

**MONTEREY BAY NATIONAL MARINE SANCTUARY
ADVISORY COUNCIL
FINAL Meeting Minutes
February 20, 2014
Watsonville, CA**

Agriculture: Kirk Schmidt	CA State Parks: absent
AMBAG: Ed Smith	Conservation: Dr. Geoff Shester
At Large: Margaret “PJ” Webb	Diving: absent
At Large: Dan Haifley	Education: Amity Sandage
At Large: James Panetta	Commercial Fishing: Kathy Fosmark
Business & Industry: absent	Harbors: Steve Scheiblaue
CA Coastal Commission: Dan Carl	Recreation: Gary Pezzi
CA Dept. of Fish & Wildlife: Paul Reilly	Recreational Fishing: Richard Hughett
CA EPA: Mariela de la Paz Carpio-Obeso	Research: Dr. John Hunt
CA Resources Agency: Cyndi Dawson	Tourism: Mike Bekker

The following non-voting members were present as indicated:

Paul Michel – Monterey Bay NMS
Max Delaney – Gulf of the Farallones NMS
Dr. Steven Lindley – NMFS
LT Shannon Anthony – US Coast Guard
Dave Feliz – Elkhorn Slough NERR

Alternates present in audience:

Captain Jim Moser – Commercial Fishing
Dawn Hayes – Monterey Bay NMS
Barton Selby – Recreation
Robert Chatham – Recreational Fishing

I. CALL TO ORDER, ROLL CALL, AND MEETING MINUTES

Call to order at 9:08AM.

New member, Ed Smith, was sworn in and introduced himself to the council. Ed is a newly elected councilmember for the City Council of Monterey, representing AMBAG.

APPROVAL OF MEETING MINUTES

Approval of Dec 12, 2014 Draft Meeting Minutes with amendments.

MOTION: Dan Haifley made motion, Richard Hughett seconded.

MOTION: Passed

(Vote: 10 in favor, 0 opposed, 4 abstentions)

II. STANDING ITEM: SUPERINTENDENT’S REPORT

Paul Michel announced recruitment is still open for the Education primary and Conservation alternate seats. All applications are due by March 31, 2015. In the last two months, MBNMS and WCR staff members have met with the BBC and PBS to discuss upcoming shows featuring the

Sanctuary. The BBC and PBS will broadcast approximately four “live” shows in late August through early September. Paul and staff are working on providing the networks with access to particular locations of interest. On February 21, 2015, the final ocean movie night will take place at the Hearst Castle Theater in San Simeon. Ocean movie nights will return in February 2016 with another month-long (Saturdays) movie series. Paul also announced two missions coming up this spring. From March 2nd-March 22nd, the Maritime Heritage Program at ONMS, GFNMS and Boeing will do 3D sonar surveys of the USS Independence in order to gather images and precisely map the shipwreck. Paul went on to share a brief history of the USS Independence with the council. After completing the mission the images will be shared with the media. In May, the MBNMS Research Team will go to Davidson Seamount to conduct bird and mammal surveys, nighttime mid-water surveys of fishes, sampling for microplastics and do oceanographic sampling including environmental DNA.

Max Delaney shared the latest information on the GFNMS and CBNMS expansion, which expands northward near Manchester State Beach. The final stages of the process are near completion. Last-minute discussions were requested by the US Coast Guard to figure out the final details with NOAA and ensure no conflicts exist. Once the proposed rule has been finalized, 45 consecutive days of congressional session will take place. Implementing the expansion is planned to begin April 25, 2015. As part of the expansion, GFNMS is also expanding its monitoring programs. Staff members have been reaching out to the local community and organizations to increase support for monitoring efforts and citizen science opportunities. Max also highlighted some updates for the Maverick’s Surf Contest. A new management organization has been running the program this year. So far there has been a positive experience with this group in meeting with GFNMS and acquiring the necessary authorizations and permits. Now they are waiting for sufficient surfing conditions. There will not be a festival to accompany the contest this year, which presents potential crowd control issues near Pillar Point as on-lookers seek closer vantage points. Max also shared an update on the Ocean Climate Initiative. Sara Hutto and her team have completed a vulnerability assessment for the north central California coast and ocean study region, which includes the northern portion of MBNMS. Staff is compiling a Climate Smart Adaptation working group to use the results from the assessment to develop adaptive management recommendations. Sara will give a webinar presentation on this topic on March 12th. GFNMS is seeking new members to fulfill the community-at-large San Francisco/San Mateo seat (primary); conservation seats (primary and alternate); and maritime activities-commercial seat (primary and alternate).

Advisory Council Member Discussion:

Q: Steve: Can you speak about the ASBS sampling? MBNMS participates through the Urban Watch program to do nearshore monitoring to inform the Regional Water Board on water quality. In this area, the Central Group focuses on general exceptions to discharge into the ASBS. The coalition is collecting samples to characterize. Samples are collected from the receiving waters and reference sites. Go to the ASBS website and you will see work plans for sampling.

Q: How are the guidelines for desalination serving MBNMS, have there been any problems? A: the guidelines are a map of challenges and regulations and compliance issues; we need a regional approach to desalination and polices. Overall, the guidelines are serving MBNMS well.

Q: Are the guidelines posted on the website? A: Yes

Q: What's the difference between an autonomous underwater vehicle and an ROV? A: AUV is preprogrammed to go to specific coordinates, collect information and return. ROV is tethered to the boat and controlled from the ship.

Q: Are there any negative impacts for the use of the sonar? A: No.

Q: Can the AUVs be controlled from the ship? A: The AUVs can be.

Q: Have there been studies on the bright lights mounted on the AUVs that could harm the organisms at depths? A: No work has been done on that yet.

III. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

Public Comment:

Mt. Madonna School 5th grade class gave a speech on boating laws and protection of Orcas and other whales. See the speech in Appendix A.

Jared Farst – Mount Madonna School

I would like you to make boating laws around whales.

Bryce Adams – Mount Madonna School

I would like you to consider making boating laws in the Monterey Bay.

Kayla Goldstein – Mount Madonna School

I would very much appreciate it if you could help get boating laws in the Monterey Bay for about 100-200 yd distance and other boating laws to protect them.

Blythe Wilson – Mount Madonna School

My 5th grade class would like to protect the whales of our Sanctuary and request your support in boating laws in the Monterey Bay. On our field trip to the Sanctuary Exploration Center, we learned they didn't have boating laws because they would be too hard to enforce.

Meris Brown – Mount Madonna School

I would like it if you could put laws around whales for boats to stay 100 yards away.

Amirah Ibragimchayeva – Mount Madonna School

We would like you to consider our request on passing boating laws around whales to protect them and ourselves in the Monterey Bay National Marine Sanctuary.

Grace Timan – Mount Madonna School

We would like boating laws because orcas and many other marine mammals are being hurt. What we want is for there to be at least a 50 yard law.

Addy – Mount Madonna School

I would like a 100-200yd distance around the whales and no idling.

Maddy Erbe – Mount Madonna School

I think we need a 100 yard distance from whales, must stay out of a whale's path and no idling on the water in the Monterey Bay.

Denali Spector – Mount Madonna School

I would love if you would make boating laws in Monterey so whales and Orcas can be safe and sound.

Benjamin Pearson – Mount Madonna School

I think there should be a boating law because these fascinating creatures should stay alive and future generations should see them.

Simone McIntyre – Mount Madonna School

I would appreciate it if you could make a boating law so that southern resident Orcas don't get extinct in our lifetime. Thank you!

Summery Howley – Mount Madonna School

I would appreciate it if you could work toward a boating law of 100yd around whales.

Jessica Cambell – Mount Madonna School

To support my students and my personal opinion, I would request that whales be enjoyed in the wild but respected by keeping a 100-200yd distance law. Thank you.

Peggy Stap – Whale Entanglement Team (WET) & Marine Life Studies

Request that yardage in viewing whales and dolphins be made a regulation and not just a recommendation so it can be enforced. And I want the distance for transient Orcas to be increased from 50yd to 100yd and make a separate regulation for southern resident Orcas to 200yd as they are endangered and there are only 79 left. They occasionally come to MBNMS in their search for salmon.

The students' speech was well received by the council and members commended the class for sharing their information. Paul commented that with management plan coming up, he would like to keep these concerns in mind.

IV. INFORMATION ITEM: DRAFT MANAGEMENT PLAN REVIEW UPDATE PROCESS SCHEDULE

Paul shared the draft process schedule for management plan review. The purpose is to determine what information is still relevant, what is no longer relevant, what needs to be updated, what action plans have been implemented and what remains to be implemented. Paul hopes the management plan update will be a complimentary document to the original plan and be completed by winter 2018. The first year of the process will begin with an internal review assessment, public scoping meetings and findings report. The year will end with finalizing a work plan and forming working groups around specific issues/topics. In year two, from April 2016-March 2017, the majority of the time will be spent writing the draft updated plan with revised regulations, a draft EIS and draft rule. By March 2017 issue a draft plan with regulatory changes and start the 60-day public comment period on the draft EIS. The final year of this process, June 2017-Jan 2018 will focus on prepping the final plan and EIS and issue the final rule around February/March 2018.

Advisory Council Member Discussion:

Q: With regard to the schedule, how you will address taking input from the fishing community? Is it possible to add the fishing community into the process? A: Special working groups will be formed based on specific issues. We will identify working group needs and address issues we need to update.

Q: With respect to the revision of regulations and the update timeline, is that different from last management plan update? A: This time we will try to do it all and do our best to keep everything in one complete package/process.

Q: Can you talk about the condition assessments and if it's tied to the baseline fishing? A: The science team has been working with state partners to get the best information available.

Q: Will the new plan include GFNMS, would we include MPWC? This is not a joint management plan with GFNMS, so it will only include MBNMS, and MPWC will be included.

Q: In regard to the condition report, are changes in the questions being framed? A: We will get a detailed presentation at the next Advisory Council meeting on the condition reports from staff.

Q: Can you clarify what public scoping meetings actually mean in this context? A: there will be a NEPA process. We want to encourage as much public input throughout this as possible.

Q: What are the main issues that we will devote more attention to than others? A: There are many, examples include: personal watercraft, beach nourishment, marine mammal encroachment, drone policy/wildlife disturbance, with a lot of minor regulatory changes as needed.

Q: Will this be an action item at the next meeting to identify the key issues? A: it will be more of an information item. MBNMS staff will put together a list of questions, implementation status report and a draft list of issues to share with the Advisory Council to get feedback.

V. INFORMATION ITEM: CONSERVATION WORKING GROUP WORK PLAN

Geoff Shester shared the proposed Conservation Working Group (CWG) work plan with the council. The CWG would like to continue its efforts on Leatherback Sea Turtle conservation, whale entanglement, and acoustic impacts on marine life. Some of the proposed ideas surrounding Leatherback Sea Turtle conservation includes organizing and fundraising for a Leatherback Sea Turtle Day event in 2015; pursuing the funding of a large sculpture of the Leatherback Sea Turtle; and pursue more educational exchanges with schools in Indonesia. With respect to whale entanglement, the CWG would like to compile existing data and analyses from scientific studies into a report and share it with the council. These data would include entanglement trends, prevention issues and response issues. The CWG would also like to support the Whale Entanglement Team (WET) in existing efforts and make them apparent to the public and to the Advisory Council. Lastly, the CWG would like to participate in a working group focusing on noise issues in the Sanctuary during management plan review. Updates will be shared with council members as new information is available.

Advisory council members provided positive feedback on the proposed work plan and overall support on the topics selected. The CWG was commended for its past work on Leatherback Sea Turtles, and several members agreed to have the CWG continue its efforts on this topic. More collaboration between the other working groups should occur throughout the proposed work plan. The Sanctuary Education Panel is willing to help the CWG network with local schools and potentially connect with international programs for continued Leatherback Sea Turtle conservation efforts. PJ Webb, Chair, offered to oversee working group collaborations by relaying information/presentations after the Advisory Council has had a chance to preview the

information and make its recommendation(s). Members expressed the need for continuous evidence-sharing in order to advise the Sanctuary Superintendent on the aforementioned topics. It was recommended the Advisory Council think about engaging in actions that will complement similar work other departments or agencies have done and/or are doing.

Advisory Council Member Discussion:

Q: Is there science that says we will have a worse whale entanglement situation in the future? Is the increase in entanglements due to increase in whale population or increase in reporting rate?

A: There is a lot of uncertainty on whether or not there's been an increase in whale populations vs. an increase in the rate of entanglement reports. We do know Gray whale and Humpback whale populations are increasing but we don't know if there have been more entanglements due to the presence of more whales or if more people are reporting entanglements. It is wise not to jump to conclusions at this point. What the CWG is suggesting to do is to delve deeper into this issue by asking some of these questions and provide information.

VI. INFORMATION ITEM: REVISED INTRODUCED SPECIES RULE

Paul Michel and Karen Grimmer provided a brief background on the Introduced Species Rule and progress made since 2008 when the MBNMS management plan was released. In 2013, a new regulation was put out by NOAA. Department of Fish and Wildlife and the aquaculture industry provided comments and raised some concerns regarding the definition of introduced species. They pointed out that it didn't recognize there has been a number of introduced species of shellfish that had been cultivated for over 100 years, specifically in Tomales Bay. Additional comments were made about the proposed regulation and how it didn't allow consideration of future aquaculture permits. In 2014, NOAA proposed to amend the rule from 2013 to provide for introduced species of shellfish from commercial aquaculture projects in all state waters.

MBNMS regulations will be modified to allow authorization for a valid permit, license or other authorization issued by the State for commercial shellfish aquaculture activities conducted in state waters of MBNMS involving introduced species of shellfish that NOAA and the State have determined to be non-invasive and would not cause significant adverse impacts. For GFNMS, NOAA will not adopt authorization authority for similar projects in state waters at this time and will revert to the proposal from March 2013, which prohibits introduction of introduced species; exempts state permitted commercial shellfish aquaculture activities within Tomales Bay only; and provides an exception for the catch and release of striped bass. ONMS and the State (CDFW, OPC and CCC) will finalize a Memorandum of Agreement (MOA) to define the consultation process for reviewing proposed shellfish aquaculture activities involving cultivation of introduced species in sanctuaries. NOAA will publish an announcement of the effective date of the final regulations in the Federal Register and can be found here:

<http://www.gpo.gov/fdsys/pkg/FR-2015-02-19/pdf/2015-03486.pdf>.

Advisory Council Member Discussion:

Q: Have you developed guidelines for the special permits that are consistent with the administration's roles? A: Yes, specific definitions have been included using the administration's definitions. The same semantics are being used, which are detailed in the MOA.

Q: Can you clarify what has changed since the last rule? A: We now have an established regulation prohibiting introduced species in federal waters and allowing for the potential for future shellfish aquaculture projects involving non-invasive shellfish, similar to what has been occurring in Tomales Bay.

Q: What are the details for deterring invasive vs. noninvasive? A: The details are in the MOA, which describes the procedure in which NOAA and the State of California would resolve any dispute about a permit application related to the issue of whether or not the shellfish is non-invasive or not and if it would cause harm to the marine environment.

Q: Does this rule include the Delta/SF Bay? A: No, only federal waters.

VII. STANDING ITEM: WORKING GROUP UPDATES

Conservation: Plan on interacting with the RAP more regarding the CWG's work plan.

Education: Recruiting for primary seat. The SEP met in December at a combined gathering with the Monterey Bay Environmental Educators (MBEE) network. A lot of information-sharing and collaboration took place. The SEP's next meeting is on February 23rd at Elkhorn Slough with MBNMS Research Coordinator, Andrew DeVogelaere, who will talk about research activities that may intersect education and be integrated or related to education programs. The SEP will continue to collaborate with the MBEE and CREEC networks to get information out to schools about education priorities.

Research: The RAP met on in January and discussed what is going on at CSUMB with regard to marine science. Additionally, the RAP agreed in principle to form, as needed, an expert panel to help review acoustic issues that come before the Advisory Council. Andrew DeVogelaere and the MBNMS research team have already put together an acoustics group comprised of acoustic experts from the region.

Recreation and Tourism: Brian Nelson is working on the next newsletter and encourages comments and questions or anything that could help him in this endeavor. Mike Bekker attended the AT&T ProAm golf tournament and made contacts to market MBNMS at the tournament next year. At the last meeting, the Fundraiser for Team Ocean was discussed. Since then, it has been put off until the end of 2015/beginning of 2016. Team Ocean is in a re-branding effort of all citizen science and volunteer programs. Matthew Stout from the National Office attended the meeting and supports the efforts to brand the Sanctuary with the local community. Ideas were shared of how to effectively display Sanctuary information on local businesses.

VIII. ADVISORY COUNCIL MEMBER ANNOUNCEMENTS/REPORTS

Dave Feliz: Recently received \$1 million from the Fish and Wildlife Service for the Coastal Wetlands program for marsh restoration. Elkhorn Slough received funding, for salt marsh restoration. He will be in Washington for COAST week. An intern will be taken on to do shorebird surveys and outreach. Naturalist training is underway to work with the education program.

Paul R.: The California Collaborative Fisheries Research Program (CCFRP) monitors rockfish and lingcod populations using catch- and-release hook-and-line fishing. CCFRP has now completed eight seasons of fishing using volunteer anglers only. It has a comprehensive database

for MPA monitoring in the central coast. A workshop about the long term monitoring study will be held next month on March 21st at Moss Landing Marine Labs, 1PM-4PM.

Kirk: Warm weather will impact deciduous trees and fruit harvests. Department of Water Resources predicts we may get 20 days of rain in March. On the issue of sustainable groundwater, there have been ideas of using recycled water and acquiring drinking water from other sources, like solid water ponds in Salinas. There will also be a series of discussion on the Monterey Peninsula and Salinas Valley regarding the Sustainable Groundwater Management Act content.

Steve S.: Work has been done on developing the Monterey Bay Fisheries Trust (MBFT), centered on the groundfish fishery. In order to protect and preserve that fishery, the MBFT can own rights to fish species locally. The clean-up dives have begun, twice a month with volunteers. There will be a larger clean-up on Earth Day.

Mike: The hospitality and tourism sectors are not at same level in terms of revenue figures as in 2008, but competition, marketing and sales have improved. Tourism reached record numbers over the President's Day weekend.

Ed: AMBAG meeting with representatives to familiarize with their concerns. But as it stands now, AMBAG's general concerns are: air quality, environmental issues and jobs.

John: The last MPWC meeting in December 2014 was productive. MBNMS staff put together the list of criteria needed to be met for a public safety agency to be qualified for MPWC use in the Sanctuary. The issue derived from the last management plan, in which regulations were put together for how jet skis were used at the time. Now, big-wave surfing practices have changed and jet skis are primarily used for safety support. Members of the surfing community, Shawn Dollar and Ed Guzman, have been proactive in working with MBNMS staff and Advisory Council members to address these criteria. The MPWC group left the meeting feeling optimistic about the new framework. Shawn and Ed are hoping to create a new volunteer safety organization with the ability to operate in a way that MBNMS can permit.

Rich: There is a Fly Fishing show in Pleasanton this weekend. The community supported fishery, Local Catch has recently changed its name to Real Good Fish. For more information go to: <http://www.realgoodfish.com/home>.

Steve L.: The Fisheries Service is rolling out a new initiative this year to focus on a small number of priority species in order to prevent extinction. The idea is to focus on a half dozen species listed as endangered and are significantly declining. Of the six species, three of them occur in Monterey Bay: Leatherback Sea Turtle, central California coast Coho Salmon and the southern resident Killer Whale. NMFS fully recognizes it cannot fully recover species on its own, so it is looking to partners for assistance. There may be funding in FY17 for the initiative. In the meantime NMFS is reaching out to everyone who can and will contribute to this national initiative.

Paul M.: Another presidential initiative rolling out this week, “Every Kid in a Park,” targeting fourth graders. The purpose is to involve fourth graders in national parks, national wildlife refuges and sanctuaries. More information will be available as details are finalized. At the last AWQA meeting, discussion concentrated on the future of AWQA on the central coast and how to better meet the needs of growers.

PJ: It has been a very busy tourist season down in Cambria. Issues with water availability have been apparent as more tourists come into town. The new seasonal program, “Elephant Seal Ambassadors,” has involved some interesting outreach pertaining to Elephant Seals on State Parks. Harassment of Elephant Seals is still occurring as people attempt to capture photos/video with these animals at unsafe distances. The outreach has been going well and education about these animals is important for tourists to understand. The Friends of the Elephant Seal App is a good source of information about Elephant Seals and is available in many different languages. There has been a Sanctuary nomination submitted on February 2nd, tentatively called the Chumash Heritage NMS. The nomination application is currently with the West Coast Regional office.

Barton: Participated in the release of an entangled Humpback in early November 2014 with Pieter Folkens. It was tangled in a buoy anchor line in 5000ft of water for 25 days.

Dan: There are many topics to address, but one of the topics of interest involves the Martin’s Beach, (south of Half Moon Bay) situation. Several years ago a gate was put up across the road on Highway 1. Currently, several lawsuits are in progress. Recent State law passed directing the State Lands Commission to pursue eminent domain to reestablish access at Martin’s Beach. A study is being done right now to document historic use. The CEMEX plant is under an ongoing investigation and the CCC intends on wrapping up the issue for the deep water desalination project begins. It is still an unresolved case, but it remains at the top of the priority list.

Mariela: Update on the new statewide trash amendment: the final staff report was released on December 31, 2014. On February 2nd, a notice was released on the adoption of the amendment to pass April 7, 2015. The Ocean Plan Desalination Amendment update included responding to letters. The SWRCB hopes to release the staff desalination report for the final proposed desalination amendment and response to comments by March 20th. Other work has been with Steve on Sanctuary Ecologically Significant Areas (SESAs) and they hope to have an interpretation of all the results from reference sites by March. Different guidelines for discharge into the ASBS have been developed. The state is divided into the south, central, and north regions and from the discharges, the SWRCB has 26 discharges they can apply for to obtain general exceptions under compliance plans.

Geoff: The forage resolution from two years ago supported the federal fishery managers policy goal of preventing new fisheries from developing on the forage fish without first studying the impacts. Now, they are taking final action at the March meeting. They are also looking at potentially taking final action of bycatch in the drift gillnet fishery and establish bycatch caps for endangered turtles and whales. There will be a Marine Resource Committee meeting in Marina on March 4th.

Kathy: To follow-up on fisheries and bycatch, the caps are not set in place but are being considered by the take reduction team. There are management issues of duplicating standards and regulations. Regarding the smartphone application work is being done on EcoCast, details on accessibility will be forthcoming. For more information go to: <http://ecocast.arc.nasa.gov/>. With regard to whale safety and shipping, the take reduction team will be meeting in Long Beach from March 16th-19th. There is a program through the Moyer grant to repower commercial vessels with less pollutant engines. There has been interest from the fishing community in getting the “Fishermen in the Classroom” program back for outreach efforts. Fish & Wildlife is having an informational meeting on pre-season salmon on February 26th in Santa Rosa. A fellow consumer and advocate, Johnathan Gonzalez has a website, <http://organiccreativity.com/eatusseafood/> which contains a lot of information including, Pacific Fishery Management Council (PFMC) information and links to YouTube videos. It can be a useful resource.

LT Shannon Anthony: A couple of the most recent violations the USCG addressed happened in the beginning of January 2015. One was in GFNMS involving a sewage discharge case. Work has been done on a new campaign, “Call It In” to encourage the public to report any suspicious activity to the USCG. Pangas are still an issue and has expanded. Call directly to the USCG command center, 911 or on channel 16. GFNMS will receive a presentation at its next Advisory Council meeting on the Coast Guard’s involvement in the Sanctuary from the perspective of law enforcement. LT Anthony will be on maternity leave soon and LT Joe Giammanco will fill-in.

Max: The Sea Slug Soirée will be on March 21st in San Francisco. For more information follow this link: <http://www.farallones.org/events/>.

Captain Jim: Seems like the salmon populations are migrating north and the crab populations are migrating south. There is no albacore in this entire southern sector, which could be attributed to the warmer ocean temperatures.

Cyndi: The Ocean Protection Council has a science advisory team, made up of 26 esteemed scientists, to help the State tackle emerging science questions, gather the science and assemble the information so policy makers can understand. On February 25th from 10AM-5PM, at 1515 Clay St., in Oakland, there will be a symposium, “Readying California’s Fisheries for Climate Change.” It is open to public, and will include informational and working sessions with the scientists. Go to openspaces.org for more information and raw data.

IX. ACTION ITEM: RECREATION & TOURISM GROUP IDENTIFIED AS SUBCOMMITTEE; WORK EXTENDED FOR ANOTHER YEAR

Approval of Recreation & Tourism Business subcommittee name and work extension for another year.

MOTION: Kirk Schmidt made motion, Mariela de la Paz Carpio-Obeso seconded.

MOTION: Passed, unanimous decision

(Vote: 14 in favor, 0 opposed, 0 abstentions)

X. INFORMATION ITEM: RESOURCE PROTECTION UPDATE

Council members received a brief update on resource protection activities involving: acoustics/noise, the CalAm Test Slant Well, and unmanned aircraft systems (UAS). Karen Grimmer highlighted the latest information about noise activity in the Sanctuary. She mentioned the NOAA Ocean Noise Strategy, which is currently under internal review. This is a multifaceted strategy pursuing the goal of articulating NOAA's vision for addressing noise impacts over the next 10 years. Phase I of this strategy involved looking at "[CetSound](#)," cetacean and underwater sound field mapping, to determine where sound is occurring in sanctuaries. Phase II has been in progress since 2013 and comprises the development of a policy document on noise strategy and noise reference stations. Content includes an executive summary and chapters on the noise strategy and its connection to managed species, acoustic habitat, characterizing aquatic soundscapes and case studies.

Advisory Council Member Discussion:

Q: The management plans that come out of this process will inform our management plan process? A: The work that is being done with noise is going to inform our management plan process.

Q: With regard to the seismic issue and Sanctuary's lack of authority to put in regulations governing sound, will the Sanctuary pursue an expansion of authority and/or add regulations to govern noise during the management plan update? Or is there something else that needs to happen? A: The management plan process is the vehicle for addressing these issues, however it will depend on where we end up based on input from NOAA, working groups, other agencies, etc. Paul envisions three possible outcomes from this work: 1) we could end up better informed about noise and its impacts and effects. Therefore when authorizations and permits are considered and consultations occur, we can better affect those projects; 2) we might get to make policy statements about noise in the Sanctuary; and 3) we might get to a place where we are suggesting authority and regulation(s) on noise. But because we are still in the discovery stages of this noise issue, the management plan process is the place to start the discussion.

Q: Is the idea that NOAA is going to create these guidelines about noise and then individual people will do their best to implement them? How would coastal shipping be affected? A: One of the cornerstones for the framework is acquiring the science to understand what the soundscapes and impacts are. We are still in the beginning stages, so putting in standardized listening stations would be a big first step.

Q: Isn't there a model that already exists for sound gathering stations? A: NOAA has a collaborative program with the Navy and other partners. In the US, there are nine established stations and the idea is to expand the number utilizing sanctuaries as sentinel sites. However, there is no coordination to synthesize the information to understand the data, ask questions and make informed management decisions.

Q: Are you aware that some of the fishing gear are required by regulation to have acoustic pingers on their nets and that commercial fishing boats use sonar? A: Both points are understood and duly noted.

Q: Is someone looking at the acoustics and frequencies of whale watching boats and their proximities to whales? A: There is concern over that issue on Olympic Coast with Orcas. The

large vessels are probably going to be more of a concern. A recent IMO has passed guidelines for any new ships being built to try to reduce any cavitation, which is related to the noise made by the propellers.

Next, Karen spoke about the latest progress of the CalAm Slant Test Well at the CEMEX plant in Marina, CA. Because the slant test well goes beneath the seabed, which is in the submerged lands of the Sanctuary, MBNMS is the federal lead on this project. The goal of the test well is to gather geologic, hydrogeologic and water quality information. In September 2014, the environmental assessment (EA) was completed. In October, the finding of no significant impact (FONSI) was put out and in December, MBNMS authorized the Coastal Commission's coastal development permit for this project. On December 10, 2014, work began. Since then, regular site visits have taken place. On February 19th, drilling of the slant test well was completed and the target of 760ft. was reached. Now, water samples and gravel packing are taking place as the pipe is slowly removed. Seaward beach restoration has also been completed to restore the sand dune and protect the Snowy Plover habitat nearby. Because Snowy Plover season will begin soon, nest surveys are being done and daily monitoring has taken place.

Advisory Council Member Discussion:

Q: Is it true there was a sensitive plant species siting that halted operations? A: At the beginning of the drilling, Monterey spineflower was spotted where the drill was supposed to go. As a result, the drilling location had to be completely reconfigured. Subsequently, a fence was built around the patch of Monterey spineflower to act as a barrier to protect it.

Q: What would the process be for you to issue a permit to move forward after the test well is completed and the CEMEX site is ready to move ahead? A: That would be an entirely new project and would require new permits from all of the responsible agencies.

Q: How big is the diameter of the small end of the pipe? A: About 24in.

Q: Are they going to put any device on the intake end of the pipe to avoid taking in small fish?

A: No since this well is subsurface.

Q: Do you know what the daily capacity and cost difference is between this well and rain water?

A: The slant well is merely pulling up enough water to keep the pumps pumping and take water samples. It is not being treated or used.

Q: Is there a time limit for this project? A: Yes, this is a three-year project. One year for construction and about two years for full operation followed by decommissioning.

Lastly, Karen discussed unmanned aircraft systems (UAS) in the Sanctuary. MBNMS addresses overflight disturbance through a mix of educational outreach, regulatory and enforcement approaches. Our regulations (in conjunction with other animal protection acts) explicitly prohibit the harassment of living organisms including disturbance from the air within MBNMS. In addition to the general prohibition against disturbance of marine mammals, turtles and birds, MBNMS regulates and prohibits the operation and use of motorized aircraft, which includes: model aircraft, quad copters and drones within four specific, restricted overflight areas. These restricted overflight zones exist due to their proximity to sensitive habitats. In areas without overflight restrictions, use of the UAS is permissible as long as there is no disturbance to marine mammals, turtles and birds. FAA considers UAS's to be aircraft, which makes them subject to FAA rules applied to all aircraft. The FAA has mechanisms to allow or exempt use of drones, whether you are a state or federal agency doing search and rescue, a commercial operator or a

hobbyist. These mechanisms are different from MBNMS regulations and do not necessarily have the same interpretation as the FAA.

Advisory Council Member Discussion:

Q: What made you choose those regions instead of omitting the entire peninsula? A: These are regulations established since designation, although they were revised in 2008. We do allow some, permitted use in those overflight areas. An example would be a film crew wanting to shoot content at Bixby Bridge. MBNMS would issue a special-use permit for a specific day and specific time for specific use.

Q: How far inland do the zones go? A: From mean high water out to approximately five miles off shore.

Q: What is going to take precedence over FAA regulations? A: We will continue to coordinate and consult with FAA. Keep in mind the missions of the different agencies; FAA is concerned with safety and to ensure the safe operation of any aircraft for people. Our regulations comply in state waters.

Q: Is the wildlife disturbance from the UAS's primarily a sound issue? A: We still aren't sure yet on the impact. It could be a crouch issue, visual or sound cue. More information is needed to determine the impacts.

Q: Is there any room for collaboration with the fishing industry? A: That is a good point and would be valuable to explore.

If anyone sees that kind of disturbance, please let us know or call Bob Yrena. Please help us do education and outreach of this issue.

XI. ADJOURN

The next meeting will be on April 17th in Santa Cruz, CA.

Adjourned at 3:40PM

APPENDIX A.

MT. MADONNA SCHOOL SPEECH FOR PUBLIC COMMENTS NOT ON THE AGENDA

2014-15 Boating Law Speech

Grace: We are the 5th grade class from Mount Madonna School in Watsonville and we have been working on an environmental project to help support the Orcas of the Monterey Bay. We chose to focus our project on the orcas after we found out that many of our everyday choices directly affect the survival and health of the orca.

Maddie: In fact, our Monterey Bay host one of the most endangered of the orcas as they come in search of Salmon, the Southern Resident Orcas with as few as 78 left, which means they could easily become extinct in our lifetime.

Denali: Through researching this topic we have found that one major threat to orcas and all whale species is contact with boats and water vessels like kayaks and paddleboards. Although most boating accidents are not on purpose, they often cause harm and death to the whale and can endanger the people in the boats. In fact collision with whale watching boats was found to be the number one type of boating collision when tracked by the International Whaling Commission.

Simone: Boats cause a few different types of threats to the whales. For instance, they can collide with the whale and can seriously cut or kill a whale. Although the whale may heal from the cut it lowers their ability to survive as they heal and with 78 left each whale counts. According to wildwhales.org the three most common whales struck by boats are Fin Whales, Humpback and Killer whales. All of these whales live in our Monterey Bay. In fact Luna, and orphaned orca, sadly came too close with boats and ended up dying from a collision.

Summer: Another harm from boats is the exhaust on the water when a boat idles. This exhaust is at breathing level for the whales and so for them it is like us lying on the drive way with a car running. One study from Vancouver found that the boat exhaust inhaled by orcas is five times higher than found on a stretch of a LA freeway! This study also showed how the temperature of the air and water cause the exhaust to just hang out right on top of the water instead of floating up.

Bryce: Noise from the boat and the boat's instruments can be a threat to whales as well. The engine and the instruments like sonar on a boat can interfere with the whale's ability to communicate. Killer whales rely on their highly developed vocalizations and hearing ability for navigating, finding prey, and communication. When the noise interferes in affects their ability to hunt or to find their pod.

Amirah: Lastly, often people are excited to see a whale and will gather round at the sighting on one. This causes the whales to become stressed as they are often protecting their calf or may feel threatened. Whales have shown signs of stress like tail thrashing when many boats and kayaks surrounded the whale. This can end in the whale trying to escape and colliding with surrounding boats. In one study from

Soundwatch of the Whale Museum in Washington, they observed that an average of 15-20 vessels were within a half mile of the whales during peak viewing season and hours.

Blythe: We came here today to help protect the whales of our National Marine Sanctuary and request your support in boating laws around whales in the Monterey Bay. Currently, neither National Marine Sanctuary Act regulations nor Marine Mammal Protection Act regulations require people to remain a set distance away from whales in the Marine Sanctuary. We asked while on our field trip to the Sanctuary Exploration Center, why the Sanctuary didn't have any boating laws around whales and were told that it would be too hard to enforce.

Addy: However, laws exist in both Hawaii and Washington. They found with a grant from the National Marine Fisheries Service that they were able to patrol during peak seasons and enforce the law and help people to understand that we can watch the whales but they need their space for their safety and ours.

Meris: In fact, in Hawaii the law states that all water vessels, so boats, surfers, kayaks, must not approach a whale and must stay 100 yards from the whale. They must stay out of the path of the whale. Even though they have such laws it has not hurt their whale watching industry, but really protected it because they are protecting the animals they are trying to watch.

Kayla: In Washington, they have even stricter laws at 200-yard distance with no idling on the water when watching. Again, they too must stay out of the path of the whale and be aware that their boat won't drift into the whale's path.

Jared: However, here in the marine sanctuary, we have no laws. We have a recommendation of 50-yard distance that isn't enforceable because it is just a recommendation.

Ben: In closing, we believe that a marine Sanctuary can't really be a sanctuary without doing all it can to protect the animals that need the most protection. The whales that enter our Monterey Bay like the humpback or the Southern Resident Orca are endangered and need our support by lowering a major threat to them, boat collisions. We would love to see the Sanctuary Advisory Council consider our request to start a boating law in the Monterey Bay, like that in Hawaii or Washington. We believe the whales need the 100-200 yard distance for their safety and for ours.

