



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Office of National Marine Sanctuaries
1305 East-West Highway
Silver Spring, Maryland 20910

NOV 3 2008

Mr. James P. Walsh
Davis Wright Tremaine, LLP
505 Montgomery Street, Suite 800
San Francisco, CA 94111-6533

Re: Freedom of Information Act Request – 2009-00009

Dear Mr. Walsh:

This letter is in reference to your request under the Freedom of Information Act (FOIA) dated October 3, 2008 related to the Monterey Bay National Marine Sanctuary (MBNMS) decision on the need for marine protected areas (MPAs) in Federal waters. Specifically, you have requested copies of all documents, letters, emails, communications, reports, research results, analyses and other such information (the “documentary record”) in the possession of the MBNMS and the Office of the National Marine Sanctuaries (ONMS) with respect to the decision on the need for MPAs in Federal waters of the MBNMS.

Your letter provides further elaboration of your request for any material in the documentary record which:

- 1) Describes in scientific terms (particularly any research published on the “need” for MPAs within the Monterey Sanctuary) the exact environmental problems that have been identified as the basis for this “need” conclusion.
- 2) Describe any alternatives for addressing the problem (if any) identified as the basis for the “need” conclusion.
- 3) Identifies the individuals within the agency who made the “need” conclusion.
- 4) Identifies the “stakeholders” who were consulted by those who made the “need” conclusion, including whether any such “stakeholders” were considered part of the local fishing industry or were entities representing the local fishing industry.
- 5) Document discussions, meetings, or correspondence with non-governmental entities claiming to be dedicated to protection of the marine environment that influenced, in any way, the “need” conclusion.
- 6) Documents discussions, meetings, or correspondence with local Congressional Offices with respect to the “need” conclusion.



7) Document discussions, meetings, or correspondence with any state government agency or interest group regarding possible connections between MPAs created by the State of California and MPAs that might be created within the Monterey Sanctuary.

8) Documents the cost of the "six years of activity" referenced in paragraph 2 of Mr. Michel's letter.

9) Documents the possible economic harm to the local fishing communities if MPAs are created that ban or restrict fishing activity to a greater extent that is now allowed under regulations promulgated and enforced under the Magnuson-Stevens Fishery Conservation and Management Act or related statutes.

10) Documents discussions, meetings, or correspondence with the Pacific Fishery Management Council with respect to the "need" conclusion.

NOAA has determined that the cost associated with searching for responsive documents will exceed \$250.00. Pursuant to the Code of Federal Regulations 15 CFR Part 4.11(e), we are providing you with the estimated fee for search of the documentary record in response to your request. The fee estimate has been determined in accordance with the uniform fee schedule established in 15 CFR Part 4.11(c)(i) for requesters that fall in the All Other Requesters category.

We estimate that the cost to search for responsive records will be approximately \$9,000.00. This estimate is based on approximately 108 hours of search time at the actual salary rates of the six employees who would be conducting the search, plus 16 percent of the employees' salary rates, minus two hours of free search time. Please keep in mind that this is an estimate. It is possible that the actual cost may be higher, based upon the total number of hours needed to conduct the search. This estimate does not include the cost of reproducing documents because until the initial search is completed, we are unable to estimate how many documents would need to be copied. The first 100 pages will be provided to you at no charge. You would then be charged 16¢ for each additional page.

NOAA requests that you pay the estimated fee of \$9,000.00 prior to receiving the requested documents pursuant to 15 CFR Part 4.11(i)(2) because the fee is expected to exceed \$250.00. Please make your check or money order payable to the "Treasury of the United States" and send it to:

NOAA Public Reference Facility (OFA56)
1315 East West Highway (SSMC3), Room 10730
Silver Spring, Maryland 20910

In compliance with the FOIA regulations, the time frame for completing your FOIA request stops until the payment is received. Once your payment and authorization are received, your requested documents will be forwarded to you. Additional time to respond to FOIA requests is provided to Federal agencies according to 15 CFR §4.6 when multiple programs within the agency, or multiple agencies need to search records and coordinate a response.

If payment or other communication is not received within 30 calendar days from the date of this fee notification letter, your FOIA request will be considered "closed".

Please be aware that not all responsive documents are necessarily releasable under FOIA. If you have any questions about your request or the Department's FOIA regulations or procedures, please contact me at (301) 713-3125 ext. 263.

Sincerely

A handwritten signature in cursive script that reads "Aida Pettegrue".

Aida Pettegrue
FOIA Liaison
Office of National Marine Sanctuaries