish to protect, how, and by when? Unfortunately, the Act doesn't say. This lack of specificity in the Act, I believe, is one of the principal reasons NOAA has made such modest progress in designating sanctuaries.

Today, the 13 sanctuaries encompass less than 0.5 % of the nation's 4.4 million square mile ocean domain, even though ownership of and management authority for these waters rests complete with federal and state governments, who are unencumbered by private ownership issues. In contrast, approximately 6.5% of America's land area has been protected in National Parks or National Wildlife Refuges, 4.7 % is protected in the national wilderness preservation system, and 8.5 % lies within national forests.

Furthermore, there are immense gaps in the coverage of our National Marine Sanctuaries. Large geographic areas (e.g., Alaska, the Caribbean, Mid-Atlantic, and Central Pacific Islands) have few or no sanctuaries. Many types of ecological communities and unique habitats have no representation. The Sanctuary Program is not well coordinated with the Marine Mammal or Endangered Species Programs of NOAA. And even within the Sanctuary System, only 3% of the area is fully protected in marine reserves.

Historically, NOAA has struggled with the system's composition and site inventory methodology. Today, NOAA still lacks a coherent strategy for systematically identifying candidate sanctuaries, and lacks a marine bioregion classification system, which should be the basis for proposing and evaluating sites for designation.

It is time to remedy the Act's lack of specificity about what the system should be protecting, so that the Sanctuary Program can set clear objectives, and the Congress can measure progress. I recommend the following changes:

- Require NOAA to develop a marine ecosystem classification system for the 48 contiguous states within 2 years, based on currently available information and scientific opinion, and for the rest of US and territorial waters within 5 years. (Australia's Great Barrier Reef Marine Park Authority was charged with developing a marine bioregion classification system, and did so quickly and efficiently along a coast nearly the length of Boston to Miami). Update the classification as necessary to accommodate new information
- Direct the Secretary to inventory potential sanctuary sites within each biogeographic region on an ongoing basis, and to prepare a list of potential sanctuary sites that capture the full array of the nation's diverse ecosystems.
- Repeal the limitation language in the Act regarding designation of new sanctuaries
- Provide a separate appropriations authorization level for the classification and inventory of \$5 million

Strengthen the Act's Protections. It is unlawful under the Sanctuaries Act to harm or destroy any sanctuary resource, provided that the resource is "managed under law or regulations for that sanctuary." No categories of uses or activities are prohibited outright by the Act, however damaging they may be.

Furthermore, the Secretary may simply exempt any use from regulation by not choosing to regulate the use at the time of designation. This has happened with fishing, aquaculture, noise and other activities or uses. In other words, if any user group can apply enough political pressure, the ocean's natural resources will lose.

Those provisions have proven to be huge loopholes.

For example, bottom trawling, which is considered the most destructive method of commercial fishing because it has very high by-catch (unwanted species) and causes profound disturbance to seafloor life, is allowed in roughly 50% of Sanctuary System waters. Yet, we are all familiar with the devastation trawling and dredging can do to marine ecosystems as evidenced by the picture I have supplied of the *Oculina* Banks off Florida.

This area, designated a Habitat Area of Particular Concern under the Magnuson-Stevens Act, has been almost completely destroyed by bottom trawling.

Let your own eyes help you answer this question: Is bottom trawling in a sanctuary compatible with resource protection? What other “multiple uses” belong or don’t belong in sanctuaries?

Not surprisingly, NOAA cannot even tell us what damage bottom trawling has done or continues to do in the sanctuaries where it occurs. The practice is just accepted.

I find the Act’s approach to protection anachronistic, a reflection of a time when we were far less concerned or informed about the imperiled status of our living oceans. It also is inconsistent with the best available science and with the goal of making the Sanctuary System the *one* ocean management system that balances multiple use systems in the rest of the ocean. To redress the balance, the following changes are recommended:

- Mandate the Secretary phase out bottom trawling in existing sanctuaries within 5 years unless the Secretary finds that it can continue without harming the sanctuary
- Amend the Act to prohibit any bottom trawling, waste disposal, aquaculture facility construction, or exploration or development of oil and gas or any other mineral in new sanctuaries
- Repeal the provision of the Act that gives the Secretary the power to exempt activities from regulation in any sanctuaries; specify all uses are subject to regulation by the Secretary and that incompatible uses be prohibited and terminated

Conclusion

The Sanctuary Program is not keeping up with the latest science, is not providing comprehensive protection to the sanctuaries that exist, and is not winning the race to set aside examples of our nation’s important and unique marine habitats before they are degraded or lost.

Nations including Australia, New Zealand and Kiribati lead the US in designating marine reserves. As the nation with the world’s largest area of ocean jurisdiction, the world’s richest nation, and the one with the most marine scientists, America must do better. Just as the US had the vision to be the world leader in protecting our best places on land, we need to become the world leader in protecting our best places in the sea. The place to start is in our National Marine Sanctuaries.

With mounting scientific and public concern about declining oceans, and the need to reauthorize the Sanctuaries Act, the time is right to transform the National Marine Sanctuary System into a more potent program for conserving ocean places. Doing so would require aligning the program with the new scientific paradigm of ecosystem-based management, and mandating the creation of marine reserves within existing and new sanctuaries to help restore and protect our oceans for everyone.

With changes such as the ones I propose, our nation will reap the benefits of healthier oceans, abundant wildlife, and sustainable ocean uses, as well as create a network of areas that will be the most resilient to climate change.

I urge the committee to transform the Sanctuary Program into a robust conservation system that can help recover our depleted oceans.

Thank you for considering my views.