

MONTEREY BAY NATIONAL MARINE SANCTUARY
ADVISORY COUNCIL

FINAL

Meeting Minutes

August 6, 1999

Cambria Pines Lodge

Cambria

The Monterey Bay National Marine Sanctuary (MBNMS) Advisory Council met on Friday, August 6, 1999 at the Cambria Pines Lodge in Cambria. Public categories and government agencies were present as indicated:

Agriculture: Richard Nutter

Diving: Ed Cooper

AMBAG: Stephanie Harlan

Education: Patricia Clark-Gray

At Large: Steve Webster - ABSENT

Enforcement: Doug Huckins

At Large: Karin Strasser Kauffman

Fishing: Dave Danbom

At Large: Chet Forrest

Ports & Harbors: Steve Scheiblaue/Jim Stilwell

Business & Industry: Steve Abbott

Recreation: Sally Smith

CA EPA: VACANT

Research: Gregor Cailliet

CA Coastal Commission: Tami Grove

Tourism: Ed Brown

CA Resources Agency: Brian Baird

U.S. Coast Guard: LCDR Phyllis Blanton

Conservation: Vicki Nichols

The following non-voting members were present as indicated:

Monterey Bay NMS: William Douros

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

Channel Islands NMS: Ed Cassano

Elkhorn Slough NERR: Becky Christensen - ABSENT

I. CALL TO ORDER, ROLL CALL, SWEARING-IN AND
INTRODUCTION OF NEW MEMBER, WELCOMING
REMARKS, APPROVAL OF JUNE 4, 1999 DRAFT
MEETING MINUTES, REVIEW OF CORRESPONDENCE

A) Call to Order and Roll Call

The meeting was called to order by the Acting Chair, Steve Abbott, at 9:30 a.m. Ed Brown conducted the roll call - a quorum was present.

B) Swearing-in and Introduction of New Member

William Douros conducted the swearing-in of the Advisory Council's new AMBAG

representative, Stephanie Harlan. Stephanie has served as the Chair of the Sanctuary's Santa Cruz Interagency Task Force for several years; she is also a Capitola City Council member.

C) Welcoming Remarks

San Luis Obispo County Supervisor Shirley Bianchi welcomed the Advisory Council to Cambria, and expressed her support for the Sanctuary program and for expanding existing Sanctuary boundaries to include the coastline off San Luis Obispo County.

D) Approval of Meeting Minutes

The minutes from the June 4, 1999 Advisory Council meeting were approved as presented.

E) Review of Correspondence

The Acting Chair passed around the sign-up folder for Advisory Council correspondence written since the last Council meeting. Bill Douros provided a brief overview of the meeting folder materials, emphasizing his memo regarding important Sanctuary documents all Advisory Council members should keep in their handbooks for reference.

II. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Anne MacMahon, District Representative for Lois Capps, extended her welcome to the Advisory Council on behalf of Lois Capps. Ms. MacMahon discussed Lois' involvement in the California Sanctuaries boundaries issue and her deep appreciation of the National Marine Sanctuary Program.

Bill Warren, Cambria resident, expressed his support for the extension of the MBNMS boundary down the Santa Barbara County line.

Bill Allen, North Coast Alliance, stated that he supported the establishment of a new Sanctuary off San Luis Obispo County and that the extension of current Sanctuary boundaries (CINMS or MBNMS) is not a good alternative due to ecological differences along the coast. He urged the public to write letters in support of increasing the NMS budget.

Wayne Ryburn, Cambria Forum, expressed his support for extending the existing Sanctuaries' boundaries to include the waters off San Luis Obispo County.

Richard Youngman, Cambria resident, expressed his support for the establishment of a new central coast Sanctuary.

Steve Bitto, Cambria resident, expressed his concern about the environmental impacts of the local live fish fishery.

Kat McConnell expressed her concerns regarding water quality and underwater cables. She expressed her support for the extension of the Sanctuaries' boundaries.

Jim Adams expressed his support for Steve Bitto's comments regarding the live fish fishery as well as his support for the commercial fishing industry. Mr. Adams stated that the live fish fishery needs to be regulated and that existing regulations need to be

enforced.

Doug Huckins provided a brief update on CA Fish and Game activities regarding the live fish fishery.

Discussion ensued among the public and Council members regarding the live fish fishery.

Mike Armenta, live fish fisherman, expressed his concern about heavy regulation and stated that the fishery as a whole is not irresponsible.

Gene Valdemi, expressed his concern about the impacts to salmon from development along the Santa Rosa Creek.

Bill Douros responded to public comments regarding the extension of the MBNMS boundaries, clarifying that the Sanctuary is not undergoing its management plan review and therefore is not considering the extension of its boundaries at this time. Ed Cassano reviewed the CINMS' existing management plan review process; and clarified that neither the extension of CINMS' boundaries, nor the establishment of a new Sanctuary, would affect existing oil and gas leases off the San Luis Obispo County coast. Karin Strasser Kauffman expressed her support for Advisory Council action regarding the undeveloped oil and gas leases.

III. WORKSHOP: FIBEROPTIC CABLES

Bill Douros opened the topic by reviewing the Council's retreat where it identified fiberoptic cables as a top priority for the next year. Bill provided an overview of the proposed cable projects. Currently, there are two proposed cable projects that involve installation within the MBNMS.

The proposed MFS Globenet Fiber Optic Cable Project involves installation of 58.5 miles of submarine cables within the Sanctuary's boundaries, and would link New Zealand to Hawaii and the continental U.S. This seaward component of the project includes two directionally bored conduits--extending from shore approximately 950 meters out to sea to a water depth of 15 meters--and one two-inch diameter submarine cable extending from one of the conduits to the deep ocean. The offshore cable would extend along the submarine ridge to the western boundary of the Sanctuary.

The cable may be buried in two ways. Where feasible, an underwater plow deployed from the cable ship would bury the cable by cutting a narrow slot for the cable, which would result in a seabed disturbance of about .75 meter in width, according to Globenet. In sensitive areas, or areas where the plow cannot operate safely, the cable would be laid directly on the sea floor and buried using a post lay jetting system in which a remotely operated vehicle (ROV) would jet the cable into the sediment. Globenet estimates seabed disturbance from this burial method to be about 2 meters wide. The cable is proposed to land onshore in Santa Cruz County at the Monterey Bay Academy approximately two miles south of La Selva Beach.

Bill listed several environmental concerns regarding this proposed project:

- ... impacts to soft-bottom benthic habitats from construction
- ... impacts to kelp beds
- ... impacts to hard-bottom habitats
- ... impacts to commercial fishing industry during and after construction

- ... impacts to underwater cultural resources
- ... technical feasibility of burying cable to 2000 meters
- ... impacts from "strumming" of unburied cables
- ... potential entanglement of whales in loose cable
- ... cumulative impacts from increasing permit requests for underwater cable projects
- ... nature and impact of repair activities
- ... need for reasonable alternatives

The permit process for this proposed project began a year ago. The Sanctuary has received a written request for authorization of this project. The Sanctuary and the County of Santa Cruz (lead agency for the State of California) are collaborating to prepare a joint EIR/EIS to assess the impacts of the proposed project. The County of Santa Cruz issued a Notice of Preparation (NOP) of an EIR for the project on March 29, 1999 in accordance with the CA Environmental Quality Act (CEQA), the Sanctuary provided written comments on the NOP, including a recommendation that State and Federal environmental reviews be coordinated and consolidated in a single EIR/EIS document. The County of Santa Cruz subsequently agreed to the preparation of a joint EIR/EIS. The Sanctuary will release a Notice of Intent and will hold a public scoping meeting in August or September in Moss Landing.

Bill reviewed the alternate routes provided by Globenet and the permit and authorization process for the Sanctuary.

The second proposal, the proposed Global West Fiber Optic Cable project, involves installation of approximately 200 miles of submarine cable (1.1 inch in diameter, carrying no electrical power and solely transmitting light) within the boundaries of the Sanctuary (correction to final minutes 11/24/99). The cable would be installed on the seafloor as a "festoon" system that would land at seven shore locations along an ocean route between San Diego and San Francisco, traversing the length of the Sanctuary and landing at two shore sites within its boundaries. The applicant anticipates the cable would operate for a minimum of 25 years. The CA State Lands Commission is completing a DEIR to address onshore and offshore impacts of the proposed project. The Sanctuary notified the project sponsor in a July 15, 1999 letter that a EIS would also have to be prepared for the project.

This project differs from the Globenet project in that the Sanctuary has only had brief meetings with the applicant until last month. The Sanctuary has not received a written request for authorization of this project. Additionally, the project involves more routing the Sanctuary and actively fished areas; alternative routes have not been identified.

The seaward component of the project includes two directionally bored conduits-- extending from shore 600-900 meters out to sea beyond the surf zone) and a one-inch wide submarine cable extending from each of the conduits along a coastal route between 3 and 12 miles offshore. The offshore cable would enter the Sanctuary at the southern boundary and parallel the shoreline until landing in southern Monterey Bay at a Fort Ord beach site. The cable would then continue along a terrestrial route to La Selva Beach in northern Monterey Bay, where it would reenter the Sanctuary and continue northward through coastal waters, exiting Sanctuary boundaries at a point approximately 8 miles west of Broadmoor Beach on the San Francisco Peninsula.

The cable would be buried at a depth of one meter below the seafloor throughout the ocean route, where feasible, and where sensitive areas are not prohibitive, using the same burial methods as the Globenet project. In areas where burial could not be

achieved, the coordinates would be recorded and communicated to all interested parties. Global Photon Systems, Inc. plans to enter into agreement with licensed fishers that would release from liability those who comply with the terms and conditions of the agreement and reimburse participating fishers for legitimate claims of loss associated with the cable.

If, and when, the Sanctuary receives a written request for authorization of the project, it will prepare a Notice of Intent to Issue and EIS in accordance with the National Environmental Policy Act (NEPA). The EIS will provide information critical to the Sanctuary's assessment of the overall impacts of the proposed activity.

Bill Douros introduced Bill Hurley, who represents the Globenet project. Mr. Hurley stressed that Globenet is in the very beginning stages of the project, which is designed to enhance MCI's telecommunications to address an exploding demand. Mr. Hurley answered questions from Council members. Questions and discussion included the following:

- ... timeline for Globenet's biological assessment; data from biological samples taken by MCI will be provided to the Sanctuary; biological assessments will be conducted for all alternatives;

- ... maintenance of the cable and its removal after its 25-year life cycle (the removal is addressed in the DEIR);

- ... RAP issues with the Globenet project include the depth at which the cable will be buried - the RAP believes a meter might be deep enough in the fine sediment substrate which occurs further offshore; biological assessments further offshore will be problematic because it will be more difficult to identify organisms; and finally, the RAP is concerned about the impact of the project on existing study sites;

- ... land route alternatives.

Next, Bill Douros introduced Tim Stamnitz, who represents the Global West Project. Mr. Stamnitz provided an overview of his background and experience with fiberoptic cables. While the Globenet project was motivated by the telecommunications boom, Mr. Stamnitz explained that the Global West project is designed to meet the need of technological research conducted in California. Global Photon, the company proposing the Global West Project, is working full-time on the project's DEIR as required by the State Lands Commission (correction to final minutes 11/24/99). The company has been meeting with fishermen to address their issues as well. Mr. Stamnitz answered questions from Council members. Questions and discussion included the following:

- ... land route alternatives;

- ... environmental impacts and lack of biological assessment for this project;

- ... data from existing assessments;

- ... leasing of property from the State Lands Commission;

- ... impacts from landfall sites (sites where the offshore cable comes onshore);

- ... public notification of scoping meetings

Members from the public questioned both project representatives on issues of impacts due to maintenance of the cables; user conflicts with fishermen; lack of alternative routes and lack of biological assessment (Global West).

IV. UPDATE: REAUTHORIZATION AND FY2000 BUDGET UPDATE

Helen Golde, Marine Sanctuaries Division (MSD), reviewed the reauthorization process for the National Marine Sanctuaries Act (NMSA) and provided an update on the

current bills.

The NMSA is reauthorized by Congress every 3 - 5 years, "renewing" the National Marine Sanctuary Program (NMSP) and setting authorized levels for appropriation for the next three to five years. When the NMSA is reauthorized, the provisions of the Act may be changed by Congress. The NMSP develops a proposal to reauthorize the NMSA, including any new or changed provisions it would like to see in the reauthorization. After the proposed bill is cleared through NOAA, DOC and the Office of Management and Budget (OMB), the official Administration bill is transmitted to Congress. At this point, the Administration bill is not acted upon unless it is introduced by a member of Congress.

Members of Congress may introduce their own reauthorization bills, using the Administration bill for guidance or by adopting the Administration bill. The authorizing subcommittee may hold a hearing on the reauthorization of a bill, and request Administrative representatives and other witnesses to testify and answer questions. The subcommittee then marks up the introduced bill, in which amendments by members of the sub-committee are introduced and voted upon. Once amended, the bill is reported out to the full committee; the full committee marks up the introduced bill and reports out to the full House or Senate. The full House or Senate votes on the bill - amendments may or may not be accepted on the House or Senate floor. Differences between the House and Senate bills are rectified in a conference committee and the compromise bill is sent to the House and Senate for a final vote. The bill passes both the House and the Senate, and the bill is signed by the President and the new NMSA becomes law.

The Administration transmitted its bill to Congress in early June. Representative Saxton has introduced a bill that has gone to full committee but it has not gone to the House floor yet. The bill reported out of the full committee is different from the original Saxton Bill. Senator Kerry has introduced an "omnibus" bill that includes the NMSA and the CZMA. Senator Snowe has just recently introduced a bill, as well. Helen reviewed the bills' differences and provided handouts which detailed the differences among the bills.

Discussion among Council members focused on the Administration's bill. Several concerns regarding proposed NMSA changes in the Administration's bill were raised and included the following:

- ... strengthened enforcement role, specifically the powers to arrest and criminal penalties for those interfering with enforcement;
- ... changes in the NMSA designation terms to allow minor/technical changes to be made without going through the EIS process;
- ... the clarification and strengthening of the program's primary mandate to comprehensively protect and conserve resources; specifically, some members were concerned about sections where multiple use had been struck, particularly in the section regarding the Advisory Council and its representation of the public.

Discussion also focused on tracking the bills for the Advisory Council members. Helen reminded Council members that updates on reauthorization of the NMSA and the FY2000 budget for the NMSP are available at www.sanctuaries.nos.noaa.gov.

Ed Brown made a motion that the Advisory Council form a small subcommittee to draft a letter, for review and concurrence by the entire Advisory Council, incorporating the concerns discussed by the Council regarding the

Administration's reauthorization bill, and send the final letter to NOAA. Karin Strasser Kauffman seconded and the motion passed with two abstentions from Brian Baird and Jim Stilwell.

The following Council members were selected to form the subcommittee to draft the letter: Karin Strasser Kauffman, Ed Brown, Stephanie Harlan, and Steve Scheiblauber.

Bill Douros provided a brief report on the FY2000 budget for the NMSP. In FY99, the NMSP received \$14.35 million. The FY2000 request from the Administration is \$29 million. The full Senate mark up is \$21.5 million and the House Appropriations Committee mark up is \$16.5 million. Congress on leave for one month, and therefore letters written regarding the FY2000 NMSP budget will still be effective.

V. PRESENTATION: SANCTUARY SLIDE SHOW

Karin Grimmer, MBNMS staff, presented the latest version of the Sanctuary slide show. The slide show will be made available to Council members who are interested in conducting outreach to their communities and constituents. Karen requested that Council members forward final comments and edits on the slide show to her.

VI. INITIAL WORKSHOP/DISCUSSION: INCREASING MBNMS FUNDING

Due to earlier agenda items running over time, the workshop on funding was postponed to the October 1 Advisory Council meeting. However, the Council selected members to form a funding subcommittee to guide the Council-identified priority on funding throughout the upcoming year. The following Council members agreed to serve on the subcommittee: Steve Abbott, Stephanie Harlan, Ed Brown. Advisory Council Chair, Steve Webster, will also probably serve on the subcommittee as well. Council members also suggested involving Dennis Long and Ted Balestreri. Greg Cailliet volunteered to work on the issue through the RAP.

VII. UPDATE: WQPP AGRICULTURE PLAN

Dick Nutter informed the Council that the Water Quality Protection Program (WQPP) Agriculture Plan was presented to the public during a series of three workshops scheduled during the summer. The strategies identified in the plan are designed to protect and enhance the quality of water that drains into the Sanctuary, while sustaining the economic viability of the region's vital agricultural industry. The strategies are focused on improving technical assistance and education, funding and economic incentives for conservation measures, better coordination of the existing regulatory system to reduce barriers to implementing erosion control practices, and improving maintenance practices for rural roadways and public lands.

The six-county Central Coast Farm Bureau Coalition has agreed to take a leadership role in establishing industry-led networks of landowners to address water quality issues. The proposed measures were developed and revised over the past several years with the 25 government, public and private groups who are partners in the WQPP, the Central Coast Farm Bureau Coalition, and with input from several previous public workshops.

Dick explained that this plan will provide a model for the country in how to form a regional approach to addressing agricultural runoff without creating an additional layer of government.

Bill Douros noted that Dick played a large leadership role in moving the WQPP agriculture plan forward. The Council commended Dick and the Sanctuary staff for their work on the plan.

VIII. REPORT: DISCUSSION PAPER ON FKNMS & MBNMS ADVISORY COUNCILS

Lisa de Marignac announced that she will be co-authoring an academic paper analyzing the Florida Keys NMS (FKNMS) and MBNMS Advisory Councils. She will be working on this paper independent of the Sanctuary office and NOAA. The paper will discuss the history of the two sites, the Council selection process, composition, roles, actions, etc.; will evaluate and compare the two sites, looking at conflicts and resolutions, representativeness, decision-making processes, etc.; and will make recommendations for future Advisory Councils. Both Lisa and the University of Miami authors will conduct interviews with both Councils. Lisa questioned Advisory Council members about their comfort level in being interviewed by her; she will also pursue this question with individual members. The authors plan to begin interviews late this fall.

IX. REPORT: CWG REQUEST RE: TIDEPOOL PROTECTION

Vicki Nichols explained that the CWG has requested the Advisory Council's endorsement to conduct a special meeting of representatives from the working groups to discuss intertidal management within the Sanctuary. Council members discussed the issue of trampling in tidepools. The Advisory Council supported the idea of a joint working group meeting. Pat Clark-Gray will represent the SEP, Vicki Nichols will represent the CWG, Greg Cailliet will select a RAP member to represent the group, and Steve Abbott will represent the BTAP.

X. OVERVIEW: OIL AND GAS LEASES SOUTH OF MBNMS

Bill Douros provided an overview on the issue of 40 existing oil and gas leases approximately 100 miles south of the Sanctuary's boundary. These 40 tracts were leased by the Minerals Management Service (MMS) in the 1960s. The lessees must prove due diligence within a certain amount of time or give up the leases, however, a study that looked at the potential cumulative onshore impacts of these leases (California Offshore Oil and Gas, Energy Resources Study - COOGER) led the MMS to decide suspend the leases, which were due to expire at the end of June 1999. All of the companies who hold leases are intending to keep the leases, but were granted a temporary suspension until August 16, 1999. The companies are requesting another suspension. If the MMS does not grant the suspensions, the leases will cease to exist. If the suspensions are granted, the companies must prepare new exploration plans that may need to go through federal consistency review which will involve the Coastal Commission. Therefore, the granting of the suspension does not mean that drilling will occur; other permit decisions by the MMS and Coastal Commission would have to be made before drilling could occur. Both the Governor and the Coastal Commission will fight development of these leases, because they believe environmental and socio-economic impacts were not assessed in the COOGER study. The Coastal Commission has asked to weigh in on the August 16 decision.

Discussion ensued and the Council discussed whether or not they should take an action on the issue.

Karin Strasser Kauffman made a motion that the Advisory Council send a letter to the California Coastal Commission thanking them for their letter to the MMS

which included concerns about impacts to the Sanctuaries on both sides of the leases. Stephanie Harlan seconded and the motion passed unanimously.

Bill will draft the letter.

XI. COUNCIL MEMBER ANNOUNCEMENTS

Stephanie Harlan announced that the Santa Cruz Interagency Task Force received a TEA-21 grant for \$100,000 for their Sanctuary Scenic Trail project.

Chet Forrest requested that Sanctuary staff report back to him regarding any response to the Advisory Council letter sent regarding Sanctuary contractors.

Greg Cailliet provided an oral and written update on the RAP.

Brian Baird announced that the Resources Agency is releasing its report on California's marine managed areas.

Phyllis Blanton announced that the US Coast Guard Cutter Long Island has been relocated to San Diego; Monterey will receive a new cutter in November or December and will host a reception.

Doug Huckins announced that abalone are being sold on the black market in Morro Bay.

Lisa de Marignac announced that the Sanctuary will host a Sanctuary Tour on the bay for Advisory Council members on August 27.

Bill Douros announced that the Sanctuary has opened an office in Santa Cruz.

Vicki Nichols announced that SOS is having a fund-raiser on August 14; Vicki will be going on maternity leave in October and will be resigning as Executive Director of SOS; she will return to SOS as Policy Director.

Ed Brown provided a report on the BTAP.

Ed Cassano announced that the CINMS SAC is involved in the CINMS management review process and is looking at the issue of ecological reserves.

Ed Cooper announced that the Sanctuary Diver Partnership Program is going well; he also reported on fundraising efforts to assist a diver paralyzed by spear gun.

Ed Ueber reported that GFNMS was impacted by a recent boat grounding in which 35 gallons of oil was spilled and/or removed from the vessel.

Dave Danbom reported that data from salmon harvesters indicated salmon are 2-4 pounds heavier than the prior year.

Karin Strasser Kauffman requested that the Advisory Council schedule a presentation on the recently released NRDC report on underwater sound. Karin will provide a presentation at the December Advisory Council meeting. Karin also requested that the Sanctuary office provide detailed permit reports to the Advisory Council at their meetings. Karin will meet with Scott Kathey to discuss this.

Dick Nutter reported that an effort to use treated sewage from boats and marinas to irrigate agriculture lands may cost too much; the treated water is now being proposed to be discharged into the Sanctuary.

Jim Stilwell announced that the Coastal Commission issued four permits for aquaculture facilities in Pillar Point Harbor; Moss Landing Harbor is being sued over otter deaths in Elkhorn Slough.

The meeting adjourned at 5:05 p.m.

Respectfully submitted,
Lisa de Maignac
Advisory Council Coordinator