

RECORD OF DECISION
for the
FINAL ENVIRONMENTAL IMPACT STATEMENT
on the
Designation of Chumash Heritage National Marine Sanctuary

National Oceanic and Atmospheric Administration
Office of National Marine Sanctuaries

October 2024

I. Introduction

This document comprises the National Oceanic and Atmospheric Administration’s (NOAA’s) Record of Decision (ROD) for the final environmental impact statement (FEIS) published on September 6, 2024 for the Chumash Heritage National Marine Sanctuary designation. This ROD includes a description of what the decision is, descriptions of all alternatives considered, a description of the environmentally preferable alternative, and a discussion of factors and considerations balanced by NOAA in making its decision.

This ROD is issued pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.), the Council on Environmental Quality (CEQ) NEPA regulations at 40 CFR Parts 1500-1508 (“CEQ regulations”), and NOAA’s procedures for implementing NEPA set forth in NOAA Administrative Order (NAO) 216-6A and the NOAA NEPA Companion Manual.

NOAA prepared the FEIS and ROD for this action using the 2020 CEQ NEPA regulations (85 Federal Register (Fed. Reg.) 43304, July 16, 2020). This review began on November 10, 2021 when NOAA issued a Notice of Intent to conduct scoping and prepare a draft EIS as required by the National Marine Sanctuaries Act (NMSA) and NEPA (86 Fed. Reg. 62512). Since review of this action began prior to the effective date of CEQ’s Phase 2 NEPA regulations (July 1, 2024), NOAA proceeded with this review under the 2020 regulations.

II. Decision

This ROD documents NOAA’s decision to designate Chumash Heritage National Marine Sanctuary (CHNMS or sanctuary). NOAA is selecting the Final Preferred Alternative (see below) identified in the FEIS to designate CHNMS in the coastal and offshore waters of central California to provide conservation and comprehensive ecosystem-based management to address threats to the nationally significant biological, cultural, and historical resources of this area resources and to manage this special place as part of the National Marine Sanctuary System. The area encompasses 4,543 square miles of coastal and ocean waters, and 116 miles of California coast off the counties of San Luis Obispo and Santa Barbara. The sanctuary will span a maximum distance of 60 miles from shore, and reach a maximum depth of 11,580 feet below sea level. This decision is based on the analyses in the published FEIS, as described below.

NOAA will promulgate regulations that, with a few exceptions, will prohibit the following: new offshore oil and gas development; wildlife harassment; alterations to the seabed; discharge of sewage and certain other substances; disturbance of historical resources; attracting a white shark;

deserting a vessel; and introducing non-native species into the sanctuary. NOAA is including various exemptions and exceptions to these prohibited activities including several different permit processes. These final sanctuary regulations are based on the analyses in the published FEIS, which is described in more detail below.

In making this decision, NOAA has considered all of the alternatives, information, analyses, and objections submitted by the State, Tribal, and local governments, cooperating agencies, and public commenters for consideration by NOAA in developing the FEIS. More information about the alternatives, which are summarized below, and the information submitted to and considered by NOAA is available in the FEIS.

III. Alternatives Considered

In the FEIS, NOAA considered 6 alternatives and 2 sub-alternatives.¹ The alternatives considered included a No Action Alternative, 5 action alternatives, and 2 sub-alternatives. Each alternative included the following components: (1) a boundary component, (2) a regulatory component, and (3) a management plan component. NOAA included the same regulations under all action alternatives. The final management plan's action plans and field activities would be generally the same under each action alternative, but the FEIS explained that the final management plan may be modified under each alternative to address only those issues within the sanctuary boundaries. NOAA considered five possible boundaries for the sanctuary, with two possible additive sub-alternatives.

- The Initial Boundary Alternative encompasses coastal and Pacific Ocean waters offshore central California from Cambria, California to Gaviota Creek and offshore west of Santa Lucia Bank. Subsequent boundary alternatives are built from this Initial Boundary Alternative.
- Alternative 1 shifts the western offshore boundary to the east with the shoreline unchanged.
- Alternative 2 crops the northern portion from Alternative 1, Montaña de Oro State Park at Hazard Canyon Reef to Cambria.
- Alternative 3 adjusts the Initial Boundary Alternative to exclude the Diablo Canyon Call Area offshore area, and waters from Cambria to Diablo Canyon Power Plant.
- Alternative 4 removes the areas excluded in Alternative 1 and Alternative 3 from the Initial Boundary Alternative.
- Sub-Alternative 5a includes the tidally-influenced areas of Morro Bay Estuary, and could be added to the Initial Boundary Alternative and Alternative 1.
- Sub-Alternative 5b includes state waters offshore the Gaviota Coast, and could be added to the Initial Boundary Alternative and any action alternative (alternatives 1-4).

The FEIS identified NOAA's Final Preferred Alternative as Alternative 4 plus Sub-Alternative 5b with an offshore portion that was part of the Initial Boundary Alternative.

No Action Alternative

Under the No Action Alternative, NOAA would not move forward with the designation of Chumash Heritage National Marine Sanctuary.

¹ The term "sub-alternative" distinguishes alternatives that do not stand alone, but rather would modify other boundary alternatives.

Action Alternatives

Under the Initial Boundary Alternative, the sanctuary would include 7,573 square miles of the coastal and Pacific Ocean offshore central California and would border 152 miles of coastline across San Luis Obispo and Santa Barbara counties. The Initial Boundary Alternative is generally consistent with the original action identified in the Notice of Intent (86 Fed. Reg. 62512, November 10, 2021; Figure 1 below, or Figure 3-2 in the FEIS).

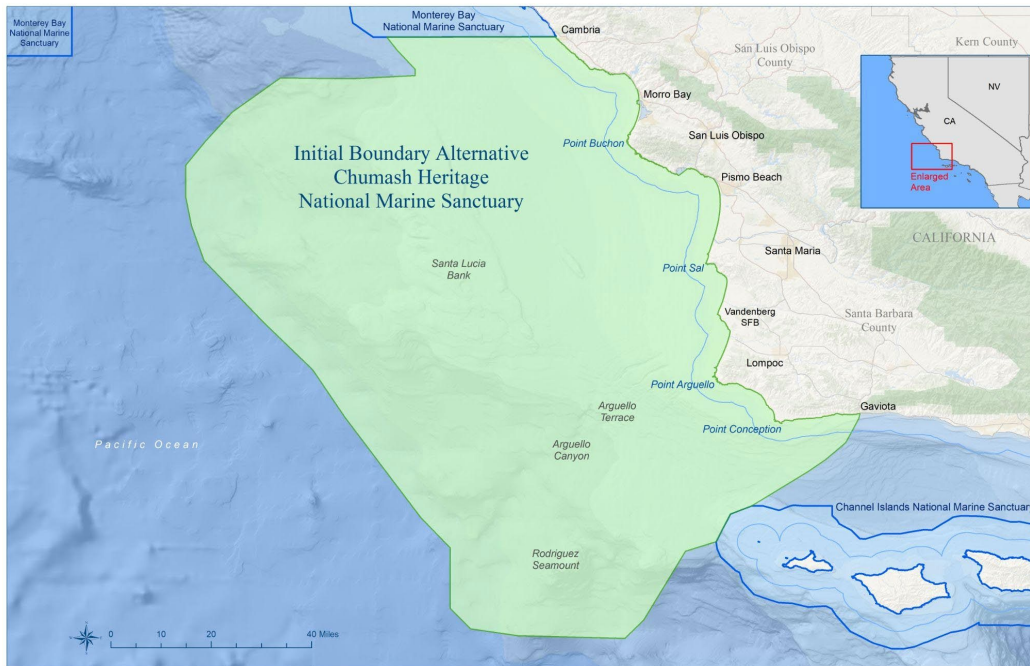


Figure 1. Geographic boundary of Initial Boundary Alternative. Image: NOAA

The Initial Boundary Alternative would result in significant beneficial impacts on physical resources; biological resources; commercial fishing and aquaculture; cultural heritage and maritime heritage resources; and Department of Defense (DoD) and homeland security activities due to the added resource protection afforded by the sanctuary regulations and increased awareness of the area's resources. Resources in the Initial Boundary Alternative include: geophysical features, such as seamounts (i.e., Rodriguez Seamount), marine canyons (i.e., Arguello Canyon), reefs, many types of sediment, a large bank (i.e., Santa Lucia Bank), an escarpment west of the bank, and the abyssal plain beyond that; a variety of important marine habitats and the California Current that supports dense aggregations of marine life, including many threatened or endangered species, such as blue whales, snowy plovers, black abalone, and leatherback sea turtles, plus white sharks; many sacred places and/or culturally significant locations for the Chumash and/or Salinan Peoples, including: Morro Rock and Point Conception and the surrounding waters, coastal and interior village sites; and over 200 ship and aircraft wrecks, three of which are listed on the National Register of Historic Places – *Montebello*, *Yankee Blade*, United States Coast Guard Cutter *McCulloch*. Adverse impacts (less than significant) would occur on offshore energy, commercial fishing operators, recreational boating, land use development, telecommunications companies, marine transportation, and homeland security and military vessel operations. These impacts are associated with the prohibitions on

future new oil and gas facilities in an area with known oil and gas reserves, and the restrictions on discharges and seabed disturbance.

Under Alternative 1, the sanctuary would include 6,098 square miles of coastal and Pacific Ocean waters offshore central California, and would border 152 miles of coastline across San Luis Obispo and Santa Barbara counties. Alternative 1 would exclude most deep-water portions west of Santa Lucia Bank allowing NOAA to focus offshore management on the Santa Lucia Bank and other offshore features, such as Rodriguez Seamount and Arguello Canyon (Figure 2 below, or Figure 3-5 in the FEIS). Compared to the Initial Boundary Alternative, Alternative 1 would have the same types of beneficial and adverse impacts but to a lesser extent due to the smaller size and some reduction in user conflicts due to the distance from shore. Certain beneficial impacts would still be significant for physical resources; biological resources; commercial fishing and aquaculture; cultural heritage and maritime heritage resources; and DoD and homeland security activities. Minor adverse impacts on marine transportation due to the discharge prohibition would be reduced relative to the Initial Boundary Alternative.

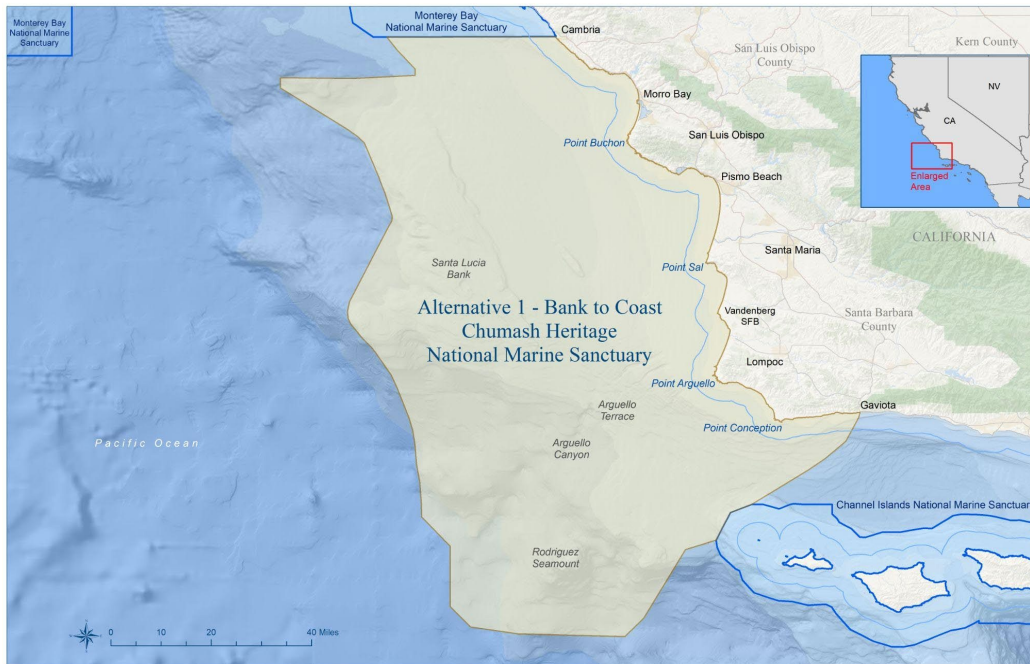


Figure 2. Geographic boundary of Alternative 1. Image: NOAA

Under Alternative 2, the sanctuary would include 5,553 square miles of coastal and Pacific Ocean offshore central California, and would border 115 miles of coastline across San Luis Obispo and Santa Barbara counties. Alternative 2 removes both the deep-water portions west of the Santa Lucia Bank (from Alternative 1) and northern portion from Montaña de Oro State Park at Hazard Canyon Reef to Cambria forming a corridor of non-sanctuary waters between this alternative and the Morro Bay Wind Energy Area in order to address concerns of subsea cables in the sanctuary (Figure 3 below, or Figure 3-6 in the FEIS).

In the areas that overlap with Alternative 1, Alternative 2 would have the same types of beneficial and adverse impacts as Alternative 1. Certain beneficial impacts would still be

significant for physical resources (i.e., geologic and oceanographic resources), and minor adverse impacts on marine transportation due to the discharge prohibition would be reduced to a negligible level compared to the Initial Boundary Alternative. However, the principal difference between Alternative 2 and Alternative 1 is that the open area in the northern corridor would be open to offshore energy development, including offshore wind and potential future oil and gas exploration and production. Physical, biological, fishing, and cultural heritage resources specific to this area that would not be protected include: kelp forests, rocky shores, sandy beaches, protected resources like black abalone and sea otters; the shipwreck Montebello; and waters off Point Estero and Morro Rock that are valued Tribal and Indigenous heritage region. Programs in the management plan, such as education and outreach, and research and monitoring activities would be scaled back or not occur in this area. Alternative 2 was included in the Agency Preferred Alternative in the draft EIS for the sanctuary designation, along with Sub-Alternative 5b (described below, Figure 7).

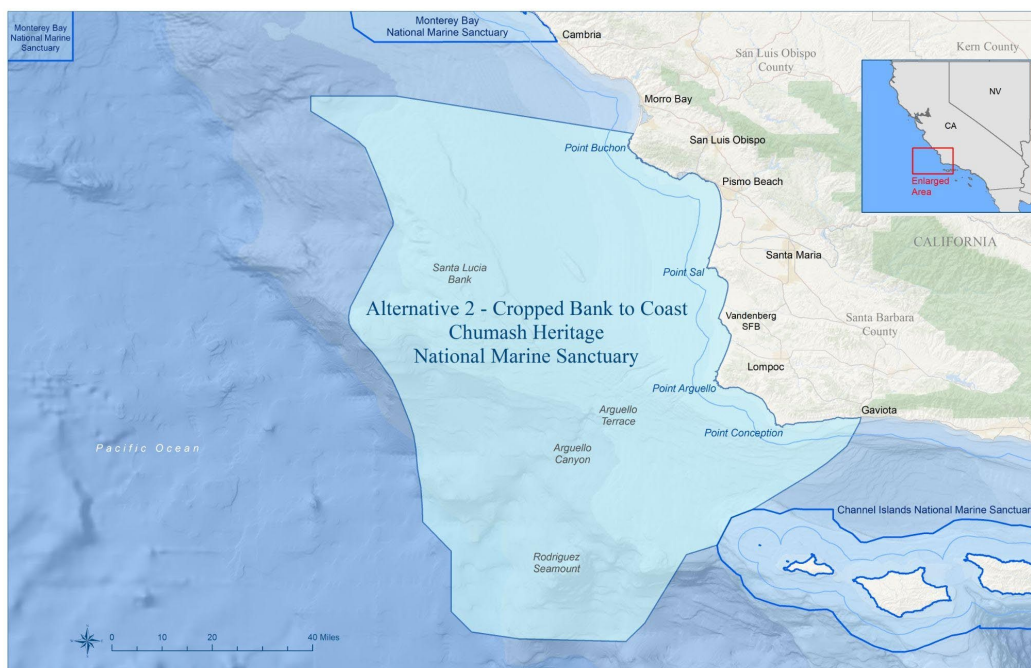


Figure 3. Geographic boundary of Alternative 2. Image: NOAA

Under Alternative 3, the sanctuary would include 5,804 square miles of coastal and Pacific Ocean offshore central California, and would border 98 miles of coastline across San Luis Obispo and Santa Barbara counties. Alternative 3 is substantially smaller than the Initial Boundary Alternative, and would exclude the offshore Diablo Canyon Call Area and a coastal area to route subsea transmission cables from offshore wind energy areas to shore near Morro Bay and Diablo Canyon Power Plant (Figure 4 below, or Figure 3-7b in the FEIS). Beneficial impacts would occur in the same topic areas as identified for the Initial Boundary Alternative but would be at a much smaller scale and at a less than significant level, particularly in the areas of physical resources; biological resources; commercial fishing and aquaculture; and cultural heritage and maritime heritage resources. Under Alternative 3, there would be no sanctuary regulations or programs to protect resources excluded from the sanctuary or sanctuary regulations to limit offshore energy development in these areas. Conservation benefits would not

occur for the shipwreck Montebello and waters off Point Estero, Morro Rock, Montaña de Oro, and the area around Diablo Canyon Power Plant, which are valued Tribal and Indigenous heritage regions.

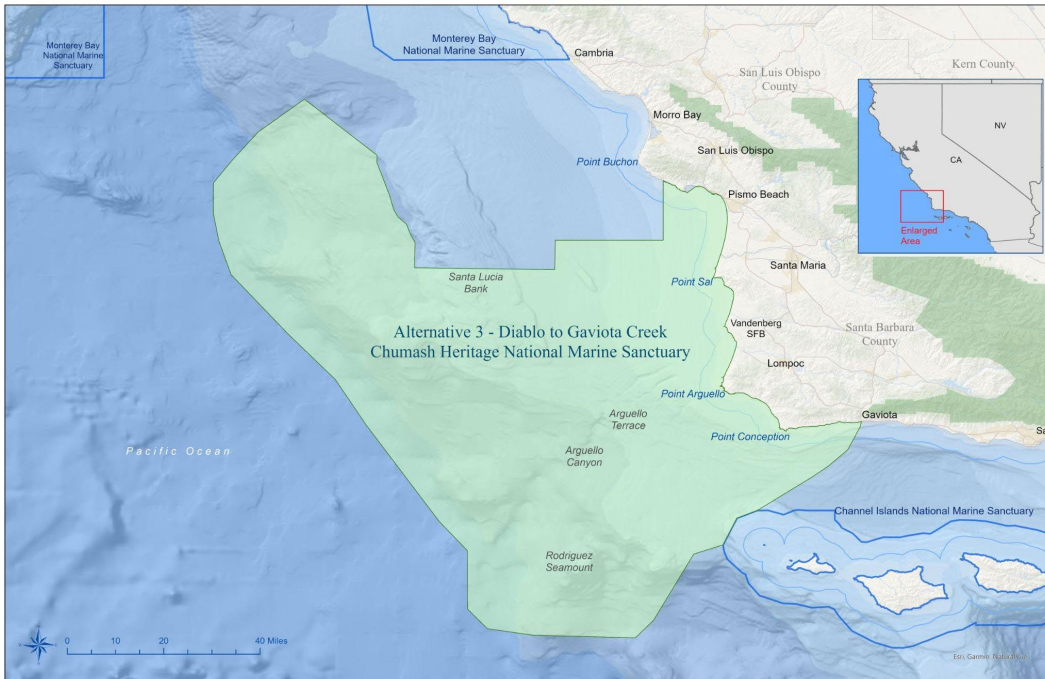


Figure 4. Geographic boundary of Alternative 3. Image: NOAA

Under Alternative 4, the sanctuary would include 4,328 square miles of coastal and Pacific Ocean offshore central California, and would border 98 miles of coastline across San Luis Obispo and Santa Barbara counties. Alternative 4 reflects the aggregate effects of excluding both the western marine waters in Alternative 1 and the northern and central waters for potential wind energy development in Alternative 3 (Figure 5 below, or Figure 3-8 in the FEIS). Alternative 4 would provide the lowest level of beneficial impacts on physical resources; biological resources; commercial fishing and aquaculture; cultural heritage and maritime heritage resources; socioeconomics, human uses, and environmental justice; and DoD and homeland security activities, due its substantially smaller size compared to the Initial Boundary Alternative and other action alternatives. Under Alternative 4, there would be no sanctuary regulations or programs to protect resources excluded from the sanctuary or sanctuary regulations to limit offshore energy development in these areas. Conservation benefits would not occur for the shipwreck Montebello and waters off Point Estero, Morro Rock, Montaña de Oro, and the area around Diablo Canyon Power Plant, which are valued Tribal and Indigenous heritage regions.

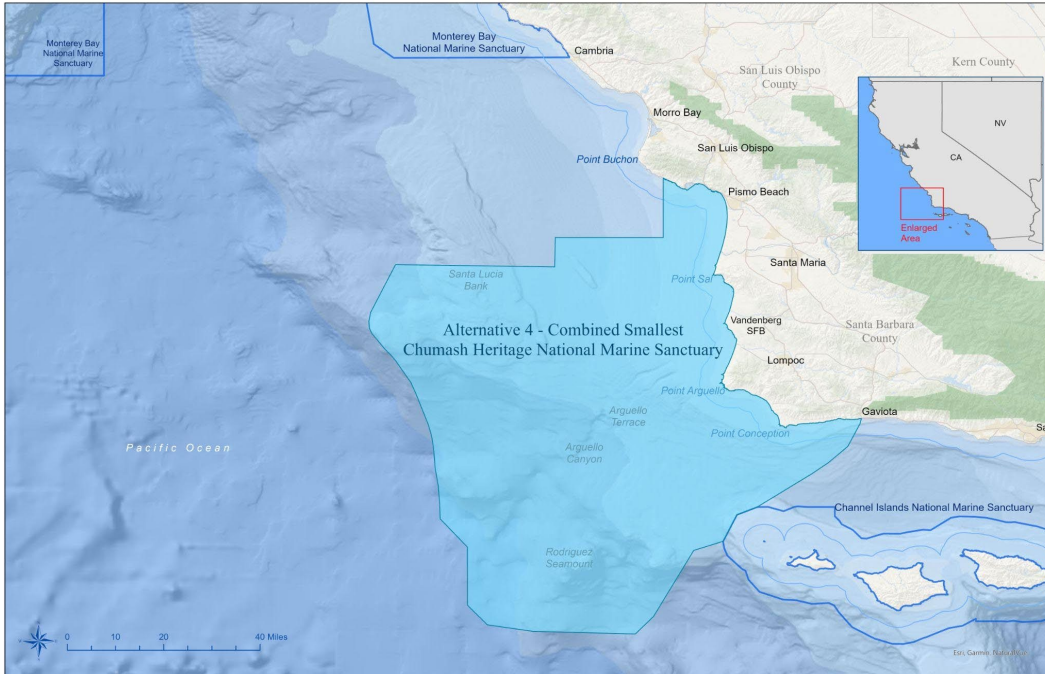


Figure 5. Geographic boundary of Alternative 4. Image: NOAA

Sub-Alternative 5a would include 2.5 square miles of the tidally-influenced areas of Morro Bay Estuary, and could only be added to the Initial Boundary Alternative and Alternative 1 of which Morro Bay Estuary is adjacent (Figure 6 and Figure 8 below, or Figure 3-9 and Figure 3-10 in the FEIS). This sub-alternative would offer increased beneficial impacts to the Initial Boundary Alternative or Alternative 1 for cultural heritage and maritime heritage resources, and additional, less than significant benefits in the issue areas of physical resources; biological resources; commercial fishing and aquaculture; and socioeconomics, human uses, and environmental justice due to protections afforded by the sanctuary regulations.

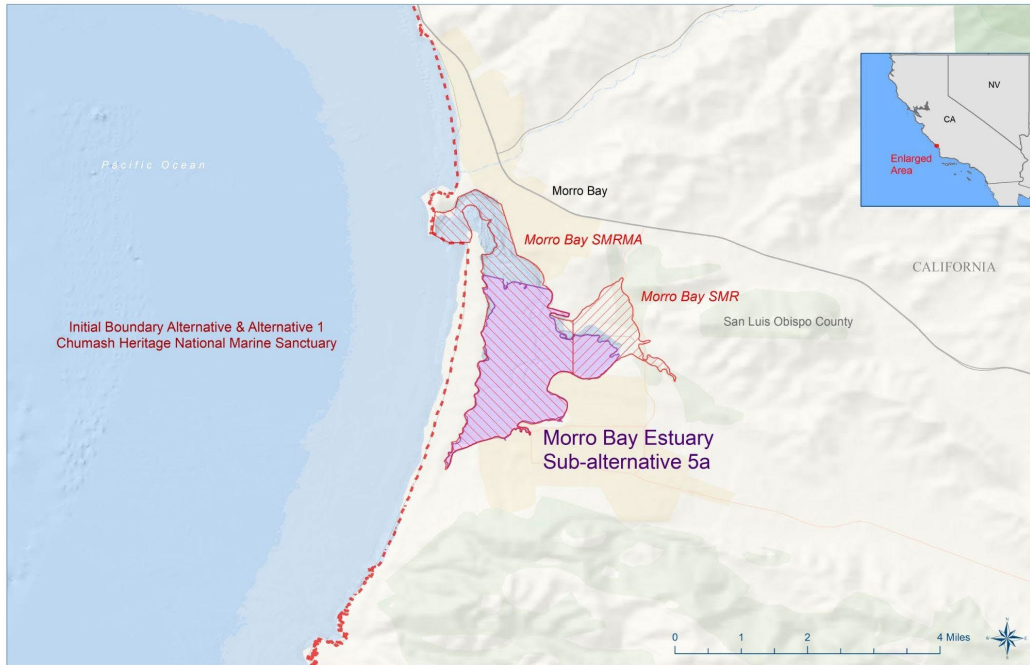


Figure 6. Geographic boundary of Sub-Alternative 5a. Image: NOAA

Sub-Alternative 5b would include 64 square miles of state waters offshore the Gaviota Coast and 18 miles of coastline in Santa Barbara County, and could be added to the Initial Boundary Alternative and action alternatives 1-4 (Figure 7 and Figure 8 below, or Figure 3-9 and Figure 3-11 in the FEIS). This sub-alternative would offer increased beneficial impacts to the Initial Boundary Alternative or other action alternatives for cultural heritage and maritime heritage resources; additional benefits (less than significant) in the issue areas of physical resources; biological resources; commercial fishing and aquaculture; and socioeconomics, human uses, and environmental justice would be achieved due to protections afforded by the sanctuary regulations. In particular, this sub-alternative would include the following additional resources: waters off state beaches and parks (Gaviota, Refugio, and El Capitán); two state marine conservation areas (Kashtayit and Naples); beaches, kelp forests, and rocky and soft substrate reefs; three additional reported shipwrecks, two military aircraft, and one additional historic wharf site; and waters offshore numerous significant cultural heritage resources.

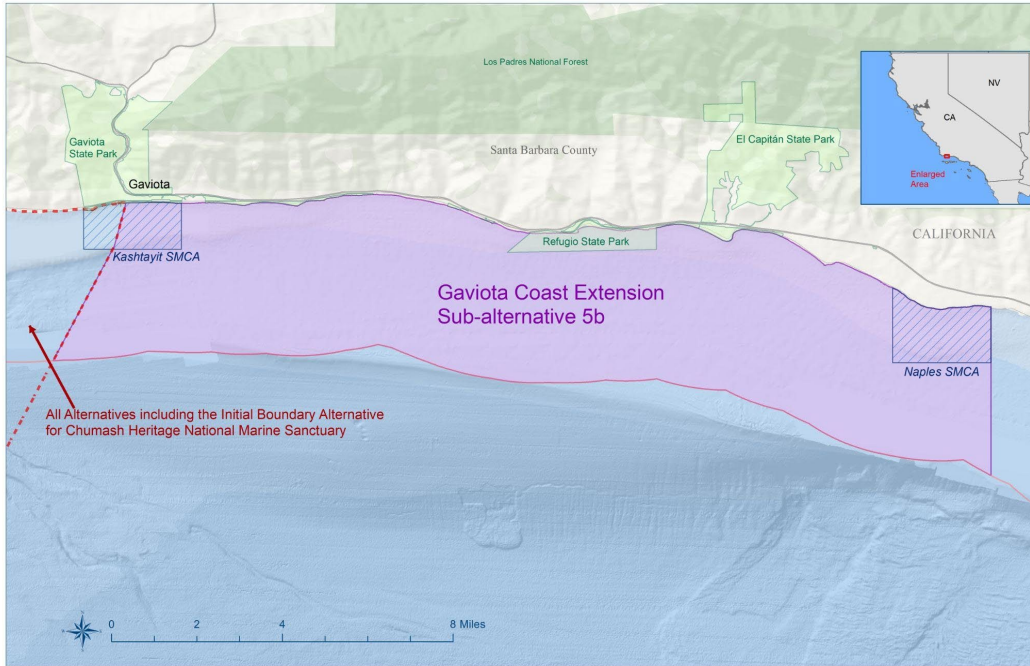


Figure 7. Geographic boundary of Sub-Alternative 5b. Image: NOAA

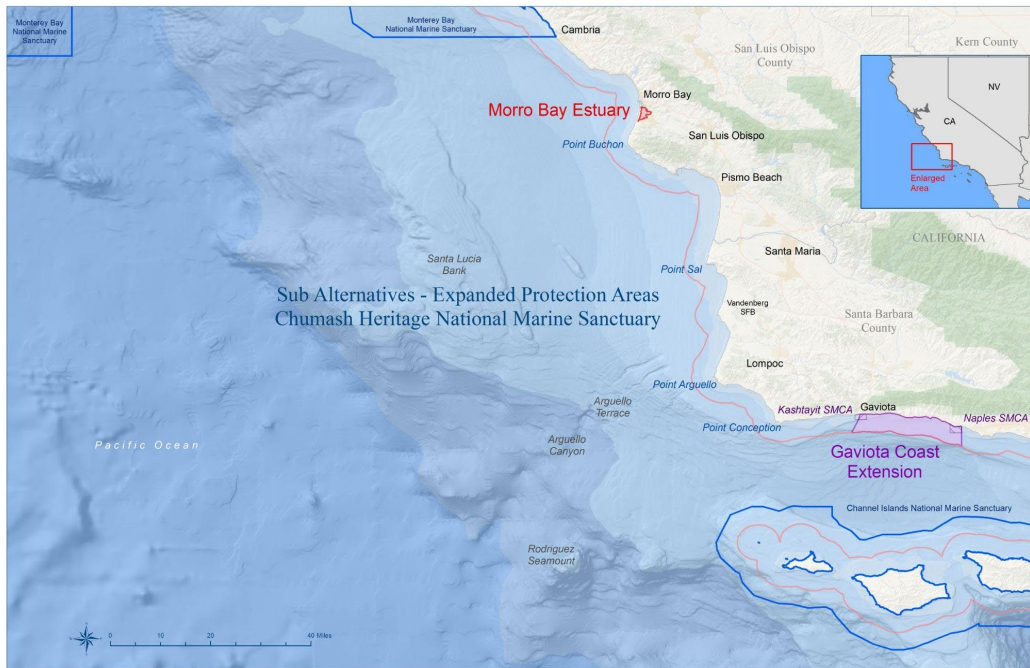


Figure 8. Sub-alternatives 5a and 5b. Image: NOAA

Alternatives Considered, but not Carried Forward

NOAA also considered, but did not carry forward several alternatives that were suggested during the scoping process and public comment period on the draft EIS. Specifically, these include: larger and smaller boundary configurations, exclusions for various industrial developments (e.g., offshore wind energy infrastructure development, fiber optic cables, and oil and gas facility

areas), buffer zones for harbors and shorelines, and several alternative regulations. These alternatives were carefully considered, but ultimately eliminated from detailed study for various reasons, including lack of feasibility, lack of relevance to the purpose and need, or redundancy with other alternatives. A detailed description of alternatives considered but eliminated from detailed study is provided in the FEIS.

IV. Environmentally Preferable Alternative(s)

NOAA's analysis finds that the Initial Boundary Alternative, including Sub-Alternatives 5a and 5b, is the environmentally preferable alternative because this boundary would protect the largest marine area.

The Initial Boundary Alternative would result in significant beneficial impacts on physical resources; biological resources; commercial fishing and aquaculture; cultural heritage and maritime heritage resources; and DoD and homeland security activities due to the added resource protection afforded by the sanctuary regulations and increased awareness of the area's resources.

The Initial Boundary Alternative would result in adverse, but less than significant impacts on offshore energy. These moderate adverse impacts are associated with the prohibition of future new oil and gas facilities in an area with known oil and gas reserves, financial and regulatory burdens of discharge restrictions in the event of a spill, and the prohibition on seabed disturbance that may impede potential future offshore wind energy development within sanctuary boundaries. The Initial Boundary Alternative would also result in moderate adverse impacts associated with installing, maintaining, and operating subsea electrical transmission cables from offshore Morro Bay lease areas in the Morro Bay Wind Energy Area to shore. The implementation of sanctuary regulations would involve restrictions that could cause adverse, but less than significant impacts on commercial fishing operators, recreational boating, land use development, telecommunications companies, marine transportation, and homeland security and military vessel operations. These impacts are associated with the regulatory prohibitions on discharges and seabed disturbance within the sanctuary.

Boundary Sub-Alternative 5a, which could be implemented with the Initial Boundary Alternative, would include the Morro Bay Estuary. This sub-alternative would offer increased significant benefits (relative to the Initial Boundary Alternative) for cultural heritage and maritime heritage resources, and additional, less than significant benefits in the issue areas of physical resources; biological resources; commercial fishing and aquaculture; and socioeconomics, human uses, and environmental justice due to protections afforded by the sanctuary regulations. Sub-Alternative 5a would have minor incremental adverse impacts on physical resources; biological resources; socioeconomics, human uses, and environmental justice; and marine transportation.

Boundary Sub-Alternative 5b would extend the Initial Boundary Alternative along the Gaviota Coast. By applying sanctuary regulations to this area, Sub-Alternative 5b would offer increased significant beneficial impacts (relative to the Initial Boundary Alternative) for cultural heritage and maritime heritage resources; additional less than significant benefits in the issue areas of physical resources; biological resources; commercial fishing and aquaculture; and socioeconomics, human uses, and environmental justice would be achieved due to protections

afforded by the sanctuary regulations. Including this area in the sanctuary would have the potential to result in a small incremental increase in adverse impacts on commercial fishing and aquaculture (i.e., commercial fishing operations); socioeconomics, human uses, and environmental justice (i.e., land use development); and marine transportation, due to the implementation of discharge and submerged lands disturbance regulations.

The overall adverse impacts from these combined alternatives would still be less than significant, while providing the greatest benefit to the human environment.

V. Rationale for Selection of the Final Preferred Alternative

NOAA identifies its Final Preferred Alternative as Alternative 4, plus Sub-Alternative 5b, and a small area analyzed as part of the Initial Boundary Alternative in the center of the Santa Lucia Bank, thereby creating a straight line across the northern section of the sanctuary (Figure 9). The Final Preferred Alternative will allow for the protection of nationally significant natural, ecological, historical, and cultural resources covering 4,543 square miles of coastal and ocean waters, and 116 miles of California coast off the counties of San Luis Obispo and Santa Barbara. The sanctuary will span a maximum distance of 60 miles from shore, and reach a maximum depth of 11,580 feet below sea level. This boundary has been selected after thorough consideration of public and Indigenous community comments, NOAA’s responses to those comments, Administration and state of California priorities, and consultation among federal agencies and the federally recognized Santa Ynez Band of Chumash Indians.

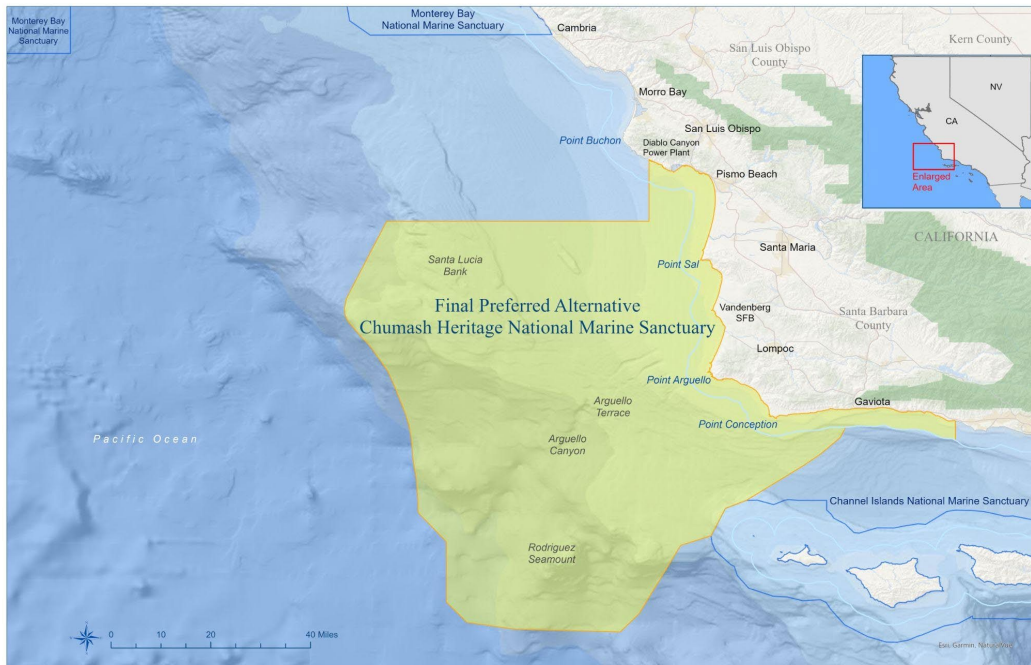


Figure 9. Geographic boundary of the Final Preferred Alternative. Image: NOAA

The Final Preferred Alternative provides significant beneficial impacts on cultural heritage and maritime heritage resources, and added benefits through inclusion of Sub-Alternative 5b along the Gaviota Coast. It provides other beneficial but less-than-significant impacts in nearly all resource areas, such as: physical resources; biological resources; commercial fishing and

aquaculture; cultural heritage and maritime heritage resources; socioeconomics, human uses, and environmental justice; and DoD and homeland security activities, largely through sanctuary regulations that will limit the scale and scope of offshore development activities and other human uses that could harm natural, historical, and cultural resources. NOAA has considered the adverse impacts of the Final Preferred Alternative and finds them to be an acceptable balance between resource use and conservation of sanctuary resources. This alternative will have no significant adverse impacts and the least amount of adverse but less-than-significant impacts on development of offshore renewable energy telecommunications and submarine fiber optic cables, and marine transportation (compared to the Initial Boundary Alternative and all other action alternatives).

The reasons for the Final Preferred Alternative boundary center around clarifying information provided by the three Morro Bay Wind Energy Area leaseholders about subsea energy transmission cables and NOAA's consideration of this information in light of state and federal renewable energy and conservation goals, the purposes and policies of the National Marine Sanctuaries Act, and the purpose and need of the sanctuary. The Final Preferred Alternative is the boundary least likely to create potential regulatory uncertainty perceived by offshore wind developers because it excludes an area in which subsea electrical transmission cables and floating offshore substations could be installed to connect the Morro Bay Wind Energy Area to the electrical power grid at Morro Bay and Diablo Canyon Power Plant. Therefore, offshore wind developers are not expected to require sanctuary permits for subsea electrical transmission cables to shore.

The FEIS characterized NOAA's Final Preferred Alternative as Phase 1 for sanctuary conservation on California's central coast. It explained that NOAA envisions a Phase 2 process where it will consider expanding boundaries to encompass areas that were included in the original study area for the EIS. This future process is described in the final management plan's Boundary Adjustment Action Plan.

In selecting its Final Preferred Alternative, NOAA has adopted all practicable means to minimize environmental harm, including implementing regulatory prohibitions and a permitting system that would help ensure sustainable practices to avoid or minimize any direct impacts on sanctuary resources. The FEIS did not identify any specific mitigation measures for this action, and a mitigation monitoring plan is not required. Information regarding additional regulatory consultations is included in the FEIS and final rule for Chumash Heritage National Marine Sanctuary.

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Date