

MONTEREY BAY NATIONAL MARINE SANCTUARY
ADVISORY COUNCIL

FINAL

Meeting Minutes

October 2, 1998

Pt. Lobos Hudson House

Carmel

The Monterey Bay National Marine Sanctuary (MBNMS) Advisory Council met on Friday, October 2, 1998 at the Pt. Lobos State Reserve Hudson House in Carmel.

Public categories and government agencies were present as indicated:

Agriculture: Michael Jani

Diving: Ken Lundie

AMBAG: Katherine Beiers - ABSENT

Education: Pat Clark-Gray

At Large: Steve Webster, Chair

Enforcement: Doug Huckins

At Large: Karin Strasser Kauffman

Fishing: Dave Danbom

At Large: Chet Forrest

Ports & Harbors: Steve Scheiblaue

Business & Industry: Steve Abbott

Recreation: Sally Smith

CA EPA: Marc Del Piero

Research: Greg Cailliet

CA Coastal Commission: Tami Grove-ABSENT

Tourism: Matthew Twisselman

CA Resources Agency: Brian Baird

U.S. Coast Guard: LCDR Phyllis Blanton

Conservation: Rachel Saunders

The following non-voting members were present as indicated:

Monterey Bay NMS: Joanne Flanders/William Douros

Gulf of the Farallones NMS and Cordell Bank NMS: Ed Ueber - ABSENT

Channel Islands NMS: Ed Cassano - ABSENT

Elkhorn Slough NERR: Becky Christensen - ABSENT

I. CALL TO ORDER, SWEARING-IN OF NEW MEMBER, ROLL CALL,
APPROVAL OF AUGUST 7, 1998 DRAFT MEETING MINUTES,
REVIEW OF CORRESPONDENCE

A) Call to Order, Swearing-In of New Member, and Roll Call

The meeting was called to order by the Chair at 9:00 a.m. Joanne Flanders, MBNMS, conducted the swearing-in of the new Tourism seat alternate, Matthew Twisselman. Steve Abbott conducted the roll call - a quorum was present.

B) Approval of Previous Meeting Minutes

The minutes from the August 7, 1998 were approved as presented.

C) Review of Council Correspondence

The Chair forwarded the sign-up folder for Advisory Council correspondence written since the last Council meeting.

II. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Joseph Rodgers - Santa Cruz - expressed concern about the levels of kelp harvesting off Santa Cruz. According to Mr. Rodgers, he has been observing the kelp beds since 1969 as a boater and fisherman, and believes that increased levels of kelp harvesting is leading to the disappearance of kelp bed canopies off Santa Cruz. He feels there is a need for the regulation of the amount of kelp take.

Discussion ensued. The Chair announced that the topic will appear on the December Advisory Council agenda.

Ed Cooper - Monterey - expressed concern about the diver disturbance study and the need to look at all impacts to Sanctuary resources.

III. PRESENTATION: SANCTUARY SLIDE SHOW

John Robinson, MBNMS, presented a draft form of the new Sanctuary slide show, for use by staff and Advisory Council members. Comments and suggestions included, but were not limited to the following:

- ... factory trawlers do not fish within Sanctuary boundaries
- ... an emphasis should be placed on partnerships
- ... too much emphasis on MBARI; too little on other marine science institution partners
- ... slides focus on Monterey Bay, not the entire Sanctuary
- ... show should include mention of the cooperative enforcement agreement
- ... the Alvin does not represent the latest technology in submersibles and ROVs
- ... emphasize the need for continuing dialog between use and preservation
- ... emphasize or conclude with the need for vigilance
- ... a good balance was provided on the topic of agriculture; see data on plumes from flooded Pajaro River
- ... target audience is for high school students and above
- ... engage people who are not with an institution
- ... make at least one archive copy, plus at least three copies for check-out
- ... include information on citizen-based outreach programs

John requested that anyone who could provide slides send them to Lisa de Marignac.

IV. DISCUSSION: DRAFT LETTER SUPPORTING VESSEL TRAFFIC PACKAGE

Rachel Saunders presented draft letters to NAVSAC, the Coast Guard and NOAA.

Marc Del Piero made a motion to send the draft letter supporting the vessel traffic package to NAVSAC and to NOAA. The motion was seconded by Karin Strasser Kauffman and passed unanimously.

V. BRIEFING: SAN FRANCISCO MYSTERY SPILL

LCDR Jim Morris, NOAA Hazmat, presented an overview the recent oil spill off San Francisco. The U.S. Coast Guard spotted an oil slick during an overflight off the Golden Gate shipping lanes. The slick was ten miles long and ten miles off the beach; the oil was very concentrated. The slick moved to about seven-eight miles west of Half Moon Bay. Oil recovery will cease by the end of the day (October 2). Tarballs have begun washing up on beaches and more are expected to wash up on beaches between Half Moon Bay and Ano Nuevo. Laboratories are in the process of identifying the oil.

Larry Espinoza, OSPR, presented an overview of the effects of the spill on wildlife. Twenty-nine surveyors have formed a recovery team looking for impacted animals. Agencies involved in the incident include personnel from CA Fish and Game, US Fish and Wildlife, Gulf of the Farallones NMS, Monterey Bay NMS, and many others. Results so far include:

- ... 76 affected birds - most are common murres and four pelicans
- ... 32 birds dead
- ... 44 birds alive

Discussion ensued regarding cost/benefit analyses of oil spill cleanup operations.

VI. DISCUSSION: MBNMS PENALTY SCHEDULE

Rachel Saunders introduced the CWG's concern regarding the lack of an efficient and effective way to fine violations of Sanctuary regulations. Scott Kathey, MBNMS, reviewed the current process for fining violators of Sanctuary regulations, and compared this to the process that would occur if the Sanctuary had a penalty schedule. Currently, the reporting officer collects information from the investigation or contact and prepares a report of the incident for submission to the NMFS special agent. The NMFS agent conducts a follow-up investigation and prepares a report for submission to NOAA General Counsel for Enforcement and Litigation (GCEL). GCEL reviews the NMFS report and evidence and determines whether a Notice of Violation and Assessment (NOVA) should be issued. GCEL then issues a NOVA to the suspect who then pays the fine or files for a hearing before an administrative law judge.

With a set penalty schedule, the reporting officer would carry a federal ticket book and have the option of issuing a ticket to the suspect at the time of violation. The suspect would then pay the fine assessed or file for a hearing before an administrative law judge.

Scott explained that he has requested a penalty schedule for six years, but due to the complexity of assessing fines that are explainable and defensible, General Counsel has yet to produce a schedule.

Discussion ensued among Council members regarding the process of creating a penalty schedule. Rachel Saunders introduced the idea of the Advisory Council sending a letter to NOAA officials.

Chet Forrest made a motion to send a letter to General Counsel supporting the MBNMS proposed penalty schedule and requesting a conclusion to the matter. The motion was seconded by Doug Huckins and passed unanimously.

VI. DISCUSSION: PIEDRAS BLANCAS MINING PROJECT

Scott Kathey, MBNMS, reviewed the history of a mining operation approximately two

miles north of Piedras Blancas. Windsor Construction has been mining gravel and sand at this location since 1974. The Sanctuary office became aware of the activity in 1994, at which time Windsor held both a California Coastal Commission permit which grandfathered the activity and an Army Corps of Engineers (ACOE) permit. The issue for the Sanctuary is whether or not the operation is occurring below the Mean High Water Line (MHWL). According to Windsor Construction, they are not mining below the MHWL. However, personal observations indicate this may not be true.

The ACOE has issued a three-year extension to the permit, with the condition that the miners stake fifteen feet outside the operations. The question now is whether or not they are complying with the permit.

Other concerns include a nearby stream which contains the endangered tidewater goby.

VII. ANNOUNCEMENTS FROM COUNCIL MEMBERS

Marc Del Piero - announced that the RWQCB is holding a hearing on the Triennial Review of the Ocean Plan for the State Board in Monterey on October 9.

Brian Baird - announced that the Resources Agency will soon release "Cal Ocean", an internet-based information system. One example of the available information will be water quality monitoring data provided by the State Water Resources Control Board which will be available as a searchable database.

Karin Strasser Kauffman - provided an update on the Coast Highway Management Plan meetings.

Steve Webster - provided a brief report on James Baker's meeting with constituents.

Greg Cailliet - provided a brief report on the American Fisheries Service meeting in Hartford, CT.

Chet Forrest - passed out a special issue of Scientific American on oceans.

Rachel Saunders - announced that CMC has a new promotional BAYNET video and will be premiering it on October 9 at the Pacific Grove Museum of Natural History.

Pat Clark-Gray - announced that the Boy Scouts have committed to participate in Coastal Cleanup.

Doug Huckins - announced that the Blue Fin will be assisting with Sustainable Seas Expedition (SSE) diver training.

Steve Abbott - announced a Bird Fair, featuring a peregrine falcon, on October 3 at Elkhorn Slough National Estuarine Research Reserve.

Brian Baird - announced water quality monitoring data will be available as a searchable database.

VIII. SELF-INTRODUCTION/CONSTITUENT OUTREACH

Matthew Twisselman, Tourism alternate, provided a brief introduction. He runs a family-owned concession business on the Santa Cruz wharf and has lived in Santa Cruz all his life. His interests and concerns include sustaining the resources of the

Sanctuary.

Marc Del Piero, State Water Resources Control Board, provided an overview of his professional work and how his work concerns the Sanctuary. In working for the SWRCB, he is responsible for water quality issues in the state of California. Mark reviewed the history of the SWRCB grants given to the counties. Mark has also served on the Monterey County Board of Supervisors, and he wrote the North Monterey County Coastal Plan.

IX. PRESENTATION: REAUTHORIZATION

Bill Douros, MBNMS, introduced the Chief of the Sanctuaries and Reserves Division (SRD), Stephanie Thornton. Before giving her presentation on reauthorization of the National Marine Sanctuary Act (NMSA), Stephanie presented Joanne Flanders with the Director's Ribbon-the highest honor from the NOAA Corps-for outstanding leadership while serving as Acting Manager of the Sanctuary during its transition in leadership. Stephanie also presented an award to Karin Strasser Kauffman in honor of her long and dedicated service as Chair of the Advisory Council from March 1994 - March 1998.

Stephanie announced that the National Marine Sanctuary Program (NMSP) will present specific points in requesting reauthorization of the NMSA in 1999. She explained that the most recent reauthorization three years ago did not put forward any major changes because the program was focusing on the designation of the Florida Keys NMS and the Hawaiian Islands Humpback Whale NMS. However, the NMSP is now moving forward from the designation phase to the operational phase, and this is setting the stage for changes in the NMSA.

The primary objectives for the 1999 Reauthorization include:

1. Strengthen mandate for resource protection
2. Clarify the program mission
3. Lay foundation for future innovative marine protected/managed areas work
4. Review process (informal constituent meeting in Washington, D.C.)

Specific areas to address include:

1. Focus on ecosystem protection rather than specific species protection
2. Conduct a site-specific program assessment and development
3. Tighten up the conditions and guidelines for special-use permits
4. Conduct evaluation of damage assessment - how Sanctuaries seek damages and utilize funds

During the October Managers meeting, time will be spent discussing specific language change in the statute. The proposed reauthorization bill will be sent as a package to Dr. James Baker, to the Department of Commerce, to the Office of Management and Budget (OMB), and to Congress by January 1999.

Opportunities for Advisory Council involvement in Reauthorization will be to review the draft bill in December (it may be necessary to call a special meeting if the draft is not a public document at this time). When the bill is still within NOAA, the Advisory Council may formerly support the bill, and when it is in Congress, Advisory Council members as individuals may respond to the bill and contact their congressional representatives.

Funding levels are set during reauthorization; proceeding reauthorization, funds need to be appropriated. SRD is putting forth appropriate funding requests per the reauthorization changes.

X. PRESENTATION: LIVE FISH FISHERY

Bill Douros, MBNMS, opened the presentation by explaining the need for follow-up to the August 7 presentation on the live fish fishery. He referred to his letter to the RAP, who will be forming a subcommittee to address the issues in Bill's letter.

Chet Forrest provided a summary of the live fish fishery based on CDFG data. The live fish fishery market has grown at a logarithmic rate for the past ten years, with prices growing at the same rate. Live fish sell for \$2-\$5 per pound, compared to approximately \$0.80 per pound for dead fish. The fishery moved close to shore where survival rates for hooked fish increase. Today the only regulation on the fishery is a limit of 15 hooks per "tree" with a maximum of 150 hooks per boat. Because it is an easy fishery to enter, sport fisherman are also fishing for live fish, and commercial fisherman have begun using traps, with no limits on the number of traps, fish, or size. Adding to the problem is the market for "plate-sized" fish at approximately nine inches. Many of the species do not reproduce until they are twelve to fourteen inches.

Current Data:

- ... 200,000 - 400,000 sport fishermen fish within a mile of the central coast shoreline; they contribute \$40 - \$80 million to the central coast economy - more than commercial fisherman

- ... Forty percent of the State's live catch is being harvested north of Morro Bay

- ... In 1989, 77 licensed commercial live fishermen caught 52,000 pounds of live fish consisting of 17 species; in 1997, 855 licensed live fishermen caught 1.2 million pounds of live fish consisting of 66 species

- ... Trap landings doubled each year since 1995 and now catch more than 20% of the total harvest

- ... The number of rockfish landings has begun to decrease while the number of fishermen has increased

- ... Kelp beds are being fished aggressively from skiffs, kayaks and other small boats

- ... The live fish fishery has been active in Monterey County since 1996, but has less effort is being generated compared to the southern portion of the Sanctuary

Discussion ensued among Council members regarding next steps and the role of the Sanctuary in this issue. Curtis and Donna Solomon, licensed receivers of live fish, expressed their desire to see a limited entry with size limits, and to work with agencies and institutions in reaching a solution.

Rachel Saunders made a motion requesting that the Superintendent send a letter to the California Department of Fish and Game expressing concern regarding the fishery, requesting that they work with the RAP on addressing the questions in the Superintendent's letter to the RAP, and asking that they present updated data as well as their approach to this issue to the Advisory Council early next year. The motion was seconded by Chet Forrest and passed unanimously.

XI. DISCUSSION: DIVER DISTURBANCE REPORT

Steve Webster reviewed the history of the diver disturbance report which was provided to the Advisory Council in March 1998, and the letter of recommendations submitted by the RAP to the Advisory Council in August 1998. Steve also gave a brief

background of his experience in diving instruction, stating his belief that it is legitimate to ask questions about the impacts of diving on kelp, just as it is to question the impacts of all users on the marine environment. He encouraged the development of aggressive educational programs with diving organizations targeting beginner divers.

Discussion among Council members regarding the need to look at the impacts of all users.

A motion was made requesting the Superintendent to send the RAP letter with a cover letter to PADI, NAUI and the cities of Monterey and Pacific Grove expressing the willingness of the Sanctuary to assist in developing educational programs for recreational kelp divers. The motion was seconded by Steve Scheiblaue and passed unanimously.

The meeting adjourned at 3:45 p.m.

Respectfully submitted,

Lisa de Marnac
Advisory Council Coordinator