

**MEMORANDUM OF AGREEMENT
BETWEEN
THE DEPARTMENT OF THE NAVY AND THE NATIONAL OCEANIC AND
ATMOSPHERIC ADMINISTRATION, NATIONAL MARINE FISHERIES SERVICE
REGARDING THE ESTABLISHMENT OF A SEVEN-YEAR PLAN
TO SUPPORT THE RECOVERY OF THE ENDANGERED WHITE ABALONE
AT TANNER AND CORTES BANKS**

WHEREAS, the waters and submerged lands at and around the Tanner and Cortes Banks (the Banks) contain objects of scientific interest that are situated upon lands owned or controlled by the Government of the United States (United States);

RECALLING, the purposes of the Endangered Species Act of 1973 (ESA) (16 U.S.C. § 1531 *et seq.*) are to provide a means whereby the ecosystems upon which endangered and threatened species depend may be conserved, to provide a program for the conservation of endangered and threatened species, and to take such steps as may be appropriate to achieve the purposes of the treaties and conventions listed in section 2(a) of the ESA;

WHEREAS, the Banks are an important home to the endangered white abalone (*Haliotis sorenseni*), which has undergone serious depletion from past decades of overharvest along the west coast of the United States, and two of the last known white abalone populations in the wild persist on the Banks;

WHEREAS, under the ESA, the National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS) has jurisdiction generally over marine species, including the endangered white abalone;

WHEREAS, the Southern California (SOCAL) Range Complex, the Department of the Navy's (DON's) premier range complex for at sea testing and training essential to the DON for the security and defense of the United States, is situated between Dana Point and San Diego, California, extending more than 600 nautical miles southwest into the Pacific Ocean, and within the boundaries of the SOCAL Range Complex the unique bathymetry of the Banks is an irreplaceable national security asset, essential for effective DON testing and training at sea that cannot be replicated elsewhere by any means;

RECALLING, that the United States has made a significant fiscal investment to enhance the testing and training capabilities afforded by the Banks;

RECALLING, as part of its environmental stewardship within the SOCAL Range Complex, the DON has supported NMFS's efforts to recover the endangered white abalone;

NOW, THEREFORE, the DON and NMFS (jointly, the Parties) enter into this Memorandum of Agreement (MOA) to document the terms of a seven-year plan to support the recovery of the endangered white abalone at Tanner and Cortes Banks (hereinafter Seven-Year Plan).

I. AUTHORITY

The Endangered Species Act of 1973, as amended, 16 U.S.C. § 1531, *et seq.*

II. OBJECTIVES

The objectives of this MOA include the following:

- A. Document the mutual expectations of the Parties regarding the establishment and implementation of the Seven-Year Plan.
- B. Document the respective commitments of the Parties to achieve successful implementation of the Seven-Year Plan.

III. DEFINITIONS

- A. The terms “conserve” and “conservation” have the meaning of the terms as defined in subsection 3(3) of the ESA (16 U.S.C. § 1532(3)).
- B. The term “endangered species” has the meaning given the term as defined in subsection 3(6) of the ESA (16 U.S.C. § 1532(6)).
- C. The term “recovery” means the point at which measures provided pursuant to the ESA are no longer necessary.

IV. COMMITMENTS OF THE PARTIES

The Parties agree as follows:

- A. The Parties recognize that the white abalone once numbered in the millions off the California coast through much of the 20th century. Intense commercial harvesting of white abalone began in 1969 and peaked in 1972 at about 143,000 pounds per year. Just six years later, the fishing industry caught less than 5,000 pounds. In 1997, the State of California closed all commercial and recreational harvest of abalone except for a highly regulated recreational fishery for red abalone north of San Francisco. The white abalone's numbers declined precipitously to the point, that on May 29, 2001, it became the first marine invertebrate to be listed as endangered under the ESA. NMFS has determined it is not prudent to designate critical habitat because identification of such habitat is expected to increase the threat of poaching for white abalone. On October 27, 2008, NMFS established a final Recovery Plan for the white abalone.
- B. The Parties recognize that this MOA compliments and enhances NMFS's 2008 final Recovery Plan for the white abalone, as well as various public and private efforts to recover the species. Through recovery and conservation efforts, NMFS and its many partners are supporting a captive breeding program at the University of California-Davis Bodega Marine Lab. Using Aquaculture techniques, the goal is to produce captive-bred animals that will be used to establish a self-sustaining white abalone population in the wild.
- C. The Parties acknowledge that recovery of the endangered white abalone is compatible with DON at-sea testing and training within and surrounding the Banks, and can be achieved in manner that does not constrain, intentional or otherwise, the DON's continued ability to test and train effectively. The parties also acknowledge that this MOA does not provide ESA section 7 incidental take coverage of white abalone or other listed species for DON testing and training activities within and surrounding the Banks, which would be obtained through a separate section 7 consultation. The Biological Opinion issued by NMFS on April 2, 2015 for current DON testing and training activities in the SOCAL Range Complex documents the conclusion that such activities may affect, but are not likely to adversely affect endangered white abalone.
- D. The Parties recognize that under section 7 of the ESA, the DON, in consultation with NMFS, shall use its authorities in furtherance of the purposes of the Act by carrying out programs for the conservation of endangered species. As set forth in Attachment A to this MOA, the DON agrees to fund and/or undertake the identified projects in support of the enumerated goals which directly benefit white abalone in Southern California, and in particular the Banks. The Parties reserve the right to adjust these projects and goals as necessary to support the recovery of

the white abalone, and as subject to the availability of congressional appropriations.

- E. The Parties agree to exchange information as necessary to ensure the implementation of this MOA. The Parties will meet periodically to review efforts to recover the white abalone, including those as provided under this MOA.

V. MISCELLANEOUS

The Parties agree that this MOA is strictly for internal management purposes, does not expand or alter the scope of the Parties' respective authorities, and shall not be construed to create any legal obligation on the part of either agency or any right or cause of action for or by any person or entity. Nothing herein shall be considered as obligating any party in the expenditure of funds or the future payment of money or providing services. The expressions of support under this MOA are subject to the requirements of the Federal Anti-Deficiency Act (31 U.S.C. § 1341), and to the availability of appropriated funds.

VI. PRINCIPAL CONTACTS

DON: The Deputy Assistant Secretary of the Navy (Environment)

NMFS: The Assistant Administrator for Fisheries

VII. TERM OF THE AGREEMENT

This MOU shall take effect on the date of the last approving signature specified in Section VIII below. This MOU may be modified only upon the written agreement of the Parties.

VIII. SIGNATORIES

This MOU may be executed in multiple counterparts, each of which shall constitute an original, and all of which taken together shall constitute one and the same agreement.

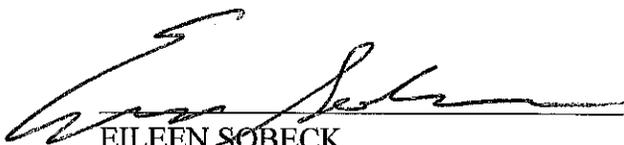
This MOU may be executed by a letter, electronically, by facsimile, or by e-mail, and such an electronically delivered signature will be deemed to be as valid as an original signature.



KARNIG H. OHANNESSIAN
Deputy Assistant Secretary of the Navy (Environment)
Department of the Navy

6/29/2016

Date



EILEEN SOBECK
Assistant Administrator for Fisheries
National Marine Fisheries Service

6/29/2016

Date

DON PROJECTS DIRECTLY BENEFITTING WHITE ABALONE RECOVERY IN TANNER AND CORTES BANKS

PROJECT TITLE (Navy Funding Command)	Fiscal Year						PROJECT GOALS TO SUPPORT WHITE ABALONE
	2016	2017	2018	2019	2020	2021	
NALF SCI - White Abalone Surveys and Management (CPF): Locations: San Clemente Island and Pt Loma	\$117,876	\$5,186	\$125,394	\$5,395	\$130,460	\$5,163	\$6,714
Status assessment in Southern California							
Tagging methods development to track long-term movements, behavior, growth		\$50,000		\$50,000		\$50,000	\$50,000
Withering Syndrome (WS) prevalence and susceptibility		\$50,000	\$50,000		\$50,000		
Genetic toolbox development		\$55,000	\$55,000	\$55,000	\$55,000	\$55,000	\$55,000
Monitor habitat and status of abalone at outplant sites		\$120,000	\$120,000	\$120,000	\$120,000	\$120,000	\$120,000
Tanner-Cortes Banks White Abalone Survey			\$190,000		\$190,000		
TOTAL PER FISCAL YEAR	\$117,876	\$280,186	\$540,394	\$230,395	\$545,460	\$230,163	\$230,714
TOTAL FUTURE NAVY INVESTMENT WITH DIRECT BENEFIT TO WHITE ABALONE:	\$2,175,188						