UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Silver Spring, Maryland 20910

MAR 30 2012

Marcie Keever
Oceans & Vessels Campaign Director
Friends of the Earth
311 California Street
San Francisco, CA 94104

Dear Ms. Keever:

This letter is in response to the petition from the Center for Biological Diversity, Friends of the Earth, Environmental Defense Center, and Pacific Environment (collectively, petitioners) that was submitted to the Secretary of Commerce through the National Oceanic and Atmospheric Administration (NOAA) on June 6, 2011. The petition requests that NOAA establish a 10-knot speed limit for vessels greater than 65 feet traveling within Cordell Bank, Gulf of the Farallones, Monterey Bay, and Channel Islands national marine sanctuaries. The petition claims that the requested vessel speed restriction would reduce or avoid significant threats to marine resources, including protected species, resulting from vessel traffic in these areas. The petition also asserts that the requested speed reduction would mitigate underwater noise pollution and air pollution, including greenhouse gas emissions, from vessel traffic.

We thank you for your organizations' contributions to the conservation of marine resources and protected species, and we appreciate your ongoing efforts to call attention to this important problem. As you are aware through your work with NOAA, NOAA's Office of National Marine Sanctuaries (ONMS) and National Marine Fisheries Service (NMFS) have been working to reduce ship strikes of large whales. ONMS is responsible for implementing the National Marine Sanctuaries Act (NMSA), while NMFS is responsible for implementing the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA). Most large whale species are protected under the ESA and all whale species are protected under the MMPA. Many marine species, including whales, are also protected under the National Marine Sanctuaries Act (NMSA) while in a national marine sanctuary.

NOAA shares your concern about both individual mortalities of large whales resulting from ship strikes and the impacts that such strikes can have on whale populations and the ecosystem, both within and outside national marine sanctuaries. As your petition notes, NOAA has already taken many steps to address this issue. Management strategies currently being used by ONMS include:

- monitoring and surveillance of whales and vessel traffic in sanctuaries;
- outreach and education to the shipping industry and the general public, including the identification of a Whale Advisory Zone in the Santa Barbara Channel; and
- interagency collaborations directed towards reducing the threat from vessel traffic to whales.

NMFS has been a key collaborator with ONMS on a number of these efforts. NMFS' approach to addressing ship strikes in California is focused on four areas:

- conducting studies to better understand the nature of ship strikes of large whales along the California coast;
- improving reporting of whales that have been struck and NOAA's ability to respond and conduct analysis of injured whales;
- sharing information with the shipping industry and other user constituents to help find alternatives to minimize the threat of ship strikes; and
- ensuring that NOAA's regulatory responsibilities are met under the ESA and MMPA.

These ongoing and planned activities are further described in the enclosed document.

Despite our continuing management strategies, whales continue to be struck by ships traveling in or near national marine sanctuaries along the California coast. For that reason, NOAA continues to explore and develop a suite of strategies aimed at reducing the occurrence of whale strikes in that region. While NOAA recognizes vessel speed restrictions as a legitimate management tool for the prevention of whale strikes, and has implemented speed restrictions to protect North Atlantic right whales on the East Coast, speed restrictions are not the only available means for reducing the threat, and a thorough consideration of the advantages and disadvantages is needed before imposing them. Efforts to reduce whale strikes off California are likely to be more effective if developed and implemented collaboratively with the shipping industry, other agencies, experts, biologists, and the public, which will require additional time for ongoing coordination and consultation. Consequently, NOAA concludes that a comprehensive assessment and response to the problem, such as the strategies currently in development (described in this letter and the enclosed document), are needed in order to develop the most appropriate means to reduce impacts to whale populations from ship strikes.

To achieve a comprehensive response to the problem of vessel strikes, ONMS has initiated several near-term strategies that include establishing a joint Sanctuary Advisory Council working group to provide recommendations on methods for reducing vessel strikes and acoustic impacts to whales (which could include reducing vessel speeds along with other measures), and improving outreach to the shipping industry to raise awareness of voluntary speed reduction recommendations and advisories. ONMS is also working within NOAA to develop tools to predict whale occurrence and densities, and is coordinating with the U.S. Coast Guard and the maritime industry to develop measures to reduce the threat of ship strikes. In doing so, we are drawing on experiences derived from NMFS's efforts to protect North Atlantic right whales on the East Coast, which included the development of an overall strategy involving, among other things, interagency, intergovernmental, and international collaboration, and use of a suite of ship-strike reduction measures relying in part on mandatory and voluntary routing changes, speed restrictions, and mariner outreach.

NOAA is committed to evaluating the risks posed by vessel strikes, determining the appropriate management responses, and working with our partners to develop and implement management recommendations that are most likely to succeed in reducing the threat, which could include vessel speed restrictions. The actions that NOAA will undertake to achieve these objectives are described below as both near-term actions, which will occur within a year, and mid-term or long-

term activities, which will require additional time both to develop and to assess their effectiveness in reducing strikes of whales by large vessels.

Near-term Actions

- Starting in January 2011, ONMS has been facilitating a community-based planning process for the central California sanctuaries (Gulf of the Farallones and Cordell Bank sanctuaries) to identify and evaluate options. This Sanctuary Advisory Council working group process supports a thoughtful assessment of the vessel traffic issue, namely ship strikes and acoustic impacts, and consideration of a variety of management tools to reduce those threats to whales. We appreciate the involvement of the petitioners in our working group processes. One of the management options that is being evaluated by the working group is the reduction of vessel speeds in the sanctuaries. With regard to vessel speeds, this group will specifically evaluate what effect, if any, reducing ship speeds to 10 knots would have. Recommendations from the working group are scheduled to be presented in spring 2012 to the Sanctuary Advisory Councils, which in turn provide their advice to the superintendents. Given the complexity of this issue, the superintendents may also request further evaluation by NOAA scientists and managers. It is extremely important that our Sanctuary Advisory Councils and sanctuary superintendents benefit from the expertise and counsel of this working group and have a chance to consider its recommendations. Advisory councils are a proven and effective way to gather public support, as well as stakeholder engagement, prior to engaging in a rulemaking process in a sanctuary. The long-term positive impact of providing for deliberate feedback from the community prior to proposing a rule should not be underestimated.

- NOAA is evaluating current management strategies and outreach to the shipping industry.

- NOAA is exploring ways to enhance voluntary actions from the shipping industry within the Santa Barbara Channel Whale Advisory Zone to reduce the risk of lethal ship strikes.

- NOAA is working with the Coast Guard and the maritime industry to evaluate the current process for issuing Local and Broadcast Notices to Mariners in southern California. When this evaluation is complete, NOAA will work to make appropriate improvements. A similar notice process is being evaluated for central California to help to reduce the threat of ship strikes in that area. If appropriate, similar Notices to Mariners will be issued for central California during the region's whale season in 2012 (approximately July through October). NOAA will continue to work with the Coast Guard to issue Notices to Mariners and evaluate whether they are having the desired effect on maritime communities in the region.

- ONMS will analyze existing historical spatial data on the abundance and distribution of whale species and krill (a food source for whales) in relation to current shipping lanes in and near Monterey Bay sanctuary. This analysis will be used to determine

the need for Local and Broadcast Notices to Mariners and the consideration of other measures to reduce the threat of vessel strikes in that sanctuary.

Activities Under Development

- NOAA will seek to expand aerial surveys to monitor the presence of whales along the California coast, as resources allow.

- NOAA will continue ongoing monitoring programs to collect, compile, and analyze data that will be combined with oceanographic data and used to develop and refine models and other predictive tools, which will enhance understanding of the temporal and spatial distribution of whales and their food sources along the California coast. This, in turn, will increase the capability of detecting large whales in sanctuaries and near shipping channels.

- NOAA will continue to engage with the shipping industry that utilizes waters off southern and central California to enlist its participation in developing actions that vessel operators can take to reduce the risk of lethal ship strikes of whales.

- NOAA will engage with the Coast Guard in pursuing actions associated with the Port Access Route Studies (PARS) underway for the San Francisco Bay and Los Angeles/Long Beach areas. In June 2011, the Coast Guard published the findings of the San Francisco PARS, which incorporated information provided by NOAA that suggested modifications to the existing Traffic Separation Scheme (TSS) in the San Francisco Bay area. These modifications could reduce the co-occurrence of whales and vessels; that is, the likelihood of whales and ship traffic being in the same place at the same time. Similarly, in November 2011, the Coast Guard published the findings of the Los Angeles/Long Beach PARS, which also incorporated information provided by NOAA to help protect marine resources, including whales, by modifying the existing TSS in the Santa Barbara Channel. Any proposed changes to either TSS would be a Federal action subject to consultation under the ESA and NMSA, as well as analysis of potential environmental impacts under the National Environmental Policy Act. Thus, NOAA will be engaged with the Coast Guard throughout its decision-making process. This approach is modeled on the successful actions used at the Stellwagen Bank National Marine Sanctuary.

- NOAA will continue to evaluate how changes in California's air quality regulations are affecting vessel traffic patterns. New standards imposed by the state have resulted in altered shipping routes and speeds, which may reduce vessel strikes. Data from vessel tracking studies indicate that, in order to comply with California's new air quality standards within 24 nautical miles of shore, shipping companies have chosen alternate routes that avoid the state's jurisdiction. In southern California, vessels have traveled south of the existing TSS and Channel Islands NMS to an area where the U.S. Navy conducts various operations. In that area, data on whale densities is limited and is difficult to collect. As shipping routes have changed, NOAA has begun working with the U.S. Navy to monitor the presence and densities of whales in the area south of Channel Islands NMS.

As these actions indicate, NOAA takes the issue of vessel strikes seriously and is committed to reducing the risk of collisions between ships and whales, particularly in national marine sanctuaries. An evaluation of results from these actions will enable NOAA to make informed decisions about effective management tools that may be used to address the problem for each of these areas. It is possible that voluntary programs developed in collaboration with the shipping industry will reduce the threat of vessel strikes, thereby negating the need for regulations. However, if voluntary programs do not reduce whale strike occurrences, NOAA may decide to implement other actions, including mandatory speed restrictions. In the meantime, NOAA is concerned that promulgating a separate speed limit for vessels transiting the national marine sanctuaries off the California coast, rather than considering this as one part of a multifaceted strategy, would limit the agency's ability to develop such a comprehensive management approach.

For these reasons, NOAA is declining to issue a 10-knot speed restriction at this time, as requested in the petition, so that we may continue directing our resources to proceeding with the ongoing development and implementation of a comprehensive ship-strike reduction strategy for the West Coast. Promulgating a separate speed limit at this time, as the petitioners have requested, would interrupt the development of this strategy, curtail full participation from the public and the shipping industry, duplicate agency efforts, and divert agency resources necessary for the development of a more comprehensive management approach, which would further delay implementation of other appropriate policies. Proposing a separate speed limit may also negatively affect our ability to engage the shipping industry, whose participation in NOAA's ongoing assessment and policy development is essential to the agency's success due to limited enforcement resources on the West Coast. Instead of imposing individual management measures in a piecemeal fashion, NOAA continues to believe that putting a comprehensive strategy in place is the best course of long-term action. For these reasons, issuing a separate speed limit at this time would undermine NOAA's efforts to address this problem. Therefore, NOAA is denying the petition so that ONMS and NMFS may direct their efforts to identifying and implementing a comprehensive ship-strike reduction strategy on the West Coast.

As the petitioners point out, vessel speed restrictions have been in place on the East Coast for the protection of North Atlantic right whales for some time. Those speed restrictions were part of a broader strategy including routing measures, the involvement of the International Maritime Organization and multiple agencies, and extensive outreach programs. Analysis of the effectiveness of those restrictions is underway. Those restrictions were also based on knowledge, derived from decades of systematic surveys and whale-sighting information, of the predictable and recurring presence of right whales, a situation that does not exist for whale species on the West Coast. Whale species occurring in the nearshore waters of the West Coast differ from right whales in biology, natural history, occurrence, behavior, and abundance. The oceanography that contributes to the distribution of whales and their prey also differs in these two regions. As a result, management approaches may also differ.

The need for the development of a unique management approach on the West Coast has been addressed in responding to a previous petition related to ship strikes. Although NMFS is not specifically named in the petition, it previously responded to a similar petition sent to the

Secretary of Commerce by the Center for Biological Diversity (CBD) on September 25, 2007. That earlier petition requested that NMFS implement, on an emergency basis, a 10-knot speed limit in the Santa Barbara Channel for all vessels over 65 feet in length, and that the restriction remain in effect while blue whales were present in the area. That petition also requested, in the event that NMFS determined that an emergency rulemaking was not warranted, the implementation of protective measures prior to the return of blue whales the following year. NMFS determined that a rulemaking of any kind was not warranted at that time.[3] In its response to the 2007 petition, NMFS explained that management measures deemed appropriate for the protection of North Atlantic right whales may not be appropriate for protecting blue whales on the West Coast, based on what we know about the abundance and behavior of the two different whale species in very different environments. Consequently, in evaluating whether speed restrictions may also be a useful approach to protecting blue whales on the West Coast, ONMS cannot simply rely on regulations issued to protect a different species in a different environment.

At the same time, ONMS recognizes that speed restrictions may warrant consideration during the ongoing development of a comprehensive management approach. Doing so requires a careful consideration of speed measures in the context of alternative but related approaches that may include routing measures, outreach programs, and other voluntary and mandatory measures. For that reason, NOAA is dedicating resources to expand and improve monitoring of whales off California, as explained above. The information gathered will be used to develop and refine models and other predictive tools, which will allow us to better understand the temporal and spatial distribution of whales and their food sources along the California coast. This, in turn, will increase the capability of detecting large whales in sanctuaries and near shipping channels. As we work to improve our understanding of the problem, NOAA is committed to working with its partners, other agencies, stakeholders, and the public to evaluate and enhance appropriate management measures. For example, as noted above, NOAA is assisting in the Coast Guard's process of evaluating whether potential modifications to the traffic separation schemes at the approaches for San Francisco Bay and Los Angeles/Long Beach harbor would reduce vessel strikes. This approach is modeled on the successful actions used at the Stellwagen Bank National Marine Sanctuary.

The petitioners' concerns related to noise pollution are also shared by NOAA. Consequently, noise is one of the topics being explored by the Sanctuary Advisory Council working group mentioned above. At this time, NOAA does not believe that mandatory speed restrictions are the best available approach to address the introduction of underwater noise, for the same reasons provided for not implementing mandatory speed restrictions to reduce the risk of whale strikes. While remaining open to this possibility and awaiting the recommendations of the Sanctuary Advisory Council working group, NOAA believes that reducing underwater noise by imposing vessel speed restrictions is a matter that would require further consideration.

Finally, regarding the petitioners' concerns related to air pollution, including greenhouse gas emissions from vessel traffic in sanctuaries, we believe that there are many more effective ways to improve air quality in national marine sanctuaries and reduce the potential impacts of climate

[3] Letter from John Oliver, NOAA Acting Assistant Administrator for Fisheries, to Brendan Cummings, Center for Biological Diversity (Jan. 8, 2008).

change than imposing the speed restriction requested by the petitioners. Steps being taken by other agencies to directly address emissions will likely have a more significant effect on air quality in national marine sanctuaries than any decision by NOAA to reduce vessel speeds within those small areas. For example, current efforts by the state of California to ensure compliance with heightened air quality standards and other regulations may lead to voluntary or mandatory vessel speed reductions for large vessels traveling along the West Coast in order to reduce air pollution and greenhouse gas emissions. Consequently, NOAA is monitoring the actions of local, state, and Federal air quality agencies to determine what impact, if any, those actions will have on climate change and air quality in national marine sanctuaries. Therefore, reducing air pollution is not a persuasive reason, at this time, to adopt the vessel speed restriction proposed by the petitioners.

We appreciate and share your concern for the protection of whales and other marine species within the national marine sanctuaries of California. We thank those petitioners who serve on our Sanctuary Advisory Councils and have been working with us on reducing anthropogenic impacts to whales within national marine sanctuaries.

If you would like to discuss this matter further, please contact Dr. Lisa Wooninck, Policy Coordinator for the ONMS West Coast Region, at 831-647-1920, extension 104. If you are interested, the ONMS West Coast Regional Office can also arrange a meeting with you during spring 2012 to provide a review of the progress of the ongoing and planned actions and activities outlined in this letter. Please contact Dr. Wooninck if you are interested in such a meeting.

Thank you for your interest in this important matter.

Sincerely,

David M. Kennedy
Assistant Administrator for
Ocean Services and Coastal Zone Management

Enclosure

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Silver Spring, Maryland 20910

MAR 30 2012

Linda Krop
Chief Counsel
Environmental Defense Center
906 Garden Street
Santa Barbara, CA 93101

Dear Ms. Krop:

This letter is in response to the petition from the Center for Biological Diversity, Friends of the Earth, Environmental Defense Center, and Pacific Environment (collectively, petitioners) that was submitted to the Secretary of Commerce through the National Oceanic and Atmospheric Administration (NOAA) on June 6, 2011. The petition requests that NOAA establish a 10-knot speed limit for vessels greater than 65 feet traveling within Cordell Bank, Gulf of the Farallones, Monterey Bay, and Channel Islands national marine sanctuaries. The petition claims that the requested vessel speed restriction would reduce or avoid significant threats to marine resources, including protected species, resulting from vessel traffic in these areas. The petition also asserts that the requested speed reduction would mitigate underwater noise pollution and air pollution, including greenhouse gas emissions, from vessel traffic.

We thank you for your organizations' contributions to the conservation of marine resources and protected species, and we appreciate your ongoing efforts to call attention to this important problem. As you are aware through your work with NOAA, NOAA's Office of National Marine Sanctuaries (ONMS) and National Marine Fisheries Service (NMFS) have been working to reduce ship strikes of large whales. ONMS is responsible for implementing the National Marine Sanctuaries Act (NMSA), while NMFS is responsible for implementing the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA). Most large whale species are protected under the ESA and all whale species are protected under the MMPA. Many marine species, including whales, are also protected under the National Marine Sanctuaries Act (NMSA) while in a national marine sanctuary.

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NMFS has been a key collaborator with ONMS on a number of these efforts. NMFS' approach to addressing ship strikes in California is focused on four areas:

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These ongoing and planned activities are further described in the enclosed document.

Despite our continuing management strategies, whales continue to be struck by ships traveling in or near national marine sanctuaries along the California coast. For that reason, NOAA continues to explore and develop a suite of strategies aimed at reducing the occurrence of whale strikes in that region. While NOAA recognizes vessel speed restrictions as a legitimate management tool for the prevention of whale strikes, and has implemented speed restrictions to protect North Atlantic right whales on the East Coast, speed restrictions are not the only available means for reducing the threat, and a thorough consideration of the advantages and disadvantages is needed before imposing them. Efforts to reduce whale strikes off California are likely to be more effective if developed and implemented collaboratively with the shipping industry, other agencies, experts, biologists, and the public, which will require additional time for ongoing coordination and consultation. Consequently, NOAA concludes that a comprehensive assessment and response to the problem, such as the strategies currently in development (described in this letter and the enclosed document), are needed in order to develop the most appropriate means to reduce impacts to whale populations from ship strikes.

To achieve a comprehensive response to the problem of vessel strikes, ONMS has initiated several near-term strategies that include establishing a joint Sanctuary Advisory Council working group to provide recommendations on methods for reducing vessel strikes and acoustic impacts to whales (which could include reducing vessel speeds along with other measures), and improving outreach to the shipping industry to raise awareness of voluntary speed reduction recommendations and advisories. ONMS is also working within NOAA to develop tools to predict whale occurrence and densities, and is coordinating with the U.S. Coast Guard and the maritime industry to develop measures to reduce the threat of ship strikes. In doing so, we are drawing on experiences derived from NMFS's efforts to protect North Atlantic right whales on the East Coast, which included the development of an overall strategy involving, among other things, interagency, intergovernmental, and international collaboration, and use of a suite of ship-strike reduction measures relying in part on mandatory and voluntary routing changes, speed restrictions, and mariner outreach.

NOAA is committed to evaluating the risks posed by vessel strikes, determining the appropriate management responses, and working with our partners to develop and implement management recommendations that are most likely to succeed in reducing the threat, which could include vessel speed restrictions. The actions that NOAA will undertake to achieve these objectives are described below as both near-term actions, which will occur within a year, and mid-term or long-

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the need for Local and Broadcast Notices to Mariners and the consideration of other measures to reduce the threat of vessel strikes in that sanctuary.

Activities Under Development

- NOAA will seek to expand aerial surveys to monitor the presence of whales along the California coast, as resources allow.

- NOAA will continue ongoing monitoring programs to collect, compile, and analyze data that will be combined with oceanographic data and used to develop and refine models and other predictive tools, which will enhance understanding of the temporal and spatial distribution of whales and their food sources along the California coast. This, in turn, will increase the capability of detecting large whales in sanctuaries and near shipping channels.

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As these actions indicate, NOAA takes the issue of vessel strikes seriously and is committed to reducing the risk of collisions between ships and whales, particularly in national marine sanctuaries. An evaluation of results from these actions will enable NOAA to make informed decisions about effective management tools that may be used to address the problem for each of these areas. It is possible that voluntary programs developed in collaboration with the shipping industry will reduce the threat of vessel strikes, thereby negating the need for regulations. However, if voluntary programs do not reduce whale strike occurrences, NOAA may decide to implement other actions, including mandatory speed restrictions. In the meantime, NOAA is concerned that promulgating a separate speed limit for vessels transiting the national marine sanctuaries off the California coast, rather than considering this as one part of a multifaceted strategy, would limit the agency's ability to develop such a comprehensive management approach.

For these reasons, NOAA is declining to issue a 10-knot speed restriction at this time, as requested in the petition, so that we may continue directing our resources to proceeding with the ongoing development and implementation of a comprehensive ship-strike reduction strategy for the West Coast. Promulgating a separate speed limit at this time, as the petitioners have requested, would interrupt the development of this strategy, curtail full participation from the public and the shipping industry, duplicate agency efforts, and divert agency resources necessary for the development of a more comprehensive management approach, which would further delay implementation of other appropriate policies. Proposing a separate speed limit may also negatively affect our ability to engage the shipping industry, whose participation in NOAA's ongoing assessment and policy development is essential to the agency's success due to limited enforcement resources on the West Coast. Instead of imposing individual management measures in a piecemeal fashion, NOAA continues to believe that putting a comprehensive strategy in place is the best course of long-term action. For these reasons, issuing a separate speed limit at this time would undermine NOAA's efforts to address this problem. Therefore, NOAA is denying the petition so that ONMS and NMFS may direct their efforts to identifying and implementing a comprehensive ship-strike reduction strategy on the West Coast.

As the petitioners point out, vessel speed restrictions have been in place on the East Coast for the protection of North Atlantic right whales for some time. Those speed restrictions were part of a broader strategy including routing measures, the involvement of the International Maritime Organization and multiple agencies, and extensive outreach programs. Analysis of the effectiveness of those restrictions is underway. Those restrictions were also based on knowledge, derived from decades of systematic surveys and whale-sighting information, of the predictable and recurring presence of right whales, a situation that does not exist for whale species on the West Coast. Whale species occurring in the nearshore waters of the West Coast differ from right whales in biology, natural history, occurrence, behavior, and abundance. The oceanography that contributes to the distribution of whales and their prey also differs in these two regions. As a result, management approaches may also differ.

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Secretary of Commerce by the Center for Biological Diversity (CBD) on September 25, 2007. That earlier petition requested that NMFS implement, on an emergency basis, a 10-knot speed limit in the Santa Barbara Channel for all vessels over 65 feet in length, and that the restriction remain in effect while blue whales were present in the area. That petition also requested, in the event that NMFS determined that an emergency rulemaking was not warranted, the implementation of protective measures prior to the return of blue whales the following year. NMFS determined that a rulemaking of any kind was not warranted at that time.[4] In its response to the 2007 petition, NMFS explained that management measures deemed appropriate for the protection of North Atlantic right whales may not be appropriate for protecting blue whales on the West Coast, based on what we know about the abundance and behavior of the two different whale species in very different environments. Consequently, in evaluating whether speed restrictions may also be a useful approach to protecting blue whales on the West Coast, ONMS cannot simply rely on regulations issued to protect a different species in a different environment.

At the same time, ONMS recognizes that speed restrictions may warrant consideration during the ongoing development of a comprehensive management approach. Doing so requires a careful consideration of speed measures in the context of alternative but related approaches that may include routing measures, outreach programs, and other voluntary and mandatory measures. For that reason, NOAA is dedicating resources to expand and improve monitoring of whales off California, as explained above. The information gathered will be used to develop and refine models and other predictive tools, which will allow us to better understand the temporal and spatial distribution of whales and their food sources along the California coast. This, in turn, will increase the capability of detecting large whales in sanctuaries and near shipping channels. As we work to improve our understanding of the problem, NOAA is committed to working with its partners, other agencies, stakeholders, and the public to evaluate and enhance appropriate management measures. For example, as noted above, NOAA is assisting in the Coast Guard's process of evaluating whether potential modifications to the traffic separation schemes at the approaches for San Francisco Bay and Los Angeles/Long Beach harbor would reduce vessel strikes. This approach is modeled on the successful actions used at the Stellwagen Bank National Marine Sanctuary.

The petitioners' concerns related to noise pollution are also shared by NOAA. Consequently, noise is one of the topics being explored by the Sanctuary Advisory Council working group mentioned above. At this time, NOAA does not believe that mandatory speed restrictions are the best available approach to address the introduction of underwater noise, for the same reasons provided for not implementing mandatory speed restrictions to reduce the risk of whale strikes. While remaining open to this possibility and awaiting the recommendations of the Sanctuary Advisory Council working group, NOAA believes that reducing underwater noise by imposing vessel speed restrictions is a matter that would require further consideration.

Finally, regarding the petitioners' concerns related to air pollution, including greenhouse gas emissions from vessel traffic in sanctuaries, we believe that there are many more effective ways to improve air quality in national marine sanctuaries and reduce the potential impacts of climate

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change than imposing the speed restriction requested by the petitioners. Steps being taken by other agencies to directly address emissions will likely have a more significant effect on air quality in national marine sanctuaries than any decision by NOAA to reduce vessel speeds within those small areas. For example, current efforts by the state of California to ensure compliance with heightened air quality standards and other regulations may lead to voluntary or mandatory vessel speed reductions for large vessels traveling along the West Coast in order to reduce air pollution and greenhouse gas emissions. Consequently, NOAA is monitoring the actions of local, state, and Federal air quality agencies to determine what impact, if any, those actions will have on climate change and air quality in national marine sanctuaries. Therefore, reducing air pollution is not a persuasive reason, at this time, to adopt the vessel speed restriction proposed by the petitioners.

We appreciate and share your concern for the protection of whales and other marine species within the national marine sanctuaries of California. We thank those petitioners who serve on our Sanctuary Advisory Councils and have been working with us on reducing anthropogenic impacts to whales within national marine sanctuaries.

If you would like to discuss this matter further, please contact Dr. Lisa Wooninck, Policy Coordinator for the ONMS West Coast Region, at 831-647-1920, extension 104. If you are interested, the ONMS West Coast Regional Office can also arrange a meeting with you during spring 2012 to provide a review of the progress of the ongoing and planned actions and activities outlined in this letter. Please contact Dr. Wooninck if you are interested in such a meeting.

Thank you for your interest in this important matter.

Sincerely,

David M. Kennedy
Assistant Administrator for
Ocean Services and Coastal Zone Management

Enclosure

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Silver Spring, Maryland 20910

MAR 3 0 2012

Miyoko Sakashita
Oceans Director
Center for Biological Diversity
351 California Street
San Francisco, CA 94101

Dear Ms. Sakashita:

This letter is in response to the petition from the Center for Biological Diversity, Friends of the Earth, Environmental Defense Center, and Pacific Environment (collectively, petitioners) that was submitted to the Secretary of Commerce through the National Oceanic and Atmospheric Administration (NOAA) on June 6, 2011. The petition requests that NOAA establish a 10-knot speed limit for vessels greater than 65 feet traveling within Cordell Bank, Gulf of the Farallones, Monterey Bay, and Channel Islands national marine sanctuaries. The petition claims that the requested vessel speed restriction would reduce or avoid significant threats to marine resources, including protected species, resulting from vessel traffic in these areas. The petition also asserts that the requested speed reduction would mitigate underwater noise pollution and air pollution, including greenhouse gas emissions, from vessel traffic.

We thank you for your organizations' contributions to the conservation of marine resources and protected species, and we appreciate your ongoing efforts to call attention to this important problem. As you are aware through your work with NOAA, NOAA's Office of National Marine Sanctuaries (ONMS) and National Marine Fisheries Service (NMFS) have been working to reduce ship strikes of large whales. ONMS is responsible for implementing the National Marine Sanctuaries Act (NMSA), while NMFS is responsible for implementing the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA). Most large whale species are protected under the ESA and all whale species are protected under the MMPA. Many marine species, including whales, are also protected under the National Marine Sanctuaries Act (NMSA) while in a national marine sanctuary.

NOAA shares your concern about both individual mortalities of large whales resulting from ship strikes and the impacts that such strikes can have on whale populations and the ecosystem, both within and outside national marine sanctuaries. As your petition notes, NOAA has already taken many steps to address this issue. Management strategies currently being used by ONMS include:

- monitoring and surveillance of whales and vessel traffic in sanctuaries;
- outreach and education to the shipping industry and the general public, including the identification of a Whale Advisory Zone in the Santa Barbara Channel; and
- interagency collaborations directed towards reducing the threat from vessel traffic to whales.

NMFS has been a key collaborator with ONMS on a number of these efforts. NMFS' approach to addressing ship strikes in California is focused on four areas:

- conducting studies to better understand the nature of ship strikes of large whales along the California coast;
- improving reporting of whales that have been struck and NOAA's ability to respond and conduct analysis of injured whales;
- sharing information with the shipping industry and other user constituents to help find alternatives to minimize the threat of ship strikes; and
- ensuring that NOAA's regulatory responsibilities are met under the ESA and MMPA.

These ongoing and planned activities are further described in the enclosed document.

Despite our continuing management strategies, whales continue to be struck by ships traveling in or near national marine sanctuaries along the California coast. For that reason, NOAA continues to explore and develop a suite of strategies aimed at reducing the occurrence of whale strikes in that region. While NOAA recognizes vessel speed restrictions as a legitimate management tool for the prevention of whale strikes, and has implemented speed restrictions to protect North Atlantic right whales on the East Coast, speed restrictions are not the only available means for reducing the threat, and a thorough consideration of the advantages and disadvantages is needed before imposing them. Efforts to reduce whale strikes off California are likely to be more effective if developed and implemented collaboratively with the shipping industry, other agencies, experts, biologists, and the public, which will require additional time for ongoing coordination and consultation. Consequently, NOAA concludes that a comprehensive assessment and response to the problem, such as the strategies currently in development (described in this letter and the enclosed document), are needed in order to develop the most appropriate means to reduce impacts to whale populations from ship strikes.

To achieve a comprehensive response to the problem of vessel strikes, ONMS has initiated several near-term strategies that include establishing a joint Sanctuary Advisory Council working group to provide recommendations on methods for reducing vessel strikes and acoustic impacts to whales (which could include reducing vessel speeds along with other measures), and improving outreach to the shipping industry to raise awareness of voluntary speed reduction recommendations and advisories. ONMS is also working within NOAA to develop tools to predict whale occurrence and densities, and is coordinating with the U.S. Coast Guard and the maritime industry to develop measures to reduce the threat of ship strikes. In doing so, we are drawing on experiences derived from NMFS's efforts to protect North Atlantic right whales on the East Coast, which included the development of an overall strategy involving, among other things, interagency, intergovernmental, and international collaboration, and use of a suite of ship-strike reduction measures relying in part on mandatory and voluntary routing changes, speed restrictions, and mariner outreach.

NOAA is committed to evaluating the risks posed by vessel strikes, determining the appropriate management responses, and working with our partners to develop and implement management recommendations that are most likely to succeed in reducing the threat, which could include vessel speed restrictions. The actions that NOAA will undertake to achieve these objectives are described below as both near-term actions, which will occur within a year, and mid-term or long-

term activities, which will require additional time both to develop and to assess their effectiveness in reducing strikes of whales by large vessels.

Near-term Actions

- Starting in January 2011, ONMS has been facilitating a community-based planning process for the central California sanctuaries (Gulf of the Farallones and Cordell Bank sanctuaries) to identify and evaluate options. This Sanctuary Advisory Council working group process supports a thoughtful assessment of the vessel traffic issue, namely ship strikes and acoustic impacts, and consideration of a variety of management tools to reduce those threats to whales. We appreciate the involvement of the petitioners in our working group processes. One of the management options that is being evaluated by the working group is the reduction of vessel speeds in the sanctuaries. With regard to vessel speeds, this group will specifically evaluate what effect, if any, reducing ship speeds to 10 knots would have. Recommendations from the working group are scheduled to be presented in spring 2012 to the Sanctuary Advisory Councils, which in turn provide their advice to the superintendents. Given the complexity of this issue, the superintendents may also request further evaluation by NOAA scientists and managers. It is extremely important that our Sanctuary Advisory Councils and sanctuary superintendents benefit from the expertise and counsel of this working group and have a chance to consider its recommendations. Advisory councils are a proven and effective way to gather public support, as well as stakeholder engagement, prior to engaging in a rulemaking process in a sanctuary. The long-term positive impact of providing for deliberate feedback from the community prior to proposing a rule should not be underestimated.

- NOAA is evaluating current management strategies and outreach to the shipping industry.

- NOAA is exploring ways to enhance voluntary actions from the shipping industry within the Santa Barbara Channel Whale Advisory Zone to reduce the risk of lethal ship strikes.

- NOAA is working with the Coast Guard and the maritime industry to evaluate the current process for issuing Local and Broadcast Notices to Mariners in southern California. When this evaluation is complete, NOAA will work to make appropriate improvements. A similar notice process is being evaluated for central California to help to reduce the threat of ship strikes in that area. If appropriate, similar Notices to Mariners will be issued for central California during the region's whale season in 2012 (approximately July through October). NOAA will continue to work with the Coast Guard to issue Notices to Mariners and evaluate whether they are having the desired effect on maritime communities in the region.

- ONMS will analyze existing historical spatial data on the abundance and distribution of whale species and krill (a food source for whales) in relation to current shipping lanes in and near Monterey Bay sanctuary. This analysis will be used to determine

the need for Local and Broadcast Notices to Mariners and the consideration of other measures to reduce the threat of vessel strikes in that sanctuary.

Activities Under Development

- NOAA will seek to expand aerial surveys to monitor the presence of whales along the California coast, as resources allow.

- NOAA will continue ongoing monitoring programs to collect, compile, and analyze data that will be combined with oceanographic data and used to develop and refine models and other predictive tools, which will enhance understanding of the temporal and spatial distribution of whales and their food sources along the California coast. This, in turn, will increase the capability of detecting large whales in sanctuaries and near shipping channels.

- NOAA will continue to engage with the shipping industry that utilizes waters off southern and central California to enlist its participation in developing actions that vessel operators can take to reduce the risk of lethal ship strikes of whales.

- NOAA will engage with the Coast Guard in pursuing actions associated with the Port Access Route Studies (PARS) underway for the San Francisco Bay and Los Angeles/Long Beach areas. In June 2011, the Coast Guard published the findings of the San Francisco PARS, which incorporated information provided by NOAA that suggested modifications to the existing Traffic Separation Scheme (TSS) in the San Francisco Bay area. These modifications could reduce the co-occurrence of whales and vessels; that is, the likelihood of whales and ship traffic being in the same place at the same time. Similarly, in November 2011, the Coast Guard published the findings of the Los Angeles/Long Beach PARS, which also incorporated information provided by NOAA to help protect marine resources, including whales, by modifying the existing TSS in the Santa Barbara Channel. Any proposed changes to either TSS would be a Federal action subject to consultation under the ESA and NMSA, as well as analysis of potential environmental impacts under the National Environmental Policy Act. Thus, NOAA will be engaged with the Coast Guard throughout its decision-making process. This approach is modeled on the successful actions used at the Stellwagen Bank National Marine Sanctuary.

- NOAA will continue to evaluate how changes in California's air quality regulations are affecting vessel traffic patterns. New standards imposed by the state have resulted in altered shipping routes and speeds, which may reduce vessel strikes. Data from vessel tracking studies indicate that, in order to comply with California's new air quality standards within 24 nautical miles of shore, shipping companies have chosen alternate routes that avoid the state's jurisdiction. In southern California, vessels have traveled south of the existing TSS and Channel Islands NMS to an area where the U.S. Navy conducts various operations. In that area, data on whale densities is limited and is difficult to collect. As shipping routes have changed, NOAA has begun working with the U.S. Navy to monitor the presence and densities of whales in the area south of Channel Islands NMS.

As these actions indicate, NOAA takes the issue of vessel strikes seriously and is committed to reducing the risk of collisions between ships and whales, particularly in national marine sanctuaries. An evaluation of results from these actions will enable NOAA to make informed decisions about effective management tools that may be used to address the problem for each of these areas. It is possible that voluntary programs developed in collaboration with the shipping industry will reduce the threat of vessel strikes, thereby negating the need for regulations. However, if voluntary programs do not reduce whale strike occurrences, NOAA may decide to implement other actions, including mandatory speed restrictions. In the meantime, NOAA is concerned that promulgating a separate speed limit for vessels transiting the national marine sanctuaries off the California coast, rather than considering this as one part of a multifaceted strategy, would limit the agency's ability to develop such a comprehensive management approach.

For these reasons, NOAA is declining to issue a 10-knot speed restriction at this time, as requested in the petition, so that we may continue directing our resources to proceeding with the ongoing development and implementation of a comprehensive ship-strike reduction strategy for the West Coast. Promulgating a separate speed limit at this time, as the petitioners have requested, would interrupt the development of this strategy, curtail full participation from the public and the shipping industry, duplicate agency efforts, and divert agency resources necessary for the development of a more comprehensive management approach, which would further delay implementation of other appropriate policies. Proposing a separate speed limit may also negatively affect our ability to engage the shipping industry, whose participation in NOAA's ongoing assessment and policy development is essential to the agency's success due to limited enforcement resources on the West Coast. Instead of imposing individual management measures in a piecemeal fashion, NOAA continues to believe that putting a comprehensive strategy in place is the best course of long-term action. For these reasons, issuing a separate speed limit at this time would undermine NOAA's efforts to address this problem. Therefore, NOAA is denying the petition so that ONMS and NMFS may direct their efforts to identifying and implementing a comprehensive ship-strike reduction strategy on the West Coast.

As the petitioners point out, vessel speed restrictions have been in place on the East Coast for the protection of North Atlantic right whales for some time. Those speed restrictions were part of a broader strategy including routing measures, the involvement of the International Maritime Organization and multiple agencies, and extensive outreach programs. Analysis of the effectiveness of those restrictions is underway. Those restrictions were also based on knowledge, derived from decades of systematic surveys and whale-sighting information, of the predictable and recurring presence of right whales, a situation that does not exist for whale species on the West Coast. Whale species occurring in the nearshore waters of the West Coast differ from right whales in biology, natural history, occurrence, behavior, and abundance. The oceanography that contributes to the distribution of whales and their prey also differs in these two regions. As a result, management approaches may also differ.

The need for the development of a unique management approach on the West Coast has been addressed in responding to a previous petition related to ship strikes. Although NMFS is not specifically named in the petition, it previously responded to a similar petition sent to the

Secretary of Commerce by the Center for Biological Diversity (CBD) on September 25, 2007. That earlier petition requested that NMFS implement, on an emergency basis, a 10-knot speed limit in the Santa Barbara Channel for all vessels over 65 feet in length, and that the restriction remain in effect while blue whales were present in the area. That petition also requested, in the event that NMFS determined that an emergency rulemaking was not warranted, the implementation of protective measures prior to the return of blue whales the following year. NMFS determined that a rulemaking of any kind was not warranted at that time.[2] In its response to the 2007 petition, NMFS explained that management measures deemed appropriate for the protection of North Atlantic right whales may not be appropriate for protecting blue whales on the West Coast, based on what we know about the abundance and behavior of the two different whale species in very different environments. Consequently, in evaluating whether speed restrictions may also be a useful approach to protecting blue whales on the West Coast, ONMS cannot simply rely on regulations issued to protect a different species in a different environment.

At the same time, ONMS recognizes that speed restrictions may warrant consideration during the ongoing development of a comprehensive management approach. Doing so requires a careful consideration of speed measures in the context of alternative but related approaches that may include routing measures, outreach programs, and other voluntary and mandatory measures. For that reason, NOAA is dedicating resources to expand and improve monitoring of whales off California, as explained above. The information gathered will be used to develop and refine models and other predictive tools, which will allow us to better understand the temporal and spatial distribution of whales and their food sources along the California coast. This, in turn, will increase the capability of detecting large whales in sanctuaries and near shipping channels. As we work to improve our understanding of the problem, NOAA is committed to working with its partners, other agencies, stakeholders, and the public to evaluate and enhance appropriate management measures. For example, as noted above, NOAA is assisting in the Coast Guard's process of evaluating whether potential modifications to the traffic separation schemes at the approaches for San Francisco Bay and Los Angeles/Long Beach harbor would reduce vessel strikes. This approach is modeled on the successful actions used at the Stellwagen Bank National Marine Sanctuary.

The petitioners' concerns related to noise pollution are also shared by NOAA. Consequently, noise is one of the topics being explored by the Sanctuary Advisory Council working group mentioned above. At this time, NOAA does not believe that mandatory speed restrictions are the best available approach to address the introduction of underwater noise, for the same reasons provided for not implementing mandatory speed restrictions to reduce the risk of whale strikes. While remaining open to this possibility and awaiting the recommendations of the Sanctuary Advisory Council working group, NOAA believes that reducing underwater noise by imposing vessel speed restrictions is a matter that would require further consideration.

Finally, regarding the petitioners' concerns related to air pollution, including greenhouse gas emissions from vessel traffic in sanctuaries, we believe that there are many more effective ways to improve air quality in national marine sanctuaries and reduce the potential impacts of climate

[2] Letter from John Oliver, NOAA Acting Assistant Administrator for Fisheries, to Brendan Cummings, Center for Biological Diversity (Jan. 8, 2008).

change than imposing the speed restriction requested by the petitioners. Steps being taken by other agencies to directly address emissions will likely have a more significant effect on air quality in national marine sanctuaries than any decision by NOAA to reduce vessel speeds within those small areas. For example, current efforts by the state of California to ensure compliance with heightened air quality standards and other regulations may lead to voluntary or mandatory vessel speed reductions for large vessels traveling along the West Coast in order to reduce air pollution and greenhouse gas emissions. Consequently, NOAA is monitoring the actions of local, state, and Federal air quality agencies to determine what impact, if any, those actions will have on climate change and air quality in national marine sanctuaries. Therefore, reducing air pollution is not a persuasive reason, at this time, to adopt the vessel speed restriction proposed by the petitioners.

We appreciate and share your concern for the protection of whales and other marine species within the national marine sanctuaries of California. We thank those petitioners who serve on our Sanctuary Advisory Councils and have been working with us on reducing anthropogenic impacts to whales within national marine sanctuaries.

If you would like to discuss this matter further, please contact Dr. Lisa Wooninck, Policy Coordinator for the ONMS West Coast Region, at 831-647-1920, extension 104. If you are interested, the ONMS West Coast Regional Office can also arrange a meeting with you during spring 2012 to provide a review of the progress of the ongoing and planned actions and activities outlined in this letter. Please contact Dr. Wooninck if you are interested in such a meeting.

Thank you for your interest in this important matter.

Sincerely,

David M. Kennedy
Assistant Administrator for
Ocean Services and Coastal Zone Management

Enclosure

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Silver Spring, Maryland 20910

MAR 3 0 2012

Alex Levinson
Executive Director
Pacific Environment
251 Kearny Street
San Francisco, CA 94108-4530

Dear Mr. Levinson:

This letter is in response to the petition from the Center for Biological Diversity, Friends of the Earth, Environmental Defense Center, and Pacific Environment (collectively, petitioners) that was submitted to the Secretary of Commerce through the National Oceanic and Atmospheric Administration (NOAA) on June 6, 2011. The petition requests that NOAA establish a 10-knot speed limit for vessels greater than 65 feet traveling within Cordell Bank, Gulf of the Farallones, Monterey Bay, and Channel Islands national marine sanctuaries. The petition claims that the requested vessel speed restriction would reduce or avoid significant threats to marine resources, including protected species, resulting from vessel traffic in these areas. The petition also asserts that the requested speed reduction would mitigate underwater noise pollution and air pollution, including greenhouse gas emissions, from vessel traffic.

We thank you for your organizations' contributions to the conservation of marine resources and protected species, and we appreciate your ongoing efforts to call attention to this important problem. As you are aware through your work with NOAA, NOAA's Office of National Marine Sanctuaries (ONMS) and National Marine Fisheries Service (NMFS) have been working to reduce ship strikes of large whales. ONMS is responsible for implementing the National Marine Sanctuaries Act (NMSA), while NMFS is responsible for implementing the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA). Most large whale species are protected under the ESA and all whale species are protected under the MMPA. Many marine species, including whales, are also protected under the National Marine Sanctuaries Act (NMSA) while in a national marine sanctuary.

NOAA shares your concern about both individual mortalities of large whales resulting from ship strikes and the impacts that such strikes can have on whale populations and the ecosystem, both within and outside national marine sanctuaries. As your petition notes, NOAA has already taken many steps to address this issue. Management strategies currently being used by ONMS include:

- monitoring and surveillance of whales and vessel traffic in sanctuaries;
- outreach and education to the shipping industry and the general public, including the identification of a Whale Advisory Zone in the Santa Barbara Channel; and
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NMFS has been a key collaborator with ONMS on a number of these efforts. NMFS's approach to addressing ship strikes in California is focused on four areas:

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- improving reporting of whales that have been struck and NOAA's ability to respond and conduct analysis of injured whales;
- sharing information with the shipping industry and other user constituents to help find alternatives to minimize the threat of ship strikes; and
- ensuring that NOAA's regulatory responsibilities are met under the ESA and MMPA.

These ongoing and planned activities are further described in the enclosed document.

Despite our continuing management strategies, whales continue to be struck by ships traveling in or near national marine sanctuaries along the California coast. For that reason, NOAA continues to explore and develop a suite of strategies aimed at reducing the occurrence of whale strikes in that region. While NOAA recognizes vessel speed restrictions as a legitimate management tool for the prevention of whale strikes, and has implemented speed restrictions to protect North Atlantic right whales on the East Coast, speed restrictions are not the only available means for reducing the threat, and a thorough consideration of the advantages and disadvantages is needed before imposing them. Efforts to reduce whale strikes off California are likely to be more effective if developed and implemented collaboratively with the shipping industry, other agencies, experts, biologists, and the public, which will require additional time for ongoing coordination and consultation. Consequently, NOAA concludes that a comprehensive assessment and response to the problem, such as the strategies currently in development (described in this letter and the enclosed document), are needed in order to develop the most appropriate means to reduce impacts to whale populations from ship strikes.

To achieve a comprehensive response to the problem of vessel strikes, ONMS has initiated several near-term strategies that include establishing a joint Sanctuary Advisory Council working group to provide recommendations on methods for reducing vessel strikes and acoustic impacts to whales (which could include reducing vessel speeds along with other measures), and improving outreach to the shipping industry to raise awareness of voluntary speed reduction recommendations and advisories. ONMS is also working within NOAA to develop tools to predict whale occurrence and densities, and is coordinating with the U.S. Coast Guard and the maritime industry to develop measures to reduce the threat of ship strikes. In doing so, we are drawing on experiences derived from NMFS's efforts to protect North Atlantic right whales on the East Coast, which included the development of an overall strategy involving, among other things, interagency, intergovernmental, and international collaboration, and use of a suite of ship-

strike reduction measures relying in part on mandatory and voluntary routing changes, speed restrictions, and mariner outreach.

NOAA is committed to evaluating the risks posed by vessel strikes, determining the appropriate management responses, and working with our partners to develop and implement management recommendations that are most likely to succeed in reducing the threat, which could include vessel speed restrictions. The actions that NOAA will undertake to achieve these objectives are described below as both near-term actions, which will occur within a year, and mid-term or long-term activities, which will require additional time both to develop and to assess their effectiveness in reducing strikes of whales by large vessels.

Near-term Actions

- Starting in January 2011, ONMS has been facilitating a community-based planning process for the central California sanctuaries (Gulf of the Farallones and Cordell Bank sanctuaries) to identify and evaluate options. This Sanctuary Advisory Council working group process supports a thoughtful assessment of the vessel traffic issue, namely ship strikes and acoustic impacts, and consideration of a variety of management tools to reduce those threats to whales. We appreciate the involvement of the petitioners in our working group processes. One of the management options that is being evaluated by the working group is the reduction of vessel speeds in the sanctuaries. With regard to vessel speeds, this group will specifically evaluate what effect, if any, reducing ship speeds to 10 knots would have. Recommendations from the working group are scheduled to be presented in spring 2012 to the Sanctuary Advisory Councils, which in turn provide their advice to the superintendents. Given the complexity of this issue, the superintendents may also request further evaluation by NOAA scientists and managers. It is extremely important that our Sanctuary Advisory Councils and sanctuary superintendents benefit from the expertise and counsel of this working group and have a chance to consider its recommendations. Advisory councils are a proven and effective way to gather public support, as well as stakeholder engagement, prior to engaging in a rulemaking process in a sanctuary. The long-term positive impact of providing for deliberate feedback from the community prior to proposing a rule should not be underestimated.

- NOAA is evaluating current management strategies and outreach to the shipping industry.

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- NOAA is working with the Coast Guard and the maritime industry to evaluate the current process for issuing Local and Broadcast Notices to Mariners in southern California. When this evaluation is complete, NOAA will work to make appropriate improvements. A similar notice process is being evaluated for central California to help to reduce the threat of ship strikes in that area. If appropriate, similar Notices to Mariners will be issued for central California during the region's whale season in

2012 (approximately July through October). NOAA will continue to work with the Coast Guard to issue Notices to Mariners and evaluate whether they are having the desired effect on maritime communities in the region.

- ONMS will analyze existing historical spatial data on the abundance and distribution of whale species and krill (a food source for whales) in relation to current shipping lanes in and near Monterey Bay sanctuary. This analysis will be used to determine the need for Local and Broadcast Notices to Mariners and the consideration of other measures to reduce the threat of vessel strikes in that sanctuary.

Activities Under Development

- NOAA will seek to expand aerial surveys to monitor the presence of whales along the California coast, as resources allow.

- NOAA will continue ongoing monitoring programs to collect, compile, and analyze data that will be combined with oceanographic data and used to develop and refine models and other predictive tools, which will enhance understanding of the temporal and spatial distribution of whales and their food sources along the California coast. This, in turn, will increase the capability of detecting large whales in sanctuaries and near shipping channels.

- NOAA will continue to engage with the shipping industry that utilizes waters off southern and central California to enlist its participation in developing actions that vessel operators can take to reduce the risk of lethal ship strikes of whales.

- NOAA will engage with the Coast Guard in pursuing actions associated with the Port Access Route Studies (PARS) underway for the San Francisco Bay and Los Angeles/Long Beach areas. In June 2011, the Coast Guard published the findings of the San Francisco PARS, which incorporated information provided by NOAA that suggested modifications to the existing Traffic Separation Scheme (TSS) in the San Francisco Bay area. These modifications could reduce the co-occurrence of whales and vessels; that is, the likelihood of whales and ship traffic being in the same place at the same time. Similarly, in November 2011, the Coast Guard published the findings of the Los Angeles/Long Beach PARS, which also incorporated information provided by NOAA to help protect marine resources, including whales, by modifying the existing TSS in the Santa Barbara Channel. Any proposed changes to either TSS would be a Federal action subject to consultation under the ESA and NMSA, as well as analysis of potential environmental impacts under the National Environmental Policy Act. Thus, NOAA will be engaged with the Coast Guard throughout its decision-making process. This approach is modeled on the successful actions used at the Stellwagen Bank National Marine Sanctuary.

- NOAA will continue to evaluate how changes in California's air quality regulations are affecting vessel traffic patterns. New standards imposed by the state have resulted in altered shipping routes and speeds, which may reduce vessel strikes. Data from vessel tracking studies indicate that, in order to comply with California's new air

quality standards within 24 nautical miles of shore, shipping companies have chosen alternate routes that avoid the state's jurisdiction. In southern California, vessels have traveled south of the existing TSS and Channel Islands NMS to an area where the U.S. Navy conducts various operations. In that area, data on whale densities is limited and is difficult to collect. As shipping routes have changed, NOAA has begun working with the U.S. Navy to monitor the presence and densities of whales in the area south of Channel Islands NMS.

As these actions indicate, NOAA takes the issue of vessel strikes seriously and is committed to reducing the risk of collisions between ships and whales, particularly in national marine sanctuaries. An evaluation of results from these actions will enable NOAA to make informed decisions about effective management tools that may be used to address the problem for each of these areas. It is possible that voluntary programs developed in collaboration with the shipping industry will reduce the threat of vessel strikes, thereby negating the need for regulations. However, if voluntary programs do not reduce whale strike occurrences, NOAA may decide to implement other actions, including mandatory speed restrictions. In the meantime, NOAA is concerned that promulgating a separate speed limit for vessels transiting the national marine sanctuaries off the California coast, rather than considering this as one part of a multifaceted strategy, would limit the agency's ability to develop such a comprehensive management approach.

For these reasons, NOAA is declining to issue a 10-knot speed restriction at this time, as requested in the petition, so that we may continue directing our resources to proceeding with the ongoing development and implementation of a comprehensive ship-strike reduction strategy for the West Coast. Promulgating a separate speed limit at this time, as the petitioners have requested, would interrupt the development of this strategy, curtail full participation from the public and the shipping industry, duplicate agency efforts, and divert agency resources necessary for the development of a more comprehensive management approach, which would further delay implementation of other appropriate policies. Proposing a separate speed limit may also negatively affect our ability to engage the shipping industry, whose participation in NOAA's ongoing assessment and policy development is essential to the agency's success due to limited enforcement resources on the West Coast. Instead of imposing individual management measures in a piecemeal fashion, NOAA continues to believe that putting a comprehensive strategy in place is the best course of long-term action. For these reasons, issuing a separate speed limit at this time would undermine NOAA's efforts to address this problem. Therefore, NOAA is denying the petition so that ONMS and NMFS may direct their efforts to identifying and implementing a comprehensive ship-strike reduction strategy on the West Coast.

As the petitioners point out, vessel speed restrictions have been in place on the East Coast for the protection of North Atlantic right whales for some time. Those speed restrictions were part of a broader strategy including routing measures, the involvement of the International Maritime Organization and multiple agencies, and extensive outreach programs. Analysis of the effectiveness of those restrictions is underway. Those restrictions were also based on knowledge, derived from decades of systematic surveys and whale-sighting information, of the predictable and recurring presence of right whales, a situation that does not exist for whale species on the West Coast. Whale species occurring in the nearshore waters of the West Coast

differ from right whales in biology, natural history, occurrence, behavior, and abundance. The oceanography that contributes to the distribution of whales and their prey also differs in these two regions. As a result, management approaches may also differ.

The need for the development of a unique management approach on the West Coast has been addressed in responding to a previous petition related to ship strikes. Although NMFS is not specifically named in the petition, it previously responded to a similar petition sent to the Secretary of Commerce by the Center for Biological Diversity (CBD) on September 25, 2007. That earlier petition requested that NMFS implement, on an emergency basis, a 10-knot speed limit in the Santa Barbara Channel for all vessels over 65 feet in length, and that the restriction remain in effect while blue whales were present in the area. That petition also requested, in the event that NMFS determined that an emergency rulemaking was not warranted, the implementation of protective measures prior to the return of blue whales the following year. NMFS determined that a rulemaking of any kind was not warranted at that time.[1] In its response to the 2007 petition, NMFS explained that management measures deemed appropriate for the protection of North Atlantic right whales may not be appropriate for protecting blue whales on the West Coast, based on what we know about the abundance and behavior of the two different whale species in very different environments. Consequently, in evaluating whether speed restrictions may also be a useful approach to protecting blue whales on the West Coast, ONMS cannot simply rely on regulations issued to protect a different species in a different environment.

At the same time, ONMS recognizes that speed restrictions may warrant consideration during the ongoing development of a comprehensive management approach. Doing so requires a careful consideration of speed measures in the context of alternative but related approaches that may include routing measures, outreach programs, and other voluntary and mandatory measures. For that reason, NOAA is dedicating resources to expand and improve monitoring of whales off California, as explained above. The information gathered will be used to develop and refine models and other predictive tools, which will allow us to better understand the temporal and spatial distribution of whales and their food sources along the California coast. This, in turn, will increase the capability of detecting large whales in sanctuaries and near shipping channels. As we work to improve our understanding of the problem, NOAA is committed to working with its partners, other agencies, stakeholders, and the public to evaluate and enhance appropriate management measures. For example, as noted above, NOAA is assisting in the Coast Guard's process of evaluating whether potential modifications to the traffic separation schemes at the approaches for San Francisco Bay and Los Angeles/Long Beach harbor would reduce vessel strikes. This approach is modeled on the successful actions used at the Stellwagen Bank National Marine Sanctuary.

The petitioners' concerns related to noise pollution are also shared by NOAA. Consequently, noise is one of the topics being explored by the Sanctuary Advisory Council working group mentioned above. At this time, NOAA does not believe that mandatory speed restrictions are the best available approach to address the introduction of underwater noise, for the same reasons provided for not implementing mandatory speed restrictions to reduce the risk of whale strikes.

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[1] Letter from John Oliver, NOAA Acting Assistant Administrator for Fisheries, to Brendan Cummings, Center for Biological Diversity (Jan. 8, 2008).

While remaining open to this possibility and awaiting the recommendations of the Sanctuary Advisory Council working group, NOAA believes that reducing underwater noise by imposing vessel speed restrictions is a matter that would require further consideration.

Finally, regarding the petitioners' concerns related to air pollution, including greenhouse gas emissions from vessel traffic in sanctuaries, we believe that there are many more effective ways to improve air quality in national marine sanctuaries and reduce the potential impacts of climate change than imposing the speed restriction requested by the petitioners. Steps being taken by other agencies to directly address emissions will likely have a more significant effect on air quality in national marine sanctuaries than any decision by NOAA to reduce vessel speeds within those small areas. For example, current efforts by the state of California to ensure compliance with heightened air quality standards and other regulations may lead to voluntary or mandatory vessel speed reductions for large vessels traveling along the West Coast in order to reduce air pollution and greenhouse gas emissions. Consequently, NOAA is monitoring the actions of local, state, and Federal air quality agencies to determine what impact, if any, those actions will have on climate change and air quality in national marine sanctuaries. Therefore, reducing air pollution is not a persuasive reason, at this time, to adopt the vessel speed restriction proposed by the petitioners.

We appreciate and share your concern for the protection of whales and other marine species within the national marine sanctuaries of California. We thank those petitioners who serve on our Sanctuary Advisory Councils and have been working with us on reducing anthropogenic impacts to whales within national marine sanctuaries.

If you would like to discuss this matter further, please contact Dr. Lisa Wooninck, Policy Coordinator for the ONMS West Coast Region, at 831-647-1920, extension 104. If you are interested, the ONMS West Coast Regional Office can also arrange a meeting with you during spring 2012 to provide a review of the progress of the ongoing and planned actions and activities outlined in this letter. Please contact Dr. Wooninck if you are interested in such a meeting.

Thank you for your interest in this important matter.

Sincerely,

David Kennedy
Assistant Administrator
National Ocean Service

Enclosure

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Silver Spring, Maryland 20910

MAR 3 0 2012

Andrea Treece
Counsel for
Center for Biological Diversity and Friends of the Earth
Earth Justice
426 17th Street
Oakland, CA 94612

Dear Ms. Treece:

This letter is in response to the petition from the Center for Biological Diversity, Friends of the Earth, Environmental Defense Center, and Pacific Environment (collectively, petitioners) that was submitted to the Secretary of Commerce through the National Oceanic and Atmospheric Administration (NOAA) on June 6, 2011. The petition requests that NOAA establish a 10-knot speed limit for vessels greater than 65 feet traveling within Cordell Bank, Gulf of the Farallones, Monterey Bay, and Channel Islands national marine sanctuaries. The petition claims that the requested vessel speed restriction would reduce or avoid significant threats to marine resources, including protected species, resulting from vessel traffic in these areas. The petition also asserts that the requested speed reduction would mitigate underwater noise pollution and air pollution, including greenhouse gas emissions, from vessel traffic.

We thank you for your organizations' contributions to the conservation of marine resources and protected species, and we appreciate your ongoing efforts to call attention to this important problem. As you are aware through your work with NOAA, NOAA's Office of National Marine Sanctuaries (ONMS) and National Marine Fisheries Service (NMFS) have been working to reduce ship strikes of large whales. ONMS is responsible for implementing the National Marine Sanctuaries Act (NMSA), while NMFS is responsible for implementing the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA). Most large whale species are protected under the ESA and all whale species are protected under the MMPA. Many marine species, including whales, are also protected under the National Marine Sanctuaries Act (NMSA) while in a national marine sanctuary.

NOAA shares your concern about both individual mortalities of large whales resulting from ship strikes and the impacts that such strikes can have on whale populations and the ecosystem, both within and outside national marine sanctuaries. As your petition notes, NOAA has already taken many steps to address this issue. Management strategies currently being used by ONMS include:

- monitoring and surveillance of whales and vessel traffic in sanctuaries;
- outreach and education to the shipping industry and the general public, including the identification of a Whale Advisory Zone in the Santa Barbara Channel; and
- interagency collaborations directed towards reducing the threat from vessel traffic to whales.

NMFS has been a key collaborator with ONMS on a number of these efforts. NMFS' approach to addressing ship strikes in California is focused on four areas:

- conducting studies to better understand the nature of ship strikes of large whales along the California coast;
- improving reporting of whales that have been struck and NOAA's ability to respond and conduct analysis of injured whales;
- sharing information with the shipping industry and other user constituents to help find alternatives to minimize the threat of ship strikes; and
- ensuring that NOAA's regulatory responsibilities are met under the ESA and MMPA.

These ongoing and planned activities are further described in the enclosed document.

Despite our continuing management strategies, whales continue to be struck by ships traveling in or near national marine sanctuaries along the California coast. For that reason, NOAA continues to explore and develop a suite of strategies aimed at reducing the occurrence of whale strikes in that region. While NOAA recognizes vessel speed restrictions as a legitimate management tool for the prevention of whale strikes, and has implemented speed restrictions to protect North Atlantic right whales on the East Coast, speed restrictions are not the only available means for reducing the threat, and a thorough consideration of the advantages and disadvantages is needed before imposing them. Efforts to reduce whale strikes off California are likely to be more effective if developed and implemented collaboratively with the shipping industry, other agencies, experts, biologists, and the public, which will require additional time for ongoing coordination and consultation. Consequently, NOAA concludes that a comprehensive assessment and response to the problem, such as the strategies currently in development (described in this letter and the enclosed document), are needed in order to develop the most appropriate means to reduce impacts to whale populations from ship strikes.

To achieve a comprehensive response to the problem of vessel strikes, ONMS has initiated several near-term strategies that include establishing a joint Sanctuary Advisory Council working group to provide recommendations on methods for reducing vessel strikes and acoustic impacts to whales (which could include reducing vessel speeds along with other measures), and improving outreach to the shipping industry to raise awareness of voluntary speed reduction recommendations and advisories. ONMS is also working within NOAA to develop tools to predict whale occurrence and densities, and is coordinating with the U.S. Coast Guard and the maritime industry to develop measures to reduce the threat of ship strikes. In doing so, we are drawing on experiences derived from NMFS's efforts to protect North Atlantic right whales on the East Coast, which included the development of an overall strategy involving, among other things, interagency, intergovernmental, and international collaboration, and use of a suite of ship-strike reduction measures relying in part on mandatory and voluntary routing changes, speed restrictions, and mariner outreach.

NOAA is committed to evaluating the risks posed by vessel strikes, determining the appropriate management responses, and working with our partners to develop and implement management recommendations that are most likely to succeed in reducing the threat, which could include vessel speed restrictions. The actions that NOAA will undertake to achieve these objectives are described below as both near-term actions, which will occur within a year, and mid-term or long-

term activities, which will require additional time both to develop and to assess their effectiveness in reducing strikes of whales by large vessels.

Near-term Actions

- Starting in January 2011, ONMS has been facilitating a community-based planning process for the central California sanctuaries (Gulf of the Farallones and Cordell Bank sanctuaries) to identify and evaluate options. This Sanctuary Advisory Council working group process supports a thoughtful assessment of the vessel traffic issue, namely ship strikes and acoustic impacts, and consideration of a variety of management tools to reduce those threats to whales. We appreciate the involvement of the petitioners in our working group processes. One of the management options that is being evaluated by the working group is the reduction of vessel speeds in the sanctuaries. With regard to vessel speeds, this group will specifically evaluate what effect, if any, reducing ship speeds to 10 knots would have. Recommendations from the working group are scheduled to be presented in spring 2012 to the Sanctuary Advisory Councils, which in turn provide their advice to the superintendents. Given the complexity of this issue, the superintendents may also request further evaluation by NOAA scientists and managers. It is extremely important that our Sanctuary Advisory Councils and sanctuary superintendents benefit from the expertise and counsel of this working group and have a chance to consider its recommendations. Advisory councils are a proven and effective way to gather public support, as well as stakeholder engagement, prior to engaging in a rulemaking process in a sanctuary. The long-term positive impact of providing for deliberate feedback from the community prior to proposing a rule should not be underestimated.

- NOAA is evaluating current management strategies and outreach to the shipping industry.

- NOAA is exploring ways to enhance voluntary actions from the shipping industry within the Santa Barbara Channel Whale Advisory Zone to reduce the risk of lethal ship strikes.

- NOAA is working with the Coast Guard and the maritime industry to evaluate the current process for issuing Local and Broadcast Notices to Mariners in southern California. When this evaluation is complete, NOAA will work to make appropriate improvements. A similar notice process is being evaluated for central California to help to reduce the threat of ship strikes in that area. If appropriate, similar Notices to Mariners will be issued for central California during the region's whale season in 2012 (approximately July through October). NOAA will continue to work with the Coast Guard to issue Notices to Mariners and evaluate whether they are having the desired effect on maritime communities in the region.

- ONMS will analyze existing historical spatial data on the abundance and distribution of whale species and krill (a food source for whales) in relation to current shipping lanes in and near Monterey Bay sanctuary. This analysis will be used to determine

the need for Local and Broadcast Notices to Mariners and the consideration of other measures to reduce the threat of vessel strikes in that sanctuary.

Activities Under Development

- NOAA will seek to expand aerial surveys to monitor the presence of whales along the California coast, as resources allow.

- NOAA will continue ongoing monitoring programs to collect, compile, and analyze data that will be combined with oceanographic data and used to develop and refine models and other predictive tools, which will enhance understanding of the temporal and spatial distribution of whales and their food sources along the California coast. This, in turn, will increase the capability of detecting large whales in sanctuaries and near shipping channels.

- NOAA will continue to engage with the shipping industry that utilizes waters off southern and central California to enlist its participation in developing actions that vessel operators can take to reduce the risk of lethal ship strikes of whales.

- NOAA will engage with the Coast Guard in pursuing actions associated with the Port Access Route Studies (PARS) underway for the San Francisco Bay and Los Angeles/Long Beach areas. In June 2011, the Coast Guard published the findings of the San Francisco PARS, which incorporated information provided by NOAA that suggested modifications to the existing Traffic Separation Scheme (TSS) in the San Francisco Bay area. These modifications could reduce the co-occurrence of whales and vessels; that is, the likelihood of whales and ship traffic being in the same place at the same time. Similarly, in November 2011, the Coast Guard published the findings of the Los Angeles/Long Beach PARS, which also incorporated information provided by NOAA to help protect marine resources, including whales, by modifying the existing TSS in the Santa Barbara Channel. Any proposed changes to either TSS would be a Federal action subject to consultation under the ESA and NMSA, as well as analysis of potential environmental impacts under the National Environmental Policy Act. Thus, NOAA will be engaged with the Coast Guard throughout its decision-making process. This approach is modeled on the successful actions used at the Stellwagen Bank National Marine Sanctuary.

- NOAA will continue to evaluate how changes in California's air quality regulations are affecting vessel traffic patterns. New standards imposed by the state have resulted in altered shipping routes and speeds, which may reduce vessel strikes. Data from vessel tracking studies indicate that, in order to comply with California's new air quality standards within 24 nautical miles of shore, shipping companies have chosen alternate routes that avoid the state's jurisdiction. In southern California, vessels have traveled south of the existing TSS and Channel Islands NMS to an area where the U.S. Navy conducts various operations. In that area, data on whale densities is limited and is difficult to collect. As shipping routes have changed, NOAA has begun working with the U.S. Navy to monitor the presence and densities of whales in the area south of Channel Islands NMS.

As these actions indicate, NOAA takes the issue of vessel strikes seriously and is committed to reducing the risk of collisions between ships and whales, particularly in national marine sanctuaries. An evaluation of results from these actions will enable NOAA to make informed decisions about effective management tools that may be used to address the problem for each of these areas. It is possible that voluntary programs developed in collaboration with the shipping industry will reduce the threat of vessel strikes, thereby negating the need for regulations. However, if voluntary programs do not reduce whale strike occurrences, NOAA may decide to implement other actions, including mandatory speed restrictions. In the meantime, NOAA is concerned that promulgating a separate speed limit for vessels transiting the national marine sanctuaries off the California coast, rather than considering this as one part of a multifaceted strategy, would limit the agency's ability to develop such a comprehensive management approach.

For these reasons, NOAA is declining to issue a 10-knot speed restriction at this time, as requested in the petition, so that we may continue directing our resources to proceeding with the ongoing development and implementation of a comprehensive ship-strike reduction strategy for the West Coast. Promulgating a separate speed limit at this time, as the petitioners have requested, would interrupt the development of this strategy, curtail full participation from the public and the shipping industry, duplicate agency efforts, and divert agency resources necessary for the development of a more comprehensive management approach, which would further delay implementation of other appropriate policies. Proposing a separate speed limit may also negatively affect our ability to engage the shipping industry, whose participation in NOAA's ongoing assessment and policy development is essential to the agency's success due to limited enforcement resources on the West Coast. Instead of imposing individual management measures in a piecemeal fashion, NOAA continues to believe that putting a comprehensive strategy in place is the best course of long-term action. For these reasons, issuing a separate speed limit at this time would undermine NOAA's efforts to address this problem. Therefore, NOAA is denying the petition so that ONMS and NMFS may direct their efforts to identifying and implementing a comprehensive ship-strike reduction strategy on the West Coast.

As the petitioners point out, vessel speed restrictions have been in place on the East Coast for the protection of North Atlantic right whales for some time. Those speed restrictions were part of a broader strategy including routing measures, the involvement of the International Maritime Organization and multiple agencies, and extensive outreach programs. Analysis of the effectiveness of those restrictions is underway. Those restrictions were also based on knowledge, derived from decades of systematic surveys and whale-sighting information, of the predictable and recurring presence of right whales, a situation that does not exist for whale species on the West Coast. Whale species occurring in the nearshore waters of the West Coast differ from right whales in biology, natural history, occurrence, behavior, and abundance. The oceanography that contributes to the distribution of whales and their prey also differs in these two regions. As a result, management approaches may also differ.

The need for the development of a unique management approach on the West Coast has been addressed in responding to a previous petition related to ship strikes. Although NMFS is not specifically named in the petition, it previously responded to a similar petition sent to the

Secretary of Commerce by the Center for Biological Diversity (CBD) on September 25, 2007. That earlier petition requested that NMFS implement, on an emergency basis, a 10-knot speed limit in the Santa Barbara Channel for all vessels over 65 feet in length, and that the restriction remain in effect while blue whales were present in the area. That petition also requested, in the event that NMFS determined that an emergency rulemaking was not warranted, the implementation of protective measures prior to the return of blue whales the following year. NMFS determined that a rulemaking of any kind was not warranted at that time.[3] In its response to the 2007 petition, NMFS explained that management measures deemed appropriate for the protection of North Atlantic right whales may not be appropriate for protecting blue whales on the West Coast, based on what we know about the abundance and behavior of the two different whale species in very different environments. Consequently, in evaluating whether speed restrictions may also be a useful approach to protecting blue whales on the West Coast, ONMS cannot simply rely on regulations issued to protect a different species in a different environment.

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The petitioners' concerns related to noise pollution are also shared by NOAA. Consequently, noise is one of the topics being explored by the Sanctuary Advisory Council working group mentioned above. At this time, NOAA does not believe that mandatory speed restrictions are the best available approach to address the introduction of underwater noise, for the same reasons provided for not implementing mandatory speed restrictions to reduce the risk of whale strikes. While remaining open to this possibility and awaiting the recommendations of the Sanctuary Advisory Council working group, NOAA believes that reducing underwater noise by imposing vessel speed restrictions is a matter that would require further consideration.

Finally, regarding the petitioners' concerns related to air pollution, including greenhouse gas emissions from vessel traffic in sanctuaries, we believe that there are many more effective ways to improve air quality in national marine sanctuaries and reduce the potential impacts of climate

[3] Letter from John Oliver, NOAA Acting Assistant Administrator for Fisheries, to Brendan Cummings, Center for Biological Diversity (Jan. 8, 2008).

change than imposing the speed restriction requested by the petitioners. Steps being taken by other agencies to directly address emissions will likely have a more significant effect on air quality in national marine sanctuaries than any decision by NOAA to reduce vessel speeds within those small areas. For example, current efforts by the state of California to ensure compliance with heightened air quality standards and other regulations may lead to voluntary or mandatory vessel speed reductions for large vessels traveling along the West Coast in order to reduce air pollution and greenhouse gas emissions. Consequently, NOAA is monitoring the actions of local, state, and Federal air quality agencies to determine what impact, if any, those actions will have on climate change and air quality in national marine sanctuaries. Therefore, reducing air pollution is not a persuasive reason, at this time, to adopt the vessel speed restriction proposed by the petitioners.

We appreciate and share your concern for the protection of whales and other marine species within the national marine sanctuaries of California. We thank those petitioners who serve on our Sanctuary Advisory Councils and have been working with us on reducing anthropogenic impacts to whales within national marine sanctuaries.

If you would like to discuss this matter further, please contact Dr. Lisa Wooninck, Policy Coordinator for the ONMS West Coast Region, at 831-647-1920, extension 104. If you are interested, the ONMS West Coast Regional Office can also arrange a meeting with you during spring 2012 to provide a review of the progress of the ongoing and planned actions and activities outlined in this letter. Please contact Dr. Wooninck if you are interested in such a meeting.

Thank you for your interest in this important matter.

Sincerely,

David M. Kennedy
Assistant Administrator for
Ocean Services and Coastal Zone Management

Enclosure