

MONTEREY BAY NATIONAL MARINE SANCTUARY
ADVISORY COUNCIL MEETING

Friday, January 17, 1997
Big Sur Multi-Agency Facility
Big Sur Station
Big Sur, California

AGENDA

8:00 AM Coffee and Sign-in

8:30 AM Call to Order, Roll Call, Approval of October 25, 1996 and
Presentation of the November 22, 1996 Meeting Notes

8:45 AM Public Comments on Items not on the Agenda

9:00 AM Status Report: Hearing Schedule for Jade Collection

10:00 AM Break

10:15 AM Discussion: Tree Fishing in the MBNMS

10:45 AM Presentation: Sanctuaries and Reserves Division's New Strategic Plan

11:15 AM Report and Discussion on the December Meeting with the
Sanctuaries and Reserves Division and Review of SAC Charter

12:00 PM Approval: SAC Protocols

12:30 PM Lunch

1:30 PM Discussion: Formal Representation on the SAC -- Working Groups
and NOAA

2:00 PM Update: Proposed Edward F. Ricketts Marine Reserve

2:15 PM Sanctuary Managers' Report

2:45 PM Break

3:00 PM Working Group Reports: Education, Conservation, Research, and Business &
Tourism

3:30 PM Presentation: Water Quality Protection Program

3:45 PM Update on the "Montebello"

4:00 PM Adjourn

PLEASE NOTE: Agenda topics and scheduled presentation times are subject to change
without notice.

FINAL 1/10/97

MONTEREY BAY NATIONAL MARINE SANCTUARY
ADVISORY COUNCIL

Meeting Minutes

Friday, January 17, 1997

Big Sur Multi-Agency Facility

Big Sur, CA

The Monterey Bay National Marine Sanctuary (MBNMS) Advisory Council met on Friday, January 17, 1997 at the Big Sur Multi-Agency Facility in Big Sur, California. Public categories and government agencies present were as indicated:

Agriculture: Richard Nutter	Diving: Ed Cooper
AMBAG: Ruth Vreeland	Education: Dorris Welch
At Large: Karin Strasser Kauffman, Chair	Enforcement: Roy Torres
At Large: Not Represented	Fishing: Dave Danbom
At Large: David Iverson, Secretary	Ports & Harbors: Joe Townsend
Business & Industry: Steve Abbott	Recreation: Thomas La Hue
CA EPA: Marc Del Piero	Research: Rick Starr (for Greg Cailliet)
CA Coastal Commission: Tami Grove	Tourism: Ed Brown
CA Resources Agency: Brian Baird	U.S. Coast Guard: CDR Dean Lee
Conservation: Rachel Saunders	

The following non-voting members were present as indicated:

Monterey Bay NMS: Terry Jackson	GFNMS and CBNMS: Ed Ueber
Channel Islands NMS: Ed Cassano	ESNERR: Steve Kimple

Special guests in attendance were: Stephanie Thornton, Chief, Sanctuaries and Reserves Division (SRD), National Oceanic and Atmospheric Administration (NOAA); Debra Malek, Chief, Pacific Branch, SRD; Tom Allen, Manager, Proposed Hawaiian Islands National Marine Sanctuary; Dave Kruth, NOAA Pilot for the Monterey Bay National Marine Sanctuary (MBNMS) and the Channel Islands National Marine Sanctuary (CINMS); Joanne Flanders, Asst. Manager, Monterey Bay National Marine Sanctuary; and CDR Chip Sharpe, Office of Aids to Navigation, U.S. Coast Guard.

I. CALL TO ORDER, ROLL CALL, APPROVAL OF OCTOBER 25, 1996
MEETING MINUTES

A) Call to Order

The meeting was called to order by the Chair, Karin Strasser Kauffman, at 8:42 AM.

B) Welcome and Roll Call

The Chair welcomed the members of the Sanctuary Advisory Council, special guests, and members of the public.

David Iverson, took the roll call and confirmed a quorum. The Chair officially recognized

Rick Starr's participation in lieu of Greg Cailliet who was attending a conference in La Paz, Mexico

C) Approval of Previous Meeting Minutes

The draft minutes from the October 25, 1996 meeting were approved as amended at the November 22, 1996 meeting.

The meeting summary of the November 22, 1996 meeting were presented. Due to the lack of a quorum at the November meeting, no action needed to be taken on the notes.

II. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

1. David Clayton, Chairman, Conference of California Councils, expressed his disappointment with the National Marine Sanctuary program and, in particular, NOAA. Mr. Clayton circulated a copy of an article from Dive Training Magazine about the recent defeat of the Florida Keys National Marine Sanctuary referendum to substantiate his argument that if the Federal process does not respond to public opinion, the public will find a way to remove perceived obstacles. A copy of the article is attached. (Please see Attachment A.)

III. STATUS REPORT: HEARING SCHEDULE FOR JADE COLLECTION

Karin provided a brief history of the jade collection controversy before opening the subject up for general discussion. In summary, the issue was first brought to the attention of the Advisory Council in March 1994. Since that time, the public has actively participated with the Advisory Council in the rule making process regarding the collection of jade. The Advisory Council has supported the public's request that Federal Regulations allow the collection of jade on a small scale based upon historical practices and the contention that, unlike large scale commercial mining and off-shore oil drilling, the collection of jade from the MBNMS for private uses and artistic expression does not threaten Sanctuary resources.

Terry Jackson, Manager of the MBNMS, informed the Council that the proposed ruling on jade collection has not yet been cleared by NOAA; however, it is expected to be released in the very near future. Once the proposed ruling is published in the Federal Register, there will be a 120-day comment period as requested by the diving community. During that time, there will be a public hearing scheduled. Terry assured the jade community that he will work closely with them on the scheduling of the public hearing.

When questioned about the content of the proposed ruling, Terry summarized that the language allows collection of jade, but restricts the size of the jade to whatever can be carried by a 100 pound lift-bag and that no other tools can be used.

Comments from the Sanctuary Advisory Council are as follows:

Karin Strasser Kauffman -- commented that currently the collection of jade is prohibited by the State of California. Once the Federal law comes into effect, we will need to work with the State Lands Commission to change California law so that it is accord with the Federal Law.

Richard Nutter -- inquired about the estimated time frame for the rule making process and wondered if it would be completed in 1997.

Terry Jackson -- responded positively, explaining that once the proposed rule as drafted is published, the process follows a strict schedule; a 120-day comments period followed by approximately a 30-40 day turn-around time for NOAA to review the comments and make a final decision on the rule.

Karin Strasser Kauffman -- asked when the most strategic time to schedule a public hearing would be -- early or later in the 120-day comment period.

Ed Brown -- expressed questions over the State's involvement and whether the issue of jade collection, once settled by NOAA, must go back to the State Lands Commission for consideration as an issue of extraction.

Brian Baird -- reminded Council members and the public audience that Jade Cove is part of a public land trust, meaning that large quantities of jade are not allowed to be taken. Up to this point, the States Lands Commission has not been heavily involved. The State will work with NOAA and will not take any action on the issue until after the Federal process has started.

Ruth Vreeland -- asked how many public hearings will be held.

Terry Jackson -- replied that he was anticipating just one, but added that more could be scheduled if needed.

Karin Strasser Kauffman -- wanted to make sure that at least one hearing would be scheduled in Big Sur.

Terry Jackson -- assured the Council that a hearing could be scheduled in Big Sur if that is what is wanted.

Karin Strasser Kauffman -- requested that a hearing be scheduled in Big Sur and in Monterey.

Ed Ueber -- suggested that it would be advantageous to have the hearings early in the process to give headquarters time to respond more quickly once the comment period is over. He commented that it would be preferable to have the comments reach SRD early.

Terry Jackson -- informed the assembly that the Sanctuary would be considering dates within the first 30 days of the comment period to schedule a hearing, thereby allowing plenty of time for SRD to respond.

Karin Strasser Kauffman -- asked for clarification on why the decision on the regulation was delayed.

Terry Jackson -- explained that there have been a lot of deliberations and changes at headquarters since the Council's November meeting; for instance, changes in instrumental personnel at SRD as well as the Presidential elections caused significant delays. Right now, the regulation is with the new Deputy Assistant Director of NOAA, Terry Garcia, who is trying to familiarize himself with the issue.

Chief Thornton -- added, as a point of clarification, that headquarters considers the jade collection issue especially important because of the significant questions it raises about mineral extraction policies in the National Marine Sanctuary program. Moreover, the jade question impacts some of the fundamental principles of the MBNMS designation document. Before a ruling is made, SRD wants to be very certain that this change in the

designation document is something that the entire Sanctuary community feels is important and critical.

Karin Strasser Kauffman -- acknowledged Chief Thornton's point, but observed that, in this case, there is documentation of strong community support to make the change. In addition, the Sanctuary Advisory Council represents the constituencies surrounding the MBNMS and they support the change and have indicated as much in writing more than once. Finally, representatives of the jade collection community at-large have attended multiple Advisory Council meetings expressing their support for specific changes in the designation document.

Dave Clayton -- explained that while no one wants to threaten the prohibition on offshore oil drilling, the jade cove community came forward early in the designation process to request that the historical practice of small scale jade collection be exempted from the overall prohibitions. At that time, Congressman Leon Panetta, gave written assurances that the jade community's needs would be considered.

Chief Thornton -- cautioned that this issue was setting a precedence for other sites and was not merely limited to the MBNMS. She stated that there has been a lot of thinking and discussion and that headquarters is trying to take into account the needs of the community.

Karin Strasser Kauffman -- agreed that the Council certainly doesn't want to reduce protection for the Sanctuary, but occasionally there are times when the law has to be flexible.

Thomas La Hue -- supported Karin's statement adding that the government needs to be flexible when there is a very real request and that that was a very good precedent to set.

Ed Brown -- commented that he doesn't consider this as a negative precedent -- rather as a clarification that meets our needs and we want that change to take place.

Chief Thornton -- redirected the discussion and addressed questions about the estimated timeline for a decision from NOAA. She stated that because Terry Garcia is new in his position, he has indicated his intentions to wait for a recommendation from her before clearing the proposed regulation. Therefore, Chief Thornton was able to state with some confidence that the proposed ruling would be released in very short order.

Brian Baird -- inquired if the hearing date will be published in the Federal Register.

Terry Jackson -- replied that a Federal Register notice about the hearing is required, but not necessarily at the same time as the notice of proposed ruling.

Ruth Vreeland -- suggested that it would make sense to put the announcements in the Federal Register at the same time.

Terry Jackson -- remarked that the hearing would be well announced.

Joe Townsend -- wanted to give the jade collection community some kind of realistic framework as to the completion of the process.

Terry Jackson -- repeated that the process, once the proposed rule as drafted is published in the Federal Register, will involve a 120-day comment period followed by a 30-40 day turn-around before the final rule is released. Once the rule making process is put in motion, NOAA is required to keep to the schedule. We can safely estimate that a final decision on

the issue will be reached within 6 months from the time the proposed rule is published in the Federal Register -- 4 months of which has been specifically requested by the jade community.

Karin Strasser Kauffman -- asked if the jade community wanted to shorten the public comment period.

Dave Clayton -- answered that the jade community specifically requested 120-day comment period to allow plenty of time for them to notify their stakeholders: a 30-60 day period would not be enough time, but a 90-day comment period would be acceptable.

Don Wobber, local author and jade sculptor, -- displayed some of his jade sculptures and briefly described the lengthy and dedicated process required for sculpting jade.

In summary, Mr. Wobber articulated his belief that wise use of Sanctuary resources, as directed in the designation document, includes artistic expression and cultural importance. Jade collected from the MBNMS and used for artistic purposes has earned a national, as well as international, reputation and Monterey jade is featured in public displays throughout the world. Mr. Wobber's prepared statement is attached. (Please see Attachment B.)

Mr. Wobber recommended that the following changes be included in the proposed rule:

1. To institute a permitting system for the take of large stones;
2. To allow the use of hand tools; specifically, a 36 inch crowbar, a small trowel or scoop, and a net to carry the jade in. These tools are critical for safety reasons as well as collection purposes. Mr. Wobber demonstrated how the tools are used, emphasizing that the waters in jade cove are extremely rough necessitating tools that, not only, loosen jade stones, but assist in negotiating dangerous surf zones, crawling through thick kelp beds, and help guard against sharks;
3. To increase the size of the lift bag proposed to be allowed from a 100-pound bag to a 200-pound bag.

Ed Cooper -- reiterated the roughness of the water at jade cove and the difficulty of diving in the area, much less maneuvering tools to extract jade.

Dorris Welch -- asked if staff from headquarters could spend more time in the field so that they might gain a better appreciation of the local issues. Likewise, they might help us better understand the Federal process. Dorris also wondered what happened to the letters and signatures that the community has already forwarded to NOAA regarding jade collection.

Karin Strasser Kauffman -- asked if the documents already submitted in support of allowing jade collection in the MBNMS need to be resubmitted.

Chief Thornton -- responded positively, explaining that for legal reasons, once the draft rule is published in the Federal Register, all comments and recommendations need to be on record for having been submitted during the designated comment period.

Terry Jackson -- responded to earlier questions concerning the taking of larger stones, stating that a permit structure needs to be instituted for those situations. Terry informed the assembly that input is still needed for how the permit criteria should be developed and asked that this be a part of the public hearing process.

Joe Townsend -- wondered if anyone to date has been able to quantify the amount of jade

harvested per year and how large the jade collection community was.

Andrei Pashin, a member of the audience -- strongly urged NOAA to consider the mining regulations in some of the areas overseen by the Bureau of Land Management, indicating that jade cove was much better off without Federal participation. Mr. Pashin emphasized that jade collecting in the MBNMS was an amateur activity, naturally regulated by the difficulty of the waters and quality of the jade, and was NOT a professional mining activity.

Dave Danbom -- asked that "hand tools" requested by the jade community be specifically defined.

Dorris Welch -- answered Dave's question, referring to the crowbar demonstrated earlier by Mr. Wobber and his mention of a small scoop or trowel needed for digging.

Ed Cooper -- added that a net for holding the jade is also need. He then addressed the jade community's concerns about the size of the lift bag needed for divers to safely remove jade stones. Ed described the concept behind a lift bag and demonstrated how the device works. (Please see Attachment C for an illustration of the process.)

Ed Ueber -- expressed an interest in learning what the number of vessels coming into the cove to gather jade might be.

Dave Clayton -- agreed that there was some concern about vessels using the cove for commercial harvesting of jade and suggested that the proposed ruling specifically prohibit commercial mining of jade in the area. Mr. Clayton added that the quality of the jade in the cove was not gem jade.

Ed Cooper -- reiterated that the difficulties getting in and out of the water because of the rough surf zone were self-regulating factors.

Dave Clayton -- commented that large stones such as the ones on display (at the meeting) and in museums are very rare, and the roughness of the area makes repetitive trips with any size of stones prohibitive.

Ruth Vreeland -- remarked on the beauty of the sculptures. She suggested that it might be useful for divers to video their experiences to help educate about the process.

Terry Jackson -- stated that the MBNMS staff filmed a dive at jade cove a few years ago. The video from that dive supports the comments made earlier about the roughness of the waters.

Chief Thornton -- urged the jade collection community to assist SRD in allowing the use of some hand tools for the extraction of jade in the MBNMS while not inadvertently opening the door for more detrimental purposes in the nationwide sanctuary program.

Dave Clayton -- replied that the jade community has already submitted a list of suggested regulations they feel would protect the Sanctuary while maintaining wise use of the resource.

Terry Jackson -- offered to gather all of the information that has been submitted to date and will make it available for public review.

Dave Clayton -- emphasized that the type of collection he and his constituents are

promoting is recreational and does not fall under the purview of mining activities. Beyond the matter of changing a regulation, the jade cove community is concerned over the apparent lack of importance a Federal Agency is placing on the opinions of the public, despite the numerous materials submitted.

Chief Thornton -- commented that she is still uncertain about the potential impact jade collection has on the overall resource.

Dave Clayton -- explained that specialists have testified numerous times that the collection practices used by the jade cove community are not harmful to the resources. This is documented in the materials already submitted to NOAA.

Chief Thornton -- reminded the audience that although the issue is very immediate and specific here, the suggested changes will affect the program nationwide. SRD must consider the resource protection issues into the future and anticipate any possibilities that may arise.

Dave Clayton -- argued that when the jade community supported the MBNMS they didn't realize they would be affected by the issues impacting other sites in the National Marine Sanctuary program, regardless of whether or not the issues had relevance to Monterey. If that's the truth, then maybe this area would be better off without the Federal agency.

Chief Thornton -- affirmed that the National Marine Sanctuary Program provides a very strong network of protection for special areas throughout the U.S. Just as the referendum decision in the Florida Keys Sanctuary has stimulated thought here in Monterey, changes made here have the potential to set a precedent for other sites. Many of the policy decisions transcend natural boundaries usually affecting decisions at other sites. Ms. Thornton urged everyone to be aware of the bigger picture.

Thomas La Hue -- supported Chief Thornton's comments and suggested that this problem could be solved if the language of the proposed ruling is written in such a way that doesn't open the door for larger harvesting in other areas.

Dave Clayton -- agreed that we shouldn't be instituting policies obviously harmful to other sites, but he argued that the jade situation in the MBNMS is unique to this Sanctuary.

Ed Cooper -- expressed appreciation for Tom's comments and reiterated that the language of the rule would have to be very specific to the MBNMS and the issue.

Ed Brown -- observed that this action is really a clarification for how the Sanctuary was supposed to be designated in the first place. It is a case where we need to do a better job of writing the regulations.

Rachel Saunders -- suggested that it would be helpful to submit the Council's minutes as testimony at the hearing. She also reiterated that there is no desire by the community to open this issue up for commercial harvesting.

In general, members of the public acknowledged the concerns raised by Chief Thornton, but they stated their adamant refusal to allow SRD turn the jade issue into something more than it was. Fundamental issues such as: 1) the commercial infeasibility of harvesting jade from jade cove; and, 2) the fact that jade is one of the hardest minerals to extract, especially in the case of jade cove, were presented as arguments negating SRD's position.

Chief Thornton -- questioned whether or not a change in technology might make

commercial harvest of jade feasible at some point in the future. The goal of the NMS program is to protect Sanctuary resources for the future and to guard against circumstances that might change the method by which jade is extracted; thus, possibly causing a detrimental impact on the resource.

Steve Campi , a member of the audience -- expressed his appreciation for the input from NOAA and added his support for drafting a well written rule that makes it impossible for commercial harvesting to take hold in the MBNMS now or in the future.

John Haley , a member of the audience -- supported the recommendations allowing the use of hand tools for safety purposes. He stated his belief that jade is a wonderful gift from the ocean and it has founded an art community here that is important to continue

Jay House, a member of the audience -- stated that he supports collection of jade stones from the beach arguing that this beach is only 1/4 mile wide. However much degradation of the biota on the jade beaches, it would not affect the overall scheme of things.

Dave Clayton -- cautioned against rushing through the remainder of the process and drafting a regulation that is not as good as it could be. In essence, the community has waited so long already, that more time spent on drafting a succinct rule would be okay. Finally, he urged NOAA to listen to the public.

Regarding the jade community's petition to allow the use of hand tools, Dave asked if the Federal Register notice pending for the proposed rule could be changed to reflect the following: 1) to allow the use of a 36 inch crowbar and a small trowel or scoop; 2) to increase the size of the lift bag from a 100-pound bag to a 200-pound bag; 3) to institute a permitting system for the taking of larger stones; and 4) to allow the take of whatever can be carried out by hand.

Chief Thornton -- commented that this was an important time in the rule making process to provide input and she thanked the members of the community for their interest and participation.

Terry Jackson -- reiterated that the next step in the process was a draft rule and that it can be changed due to public opinion

Dave Clayton -- asked if the process would be expedited if the recommended changes proposed here were instituted before the draft rule is released.

Ed Cooper -- urged the Advisory Council to take this subject to the public as soon as possible and made a motion to submit the minutes of today's meeting as testimony during the public hearings. In addition, the Advisory Council's Chair should be directed to testify at the public hearing(s) and/or, present in writing, the Advisory Council's support of the recommendations presented by the jade community, which were as follows: 1) to allow the use of a 36-inch crow bar; 2) to increase the size of the proposed lift bag to 200 pounds; and, 3) to institute a permitting system, or the ability to create a permitting system, that would regulate the collection of larger stones for use as museum pieces and public display.

The motion was seconded by Joe Townsend.

Discussion of the motion was recorded as follows:

Steve Kimple -- suggested that the Advisory Council also submit some kind of written correspondence after the public hearing to make sure that if any new comments arise during

the public hearing process, the Advisory Council and the public can be in agreement whenever possible.

Rachel Saunders - agreed with Steve's suggestion and asked that the Advisory Council wait until after the public hearing process is finished before sending a recommendation to SRD. This will allow the Council, and the working groups, a chance to review all of the feedback.

Dorris Welch -- asked if it was important to send correspondence to NOAA right away in order to move the process along.

Ed Cooper -- amended his original motion to include Steve Kimple's suggestion that follow-up letters be forwarded to NOAA once the public hearing process is complete.

The amendment was accepted.

The amended motion was as follows:

To submit the minutes of today's meeting as testimony during the public hearings. To direct the Chair to testify at the public hearing(s) and/or, present in writing, the Advisory Council's support of the recommendations presented by the jade community, which were as follows: 1) to allow the use of a 36-inch crow bar; 2) to increase the size of the permitted lift bag to 200 pounds; and, 3) to institute a permitting system, or the ability to create a permitting system, that would regulate the collection of larger stones for use as museum pieces and public display. Furthermore, once the public hearing process is completed, the Advisory will review all comments and other recommendations and notify NOAA of its conclusions.

Rachel Saunders -- cautioned that, although the Advisory Council does not disagree with the suggested changes requested by the jade community, from a process perspective, it would make sense to wait until after the public hearing process is over before issuing a statement of any sort. Furthermore, the Advisory Council hasn't yet seen the rule, the suggested changes haven't yet been discussed by the working groups, and the larger public beyond the jade cove community hasn't had a chance to comment

Ed Cooper -- argued that that process has already been done.

Tami Grove --suggested that the best use of the Council's time would be to see the proposed rule.

Karin Strasser Kauffman -- acknowledged the positions of Rachel and Tami, but expressed serious doubt that the Council would oppose the jade community's recommendations. Council members responded that they considered the recommendations to be reasonable and generally agreed that they didn't anticipate anything that would cause them to change their position.

Ed Cooper -- urged the Advisory Council to forward the suggestions at this time as minimum recommendations with the caveat that more can added later depending on the outcome of the public hearings.

Dorris Welch -- questioned why something had to be decided today.

Karin Strasser Kauffman -- stated that the public wants to see a commitment from the Advisory Council and should leave here today with some kind of a strong position of

support to take to their constituencies.

Thomas La Hue -- suggested that the Advisory Council send a letter of support for the specific recommendations made today with a statement that Council comments are not restricted beyond that.

Dave Danbom -- cautioned that any message sent today indicating that the Advisory Council is dragging its feet will threaten the credibility of the Sanctuary program. Dave added his support to the motion on the table.

Thomas La Hue -- Agreed with Dave's comments and reiterated that the Advisory Council supports the recommendations presented today without limiting future comments.

CDR Dean Lee -- indicated that the Council might be making the issue more complicated than it needs to be. So far nothing has been suggested that could be considered unreasonable for the Advisory Council to support.

Once again the motion was amended slightly to reflect that the comments of the Advisory Council would not be limited to what was presented at this meeting.

Brian Baird -- reminded the Council that the State Land Commission has independent authority on this issue and he strongly recommended that the Advisory Council copy all correspondence to the Executive Director of the State Lands Commission. In addition, the State Lands Commission contact should be included in the public hearing process. Finally, Brian added his support to the motion on the table.

Chief Thornton -- expressed reservations that it might be in the Advisory Council's best interests to wait until after the public hearing process before taking a position, thereby reducing the risk of sending mixed messages to NOAA.

Rachel Saunders -- agreed with Chief Thornton's comments, but added she would still vote in favor of the motion with the caveat that the Conservation Working Group have the right to add to the comments of the Advisory Council both in writing and at the public hearings. Rachel suggested that the language in any written correspondence concerning the proposed rule state that the Advisory Council has heard the suggestions from this Council meeting and believes the jade community's recommendations to be reasonable.

Rachel added that although the feelings expressed were justified, a good public process must also include comments from other groups.

Ed Cooper -- argued that the jade community feels abused by the process and that the Advisory Council must do something to assist them.

Rachel Saunders -- concurred that the Advisory Council needs to stop any further abuses; rather, her suggestions were intended to guarantee a more complete consideration of the issue and will not lengthen the process any longer than is already scheduled.

Dave Danbom -- reiterated that the Sanctuary program was losing credibility because of the jade issue.

Chief Thornton -- cautioned against making a decision that could slow the process down. NOAA wants to hear from the public, and needs to receive a strong unified position from the Advisory Council.

Ed Brown -- called for the question.

The motion, as amended, was unanimously approved.

Following a brief break, the Chair clarified that the three working groups are advisory to the Council and, though we may not always agree on issues, the working groups still have to bring their opinions back to the Council. It is the Council that officially speaks for the Sanctuary program and its constituency groups. She asked for concurrence from Rachel Saunders, Chair of the Conservation Working Group, and received it.

IV. VESSEL TRAFFIC STUDY

Karin Strasser Kauffman summarized the background. In the Spring of 1994, the Advisory Council, after a series of discussions, identified vessel traffic as the greatest threat to MBNMS resources. The Council held a separate and well-attended public workshop on the topic of Vessel Traffic Safety at the Naval Postgraduate School in Summer of 1994. Not to minimize the very fine efforts of oil spill prevention organizations and groups, there are, nevertheless, still no concrete measures in place that will guarantee that a spill would not be disastrous. To that end, the Advisory Council heard from several specialists on the subject and passed a resolution containing very specific recommendations to NOAA and the U.S. Coast Guard. The resolution stipulated that action was required. Unfortunately, the Vessel Traffic Study (Study) just released by the Departments of Commerce and Transportation indicated otherwise. Also troubling, was the fact that the Study was released without notice, denoting a lack of communication between the responsible Federal Agencies and the involved public.

Commander Chip Sharpe, from the U.S. Coast Guard Office of Aids to Navigation and Waterways Management, was introduced by CDR Dean Lee to answer questions about the Study's conclusions. According to CDR Sharpe, even though a great deal of information was presented about the delicacy of the ecosystems in the MBNMS, the Coast Guard, in its evaluation of tanker routing, concluded that there wasn't enough of a significant navigational risk to warrant implementing measures that would restrict tanker traffic from traversing Sanctuary waters. The Coast Guard determined that the north/south transit is not a navigational risk because of low traffic density and wide open areas for travel.

CDR Sharpe clarified that Coast Guard jurisdiction on the high seas is limited; they have some reach into the high seas only when it can be linked to port access, such as is the case with San Francisco. Transit through the MBNMS is considered the high seas; therefore, covered by the International Maritime Organization (IMO). For routing regulations to be implemented in the MBNMS, the IMO would have to adopt one of several measures, such as an Area to be Avoided (ATBA) or a Tanker Buffer Zone (TBZ). For any of these methods to be adopted by the IMO, a justifiable hazardous condition must exist. In other words, the MBNMS must be able to prove that there will be an oil spill -- or that there is a likelihood of an oil spill. The Coast Guard believes that the MBNMS lacks an identifiable risk .

When questioned about alternative measures available to help protect Sanctuary waters, CDR Sharpe described a method currently being employed by Canada: a Tanker Exclusion Zone (TEZ). A TEZ is a line drawn offshore delineating the drift distances for how long it would take to reach shore if a tanker was in trouble. As the IMO refused to adopt the TEZ, the Canadian government decided to implement the measure on its own as a non-binding regulation. The TEZ is published in the local notice to mariners as a voluntary compliance measure and Canada has no law or regulatory authority behind it; however, many vessels are reportedly following the recommended actions. The U.S. is unwilling to enact a similar

measure because of issues surrounding international sovereignty; it is not desirable that nation states be permitted to extend their jurisdiction out beyond that which is already recognized by the International Law of the Sea.

The Study directs that the Coast Guard and NOAA will host workshops addressing environmental concerns. CDR Sharpe indicated that the Center for Marine Conservation (CMC), Oil Spill Prevention and Response (OSPR), and the Advisory Council, together with the industry representatives will be invited to participate. The purpose of the workshops will be to reach an acceptable conclusion/resolution to the issues.

Comments from the Advisory Council on the above report included the following:

- Affirmation that, historically, most accidents happen during port approaches;
- Concerns over the large number of vessels operating under foreign flags and that they are only bound by IMO regulations -- all U.S. instituted regulations would be voluntary compliance only;
- Consider implementing something similar to the mandatory piloted areas that are used to help protect Australia's Great Barrier Reef; the measures were adopted based upon environmental concerns in addition to safety reasons. CDR Sharpe responded to the comment, explaining that Traffic Separation Schemes (TSS) can extend into international waters when it can be proven that there is converging traffic and provided the IMO approves the plan, as was the case with the Great Barrier Reef;
- The public needs to be educated as to what the vessel traffic regulations are and what they mean;
- Suggested improving current tracking methods so that the Coast Guard can be certain of where vessel traffic is -- similar to air traffic control systems to help avoid accidents. CDR Sharpe responded that this idea has merit and beyond the benefits of knowing where the traffic was all the time, would enhance regulation -- just the fact that someone is monitoring would have a possible regulatory effect;
- Could a path be delineated that would reduce the risk of collision? Response: Difficult because the IMO doesn't recognize GPS technology, there wouldn't be a way to fix a terrestrial point for a lane 50-miles out. Moreover, it would be difficult to implement due to the lack of perceived navigational risk requiring the need for such a lane.

To help illustrate the Coast Guard's position concerning navigational risk within the MBNMS, CDR Sharpe used a chart of the Sanctuary showing where the majority of vessel traffic along the coast travels. According to aerial photographs taken by the Coast Guard, traffic is scattered fairly uniformly both within and without MBNMS boundaries. There was no density within the MBNMS except around the port entrance to San Francisco. Because of this tendency for congestion at port entrances, the Coast Guard is pursuing a three-armed traffic separation scheme. CDR Sharpe indicated that he favors the idea of three lanes to reduce the risk of collisions and explained that changes like these, have to be implemented through a notice of advance rule in the Federal Register. CDR Sharpe encouraged the Advisory Council to make comments on the proposed rule, and to urge the Coast Guard to do more.

In response to arguments that it is better for traffic to stay at least 50-miles offshore to reduce the impact of a spill, CDR Sharpe explained that it would also be very dangerous if an artificially congested area was caused by traffic being pushed out beyond the fifty-mile line. Furthermore, it would be harder for the Coast Guard to control merges and other navigational procedures when traffic is out of sight of land.

Also noteworthy, was the issue of economics -- going farther off shore is expensive in terms of changed arrival times, more fuel required, and rescue tug expenses.

Council members asked what measures were being implemented to guard against vessels breaking down close to shore.

CDR Sharpe answered that there are measures in place protecting against damage from breakdowns such as: 1) doubled penalties for repetitive breakdowns and failure to observe proper maintenance procedures; 2) prevention through education programs as studies show that 80% of vessel casualties are caused by human error; 3) requiring double hulls; and, 4) port state control programs that involve coast guard inspection of commercial vessels while they are on shore --- those that have historically good performance records are rewarded while those that don't are required to take correctional measures.

Advisory Council comments continued:

- Consider justifying an ATBA because of the threat from exotic species being introduced to the MBNMS when ballast waters are changed. The fact that the San Francisco ecosystem is being systematically eroded because of aggressive exotic species is documented. Perhaps vessels should be required to discharge their ballast water outside Sanctuary boundaries, naturally keeping vessels at a safe distance;
- Economic considerations also need to be taken into account, given the enormity of the costs that would be incurred if there was a spill. Although, it is recognized that it costs money to move vessel traffic out of the MBNMS boundaries, it would be an economic disaster if there was even a minor spill in the Sanctuary. Clean-up costs need to be considered, in addition to the loss of revenues other ocean dependent industries would incur.

CDR Sharpe reminded Council members that so far only tankers had been referred to as the major threat to the MBNMS, when, in fact, only 18% of the vessel traffic along the California coast is attributable to them. Container ships are a greater danger for three reasons: 1) there are more of them; 2) they run on tighter schedules; and, 3) they are less sensitive to public opinions.

Terry Jackson concurred, stating that container ships are a big problem, as are barges. The real concern is that these vessels are carrying large amounts of petroleum as fuel. Terry suggested that the Council consider more options than that of the ATBA; for instance, there are regulations specifically intended for Particularly Sensitive Sea Areas (PSSA) that apply to all vessels.

Council members expressed their frustrations with the process and requested that the Coast Guard provide some guarantees that the workshops will accomplish results, not just serve as talk sessions.

CDR Sharpe agreed that the purpose of workshops would be to determine actions, but, it was noted, that any decisions resulting from a workshop would have to be approved by the recognized chain of command within the Coast Guard.

Council members were reminded that the Study was intended only to make recommendations only. Regulatory changes must be made through the public process. Nevertheless, Advisory Council members urged the Coast Guard to set forth a process that the public can have confidence in -- that some measure of meaningful change will, in fact, materialize.

Rachel Saunders made the following recommendation: 1) have a meeting like this one in all of the counties of the MBNMS; and 2) develop a realistic timeline that indicates a beginning, middle, and an end to the workshop and Rulemaking process.

Rick Starr added to Rachel's comments, suggesting that the Coast Guard implement an educational program designed to motivate voluntary compliance to non-binding measures that move more traffic further out. An occasional announcement in the local notice to mariners that describes the importance of protecting MBNMS resources and requesting mariners to stay outside the Sanctuary boundary might go far toward altering destructive human behavior.

CDR Lee proposed a motion that the Advisory Council Chair write a letter to the Coast Guard recommending that an educational notice asking mariners to stay outside the MBNMS boundary and an explanation of why the MBNMS is important be published in the local notice to mariners. The motion was seconded and approved unanimously.

In the meanwhile, CDR Sharpe and Terry Jackson will develop: 1) a strategic plan; 2) an outline of specific workshop goals; and, 3) a timeline for the process. It was understood that members of the maritime community will be included as participants. Council members were adamant that the workshops not be yet another set of public hearings, but productive work sessions. They also stipulated that some level of decision making authority be present at the workshops so that decisions can be made and actions implemented.

Throughout the course of discussion, Council members suggested the following topics for discussion during the workshops:

1. Regulatory options;
2. Vessel maintenance and options for response to breakdowns;
3. Control of vessel speed in and out of ports to reduce the threat of collisions;
4. Control of ships under foreign flag;
5. Cost/benefit analysis of damage to California's economic base in the event of an oil spill along the coast; and,
6. Consideration of impacts from vessel traffic noise.

Comments from members of the public present at the Advisory Council meeting were as follows:

1) Ellen Faurot-Daniels, Science and Education Director for the Friends of the Sea Otter, asked if NOAA or the Coast Guard had received comments on habitat sensitivity with respect to vessel navigation issues. If the concerns are about habitat sensitivity, are there other agencies that should be approached to bring greater weight and strengthen the position of the environmentalists.

CDR Sharpe -- The Coast Guard concluded that habitats were not endangered.

Ellen Faurot- Daniels -- Questioned how the Department of Interior will be allowed to fulfill its management obligations if the Departments of Commerce and Transportation don't provide some critical support.

2) Vicki Nichols, Executive Director of Save Our Shores, expressed her concern that there should be some sort of public airing of the report and the workshop process. She suggested that there be a meeting similar to the Advisory Council meeting, but on a larger scale to allow the public to ventilate frustrations about the Study.

V. SURPRISE PRESENTATION TO BRIAN BAIRD

Terry Jackson presented Brian Baird with a plaque of special recognition for helping the MBNMS complete all of the legal paperwork required to accept a donation of 650k for the MBNMS enforcement program.

VI. STRATEGIC PLAN SRD

Stephanie Thornton, Chief of the Sanctuaries and Reserves Division (SRD), presented the agency's new strategic plan. (Please see Attachment D).

The next step for SRD will be to develop a specific annual operating plan with a corresponding budget. Part of the annual planning process will include the program's Sanctuary Advisory Councils

Advisory Council comments on the Strategic Plan were as follows:

Rick Starr -- Commented that the Research Activity Panel (RAP) will be very concerned that research and education are not included as major components of the new plan -- especially since they are fundamental elements of the MBNMS' designated mission.

Chief Thornton responded that the strategic plan lays out fundamental goals. Although she agreed that research and education are among the highest priorities of the program. She defined them as tools by which the main goals of the National Marine Sanctuary program are reached, and therefore, didn't belong in the objectives statement of the new strategic plan.

Rick argued that research meets two needs for the NMS program: 1) it provides necessary information for direct management of the resources; and 2) it provides long-term data to better understand the surrounding environment. Rick strongly urged that long-term research goals be added to the strategic plan.

Chief Thornton clarified that the strategic plan will be an evolving document and promised that there would be opportunities for public input on the plan.

Chief Thornton used this time to announce an important change in the management structure of the MBNMS -- to create a joint, cooperative management approach as opposed to regional boundaries. Effective immediately, the area from the San Mateo County Line north to the boundary of the Gulf of the Farallones NMS will be jointly managed by both Sanctuaries. The decision was made after having gathered a lot of information about the area and its issues, and it is hoped the new system will ensure that decisions made in the region are made by the people responsible for it. She explained that the solution was compatible with the new strategic direction of SRD, as it engages the public and enhances/encourages cooperative management polices while providing the best protection of the resources.

Chief Thornton reiterated that the geographic region in question is still legally the MBNMS; however, she viewed this situation as a unique opportunity to manage the area cooperatively.

A subcommittee of the Sanctuary Advisory Council will be established to assist the managers in addressing key issues, and SRD will set aside \$25,000 to be applied toward joint programs in the region. Chief Thornton articulated her hopes that the local non-profits and Sanctuary Foundations will assist in obtaining additional funding. The subcommittee will be composed of seven individuals: each Sanctuary Manager will nominate three individuals of his choice to participate on the subcommittee. SRD will approve the

nominations and Chief Thornton will serve on the committee in the event that a deciding vote is required.

Chief Thornton presented the cooperative management plan as a positive and progressive step forward for the National Marine Sanctuary Program. She emphasized that jurisdiction should not be as important as protection, and acknowledged that although the new system will be more cumbersome, it will be up to the managers to work it out.

Initial stipulations of the joint management structure are as follows:

1. The MBNMS must establish a satellite office in the jointly managed area. (The 25k must not be applied toward rent of office space.);
2. The details of the satellite office will be worked out by the Sanctuary Managers with the aid of the subcommittee;
3. The primary purpose of the subcommittee will be to facilitate communication, provide resources to the Managers, and help draft a Memorandum of Understanding (MOU) articulating the cooperative management structure. The MOU will contain a Sunset Clause;
4. A memo outlining the concept behind the joint management strategy and the exact steps for setting up the new committee will be forwarded from Chief Thornton's office as soon as possible.

Comments and questions from Council members were recorded as indicated:

Ed Ueber -- clarified that a group not entirely made up of Advisory Council members and not accountable to the Council for its decisions will be more of a Task Force instead of a subcommittee.

David Iverson -- observed that the new structure appears to be a progressive step forward for the northern end. David volunteered to serve on the committee.

Ed Brown -- agreed that the idea of the office up north is good, but he admitted to struggling with how the proposal serves to clarify rather than complicate the issue with more bureaucracy.

Tami Grove -- expressed her concern that we are really talking about a very different management scheme for a small section of the Sanctuary.

Marc Del Piero -- extended his congratulations to Chief Thornton and suggested that David Iverson and Karin Strasser Kauffman should serve on the Task Force.

Joe Townsend -- suggested that the MBNMS satellite office be located in Santa Cruz and offered to help investigate space at the Coast Guard facility at Santa Cruz Harbor.

Dorris Welch --questioned whether or not it would be more advantageous to have an office in Santa Cruz rather than Half Moon Bay.

Chief Thornton concluded the discussion, remarking that the comments made by Council members were precisely the kinds of logistical concerns that should be agreed upon by the Sanctuary managers with the help of the new Task Force.

VII. REPORT OF THE DECEMBER MEETING

Karin Strasser Kauffman reported on the two-days of intense meetings she, Rachel

Saunders, and Marc Del Piero had with staff at SRD at their invitation in early December 1996. The purpose of the meetings was to review the language in the DRAFT Advisory Council Charter and Protocols; to consider methods for improving communication between the field sites and headquarters; and, to discuss in detail SRD's new Strategic Plan.

Karin expressed her gratitude to SRD for the highly productive sessions, and she commended Marc and Rachel for their outstanding participation. As a result of the meetings, the Advisory Council now has a Charter which better meets the Council's goals. While acknowledging the Advisory Council's fundamental role to advise the Secretary of Commerce and his designee (the Sanctuary manager and/or SRD), the revised charter also grants authority for the Council to contact outside entities, provided the Sanctuary Manager has the opportunity to review the issues and written materials and concurs with the Advisory Council's chosen course of action.

Other issues discussed included: 1) resolution of the jade collection issue; 2) increasing outreach efforts to the business and tourism communities of the MBNMS; and 3) obtaining a commitment from NOAA that the MBNMS' Water Quality Protection Program (WQPP) will be supported as a permanent program with long term and secure funding.

Chief Thornton clarified NOAA's commitment to the WQPP indicating the program is at the top of the priority list. SRD promised to tap as many resources as are available to keep the WQPP funded. Chief Thornton added that SRD will need significant support from the field to secure permanent funding.

Chief Thornton announced that 1997 will be a big year for the National Marine Sanctuary program as it will be celebrating its 25th Anniversary. One of the first tasks of the newly established National Marine Sanctuary Foundation will be to help provide funding for a year-long celebration of the program. Several special events are planned including a benefit rock concert in Texas at the Flower Gardens NMS.

VIII. APPROVAL OF ADVISORY COUNCIL CHARTER AND PROTOCOLS

In summary, the Advisory Council delegation and NOAA legal counsel agreed to compromise on the language for the DRAFT Charter and Protocols; basically agreeing to allow the Council to take action with the concurrence of the Sanctuary Manager.

Following a brief discussion about the changes in the Charter, Council members approved a Motion to Table the document until such time as fundamental issues as language concerning working group representation on the Council, and questions concerning the defined role and responsibility of Council members can be clarified. Council members were asked to review the document and send any comments to Jane DeLay at the MBNMS office. Approval of the Charter and Protocols will be added to the February 21, 1997 meeting agenda.

IX. FORMAL REPRESENTATION ON THE SAC

Following the Research Activity Panel's (RAP) lead, Advisory Council members agreed that the Chair of the Working Groups should serve as the respective representative on the Advisory Council. Language indicating these changes will be included in the Charter submitted for approval in February 1997.

Advisory Council members agreed that the working group Vice-Chairs should be designated as official alternates and granted voting privileges. Appropriate language to this

effect will be drafted for inclusion in the Charter.

With respect to terms, Council members suggested that the working group Chairs and Vice-Chairs have staggered term limits so as to ensure consistent representation for their constituencies.

A third order of business concerning Advisory Council membership and the Charter, involved NOAA's representation on the Council. Roy Torres, National Marine Fisheries Service (NMFS)/NOAA, will be reinstated as the primary Enforcement Representative for the Council, and Capt. Tom Pedersen will serve as the alternate. The necessary adjustments regarding a NOAA voice on the Council will be added to the Charter. This issue was presented as a recommendation by the Sanctuary Manager and agreed to by the Council with consensus.

X. DISCUSSION: EDWARD F. RICKETTS PROPOSED MARINE RESERVE

The Edward F. Ricketts Marine Reserve proposal is scheduled to be heard by a joint meeting of the Monterey and Pacific Grove City Councils on February 26, 1997 at Colton Hall. The time is tentatively set from 4:00 PM - 6:00 PM.

Ed Cooper and Kevin Mac Donald, co-founders of the underwater park idea, clarified that the original proposal will be presented to the City Councils with other related documents submitted as attachments (i.e. the Center for Marine Conservation's comments will serve as an Addendum along with the recommendations produced by the City Parks and Recreations Committee).

Ed and Kevin agreed that, since the Council had already sent a letter, nothing more was needed from the Advisory Council at this time.

Joe Townsend asked if there was a definitive source of funding identified in the proposal. Kevin and Ed explained that, though they didn't include a source of revenue in the proposal, they have received verbal commitments from several diving organizations as well as local businesses to support the underwater park. Both men contend that the underwater park will not be a great expense to either city.

XI. SANCTUARY MANAGERS' REPORT

Terry Jackson, provided a verbal and written report of Sanctuary activities. (Please see Attachment E).

Terry elaborated on the Sanctuary budget for 1997 explaining that level funding from 1996 was received even though greater expenses are expected to be incurred during the new year; for instance, all of the costs for the WQPP are now being funded solely by the Sanctuary.

Terry also informed the Council that about \$350,000 of the Sanctuary's budget was taken within NOAA as the funds trickled down to the SRD level. In essence, SRD received about 80% of what was originally allocated. To her credit, Ms. Thornton ensured that SRD absorbed the deficit and allocated most of the budget to the field sites.

Ed Ueber also presented a verbal and written report. (Please see Attachment F).

X. WORKING GROUP REPORTS

Sanctuary Education Panel (SEP) -- Dorris Welch, SEP Chair, provided a verbal and written report of the working group's activities. (Please see Attachment G). She commented that the SEP is working diligently to finalize its list of goals and objectives for 1997, and that the SEP is streamlining its processes and will meet less times during the year.

Tami Grove requested that the Advisory Council include a presentation on the Sanctuary's Education Program at a future meeting. The Chair concurred, adding that a full briefing from each of the working groups would be useful. She directed that the briefings, beginning with research, be placed on future meeting agendas.

Research Activity Panel (RAP) -- Rick Starr, RAP Vice-Chair, reported that the RAP is heavily involved in the Sanctuary Symposium; abstract deadlines for the Symposium's Poster session is Friday, January 17, 1997. Rick added that much of the research activities were already covered by Terry in his Sanctuary Manager's report.

Business & Tourism Activity Panel (BTAP) -- Ed Brown and Steve Abbott, BTAP Co-Chairs, announced that the next meeting of the Monterey group is scheduled for Wednesday, February 19, 1997 from 10:00 - 12:00 PM. Ed commented that it was clear there are different levels of needs required for each of the regions, and he was hoping to discuss some of the various nuances at the February meeting.

Conservation Working Group (CWG) -- Rachel Saunders, CWG Chair, reported highlights from the January CWG meeting. The CWG heard an outstanding presentation on the Sanctuary's research program by Andrew DeVogelaere, MBNMS Research Coordinator. The ensuing discussion focused on ways for the three working groups to enhance communications and facilitate more cooperative efforts. The CWG would like to start using research concepts to solve conservation issues.

XII. WQPP

A written report on the WQPP is attached. (Please see Attachment H).

XIII. UPDATE ON THE MONTEBELLO

Terry updated Council members on the latest information concerning the oil believed to be in the hull of the sunken vessel, the "Montebello". The Coast Guard has researched past records to confirm that the oil hasn't already been released. The Coast Guard also confirmed that the oil is heavy; therefore, more likely to stay on the bottom.

XIV. ANNOUNCEMENTS FROM COUNCIL MEMBERS

1. Karin Strasser Kauffman received an invitation from NOAA to participate in a strategy session in Washington, D.C. The topic of discussion will focus on improving the environmental stewardship mission for the year 2005. Karin explained that she was invited as the chair of the Advisory Council. The meeting will be in February.
2. Brian Baird announced that the National Ocean Service is now a major sponsor of the World of Oceans Conference in March 1997. He was pleased to say that there will be a lot of NOAA involvement in the conference.
3. Ruth Vreeland brought a recently published book on Waterfronts that she felt Advisory Council members would enjoy.

4. Dorris Welch announced two fundraising events for Long Marine Laboratories (LML): 1) a special event on February 2 at the Hollins House in Santa Cruz; and, 2) an auction at UCSC Porter Dining Hall on March 27, 1997.

The meeting adjourned at 4:30 PM.

Respectfully submitted,

Jane M. DeLay
MBNMS Advisory Council Coordinator

enc.: Article from Dive Training Magazine
Prepared statements by Don Wobber
Illustration of dive lift bag
SRD Strategic Plan
Sanctuary Manager's Report -- Terry Jackson
Sanctuary Manager's Report -- Ed Ueber
Sanctuary Education Panel written report
WQPP Report