

# MONTEREY BAY NATIONAL MARINE SANCTUARY ADVISORY COUNCIL

## August 20, 2021 Meeting Minutes

### Virtual Meeting

#### VOTING MEMBERS

Agriculture: Sarah Lopez	CA State Parks: Eric Abma
AMBAG: Steve McShane	Commercial Fishing: Kathy Fosmark
At-Large: Dan Haifley	Conservation: Rachel Kippen
At-Large: Gary Hoffmann	Diving: Brian Nelson
At-Large: PJ Webb	Education: Pamela Neeb Wade
Business & Industry: Tom Rowley	Harbors: John Haynes
CA Coastal Commission: absent	Recreation: Gary Pezzi
CA Dept. of Fish & Wildlife: Paul Reilly	Recreational Fishing: Jose Montes
CA EPA: Julia Dyer	Research: John Hunt
CA Resources Agency: absent	Tourism: Mike Bekker

#### NON-VOTING MEMBERS

Channel Islands NMS: Sean Hastings  
College: absent  
Cordell Bank NMS: absent  
Elkhorn Slough NERR: absent  
Greater Farallones NMS: absent  
Monterey Bay NMS: Lisa Woonink  
National Marine Fisheries Service: Steven Bograd  
U.S. Coast Guard: absent

#### ALTERNATES PRESENT

Bart Selby – Recreation  
Adam Helm – Recreational Fishing  
Chelsea Protasio – CA Dept. of Fish & Wildlife  
Dawn Hayes – Monterey Bay NMS

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

Chair Brian Nelson called the meeting to order at 9:00 AM. Brian yielded the floor to Nichole Rodriguez who gave a heartfelt farewell to the AC. She was commended by Acting Superintendent Lisa Woonink. Brian also announced Nichole would be joining the rec & tourism working group, so we will see her again.

Roll call was taken by Secretary Sarah Lopez.

**Approval April Meeting Minutes:**

Dan Haifley introduced a motion to approve the April meeting minutes, Seconded by Mike Bekker.

**MOTION: Passed**

(16 Yes, 0 opposed, 2 abstentions)

**II. STANDING ITEM: MBNMS Superintendent's report**

There was a recognition of Katherine O'Dea's efforts on the advisory council and best wishes sent in a card. Lisa Wooninck started her detail in June and will be acting superintendent through the end of September.

Research news includes new research on ocean noise during COVID; Discover Wonder film wins an international award and new expeditions to Sur Ridge and Davidson seamount. Dr. Steve Lonhart went to Olympic Coast NMS to assist in kelp forest surveys in August and the new maritime heritage web pages have been developed for a series of historic shipwrecks.

Resource protection front: USCG Marine safety bulletin developed with MBNMS to address the backlog of shipping vessels awaiting port – to avert any potential environmental issues. Bay Net and Team Ocean have resumed interpretive activities. 8 vessel casualties have occurred and have been responded to. The most recent grounding, the *M/Y Fish Magnet*, is in progress.

Education program has accomplished 111 virtual programs to 2,836 students. Get into Your Sanctuary (GIYS) weekend was a success (July-August) with webinars, scavenger hunts and more. Still planning for visitor center reopening, but with the resurgence of the Delta Variant, we are now standing down, but still developing protocols.

On the operations side, the management plan review is making real progress. The clearances and consistency determination are on track and we hope to publish in mid-October. FY22 President's Budget Request had significant increases to the current ONMS budget (\$28M more for program). This will still need to go through the House, which put forth a much lower ask and the Senate (TBD), then there will be the reconciliation processes. The superintendent recruitment process continues, it was re-advertised and the process just closed.

**III. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA:**

Gary Hoffman relayed the continuing challenge with drone usage. Whale watch operators flying 5' above a leatherback. This behavior needs to stop and the sanctuary needs to come up with guidelines. This action constitutes a take, as it affected the behavior of the sea turtle. The operators are businesses wanting the footage for their websites. He is bringing this to the attention of the advisory council again. This kind of behavior needs to be regulated. He mentioned the report he made off of Moss Landing two weeks ago.

Lisa W – clarified we sent the footage he provided to local experts, who confirmed there was no actual take – but ONMS is working on regulations to reduce wildlife impacts from drone use, as well as with coordinating with drone manufacturers to get information into their user packets about wildlife disturbance.

Bart – drones are considered aircraft, we don't need rules, they just need to be enforced.

Kathy – has seen message boards and shared footage of these kinds of things in action.

Rachel Kippen reported Katherine O’Dea’s retirement and her own job changes saw a few missed a CWG meetings. She is now reinvigorating the group and will communicate the meeting schedule and opportunities to participate. Balloons are one of the big things the CWG has been working on, and she was happy to report the efforts of Save Our Shores and O’Neill Sea Odyssey –schools are now starting to ban balloons.

Dan H – The Monterey Bay National Marine Sanctuary Foundation is hosting the Sea Star Brunch September 19, and thank you all for supporting the foundation. A portion of the funds raised here are to refurbish exhibits at SEC and student internships from underrepresented communities. Brian noted several newsletters have been published recently and the event information has gone out pretty extensively.

#### **IV. INFORMATION ITEM: Recreational Fishing Constituent Outreach – Jose Montes / Adam Helm**

Jose Montes shared some of the efforts he and Adam undertook with Lisa Uttal for GIYS to highlight recreational fishing in Monterey Bay NMS. He shared portions of the video developed for a webinar they hosted (see the video at <https://www.youtube.com/watch?v=1Bp016LoBOA>). Messages covered the productivity of the marine regions, changes in climate (winds) and efforts to reduce pollution. Adam highlighted the increased size of halibut they’re seeing, touched on kayak fishing and its advantages, the gear he uses and the preparation required. He also discussed being aware of and avoiding disturbing wildlife and what to look for to identify if you are too close to wildlife. Adam shared his disappointment with the lack of knowledge of local people about the sanctuary and the fact that MBNMS doesn’t regulate fishing. Adam went online with several groups and got a lot of negative feedback about things the sanctuary doesn’t control. There is a perception we are regulating the fun out of recreational fishing. Jose and Adam are working to dispel this perception.

Comments:

Gary: Can you launch kayaks from anywhere – yes, petty much

Bart: great presentation! There are some restrictions city by city on launching from beaches.

Paul R: There is angler outreach going on about fish species, how to determine species sex and more. Thank you for your efforts.

Lisa W: Thank you for your participation in the effort and with GIYS. She liked the emphasis on the many activities one is able to enjoy in the sanctuary. In 2018 a Memorandum of Agreement was signed with many groups and NMFS to promote sustainable recreational fisheries. We have a lot in common and our fishermen are ambassadors and are often the first to see what’s happening on the water. Brian has done a great job getting engaged with the diving community and looks forward to seeing the same with the recreational fishing community.

#### **V. ACTION ITEM: Letter to ONMS regarding extending term limits for alternates beyond the three-term limit**

Lisa W. reviewed some of the history of this request to change the AC charter to allow for alternates to be able to apply for an additional term to be a primary seat, if they’ve served three terms as an alternate. She mentioned ONMS wanted to ensure we have diverse opinions on the councils as well as a more diverse representation on our councils. Brian has met with John

Armor twice and Lisa participated in the last meeting. A new proposal has been forwarded to allow for a one term extension for the alternates. HQ is hosting meetings next month on this topic with AC Chairs and Council Coords.

Brian is still very adamant about the need to have some form of continuity and with so many people rotating off the council in the coming 2 years (because of the initiation of the term limits). Brian feels the letter needs to go forward, even with the upcoming meetings, so we are very clear about the need. There are a variety of AC compositions across the program, some with no alternates, some with no challenges getting seats filled. But the MBNMS AC has a need for some form of continuity.

Kathy F. proposed an edit to the letter to add clarification that the alternate would not simply assume the primary seat.

Discussion:

There was conversation that keeping the edit would be fine, but a procedural interpretation of the process to present and approve motions/correspondence seemed to suggest the inclusion of the edit would then postpone voting on the letter to the next meeting. Brian stated in no way does this letter to John infer that alternate AC members automatically become, or have priority to become, the primary representative upon the expiration of a primary member's term. It was with this in mind, and the desire not to delay the letter, that there was a vote not to include the proposed edits. The ONMS advisory council handbook and MBNMS protocols state at the beginning of any new term, alternates need to apply if they wish to move into a vacated primary seat.

Motion to edit the current letter made by Kathy F.

Pamela W. Seconded

1 Yes 15 No

**Motion does not pass**

Gary H motioned to approve letter as written

Dan H seconded

16 Yes 1 No

**Motion passes**

## **VI. INFORMATION ITEM: Whale Ship Strikes in CA National Marine Sanctuaries**

Sean Hastings (Resource Protection Coord Channel Islands NMS) was excited to participate in the meeting today. CINMS is also working on a balloon abatement program and he will be discussing the work done by the MBNMS CWG with his team.

One of the big things we share are whales, and we also share management of these whales. CINMS has been working on this for over a dozen years. This discussion did not include gray whales, but focused on endangered whales (as grays have been delisted). What is a sustainable number for these populations? They have three levels of protection (Endangered Species Act, Marine Mammal Protection Act, and NMSA regulations). He showed the statistics for ship

strikes on the US west coast by species, noting these are the numbers seen and it is estimated there are many more. He outlined how sanctuaries are trying to reduce the risk of ship-strikes through a voluntary speed reduction program for large vessels. May-November sanctuaries are working with the industry to reduce speeds voluntarily in areas/zones where whales are present nearshore. The separation of ships from whales is key, as the challenge is when we have whales present in the shipping lanes. May through November is key for our region, because this is when the highest abundance of endangered whales are present along our coastline. The vessel traffic separation schemes (TSS) are currently associated with the approach to the Port of SF/Oakland (GFNMS, CBNMS, and MBNMS) and through the Santa Barbara Channel (SBC, by CINMS)) in route to the Port of Long Beach/Los Angeles. CINMS monitors ship speeds through AIS as they transit through the speed reduction zones. This helps to gauge the cooperation by ships. The voluntary speed reduction (VSR) programs near CINMS are seeing more cooperation and improvement. At the approaches to the Port of SF/Oakland there is a consistent 60% level of cooperation. There is also an incentive-based VSR program; working with the air quality districts in SoCal, who also want to slow ships down to reduce air pollution. In collaboration with the air quality districts, a novel approach offers modest financial incentives and a public press campaign to help push vessels to cooperate with the speed reduction in the zones. In 2014, 7 companies and 14 vessels participated, in 2020, 16 and 495 vessels. These 16 global companies comprise 80% of container ships and car carriers. They are seeing quite a bit of distance travelled at 10 knots or less, which yields huge reductions in air pollution and greenhouse gas emissions. This also translates to reduced ship strikes and reduced ocean noise, a triple bonus.

Separating ships and whales is key to increased protection. CINMS has submitted a proposal to extend the Area to be Avoided and traffic separation schemes (TSS) in the SBC to the west., There is a 270 mile stretch from CINMS through MBNMS up to SF. Can the MBNMS AC play a role in connecting the dots between the two TSS in the north and south? The incentive VSR program does not have sustained funding. There is legislation being proposed to fund this program. The voluntary approaches need to be better highlighted, but there may still be a need for regulation. Working with the shipping industry is only one audience, the companies shipping these goods also need to get engaged and become more sustainable in their business practices, we need to explore more in terms of corporate responsibility of businesses and the shipping companies they choose.

Discussion:

Dan H: When do you think we have to consider going to a regulatory approach rather than voluntary?

A: The voluntary approach has been working, but not at the levels desired. There is currently a lawsuit to institute a regulation now as well. It is in the industry's best interest to slow down to avoid regulation, but we may not be able to avoid this.

Gary H: Why not include the gray whale? With the levels on non-compliance, we shouldn't be awarding corporations for so low a level of compliance.

A: we have heard the same from our advisory council. The gray whales are off of the current May – November time frame for vessel slowing and do hug the coast on the return north and can have interactions with vessels, but we do not have the capacity to do the program year-round, so

we focused on the endangered whales. The funding to do the VSR program has come from settlements from other environmental infractions, not public funding. Also, the USCG has initiated a port access route study (PARS) encompassing the entire west coast, principally focused on safety. Offshore aquaculture, energy and other things are all in play and need to be assessed in terms of vessel traffic. Be sure to look for input on this upcoming PARS.

John H: Over the last years CINMS has been the lead on this topic, do you (or your AC) have recommendations for our AC to take up?

A: CINMS has been deep diving on this, and their AC packaged this advice in reports that will be shared with MBNMS and the council. MBNMS staff will direct the actions. Two things to do first, how to slow ships and second, how to separate ships and whales. There is a lot of research and it is encapsulated in the reports. There is a lot of work already done and can direct the MBNMS Council.

Mike B: Wouldn't it be a better approach to have some sound emitter to "scare" the animals away.

A: This issue has been explored and it was undetermined if it would work. Nothing suggests (yet) that this approach would work with whales.

Cotton Rockwood (Point Blue)

Decreasing the risk of deadly ship strikes. Has been heartened to see some level of progress, and happy to see this group's interest. An unusual mortality event sparked the efforts to work with these threatened and endangered whale populations (blue, humpback and fin). He discussed the potential biological removal (PBR) as an estimate of how many individuals can be removed without an adverse effect to the larger populations. This is a critical measure for long-lived and low producing species. He shared the spatial strike models. It is hard to estimate actual mortality when animals sink. With ships and whales moving in the same space, what is the likelihood of a strike to occur and how often would that result in a mortality? There was a need to identify where these events may occur along the CA coastline. They were able to identify several high-risk areas at the entrance to San Francisco, SBC and entrance to Long Beach. For the SF area, only blue and humpback whales were predicted due to the onshore nature of fin whales. Based on the numbers generated and the modeled locations, the identified risk didn't end with the end of the TSS -so suggest extending these and the need for reduced vessel speeds within those areas. For SB Channel, they assessed the vessel speed reduction areas and suggested potential new management areas (which is underway). Assessing models on the VSR effects on mortality – result 12% reduction in blue whale strikes in the north and 2.8 reduction in the south. 9.5 and 2.3 for humpbacks, and 2.5 for fin in south.

Overall recommendations:

- Increase vessel cooperation in VSR programs
- Establish additional seasonal management areas
- Expand Southern CA AI VSR areas
- Extend Northern CA TSS

MBNMS – Ship strike concerns

Southern lane coming from SF and through Davidson Seamount has a high level of risk. MBNMS may be a higher mortality area than original analysis. Moving traffic offshore would result in significant reductions on mortality.

Discussion:

Bart: Thank you for the work on this. Thinks the technology exists for this now, if we “billed” the shipping companies for dead whales this would result in action.

A: There aren’t a lot of options now. Part of the challenge is knowing there are dead whales and don’t know who is piloting the vessel. The point about speaking their language (\$) will have its own challenges.

Brian: can the funding for this be transferred to the shipping companies? Collect from them and then give it back to those who are complainant.

A: Currently the incentive program ranges from \$5K-\$50K per company. A good chunk of the incentive is being part of the positive ad campaign, and they value that more than the \$. If scaled statewide would be \$3-4M/year. Some of the proposed legislation is considering this aspect. The role of corporations and corporate responsibility needs to be transferred to the customers of the ships (Nikes and many others) so they need to engage companies/ships that are compliant with the reduced ship speeds.

Penny Revelas (NOAA Fisheries – Chief, Protected Resources Division)

For the AC to consider:

1. We have a variety of laws we are operating under (NMSA, Marine Mammal Protection Act and Endangered Species Act). Think about the sanctuary’s authorities available to us.
2. Note, PBR is not a limit of maximum number that a stock can withstand, it is a benchmark. It is not the top limit. In cases, human caused mortalities can exceed this benchmark and population can withstand it.
3. NMSF is trying to evaluate vessel strikes and the potential impact on stocks.

There was a lot of interest in this item and with the recommendation from Cotton’s work – there is a potential for the council to stand up a working group to focus on recommendations for the USCG PARS study. This working group would have a lot of work to review to develop its recommendation on the USCG. The executive committee can discuss and consider how to proceed.

Lisa thanked the presenters for their years of work. CINMS and GFNMS are the lead on ship-strike issues while MBNMS has a focus on entanglement. The PARS study will allow MBNMS to weigh in on ship-strikes as well.

## **VII. INFORMATION ITEM: Resource Protection Team Update**

Karen Grimmer, Resource Protection Coord

Introduced resource protection staff (Bridget Hoover, Lisa Emanuelson, Sophie De Buekelaer, Pam Krone, Jazmine Meija-Muños and Paul Chetirkin)

The team has been tracking vessels close to the coast (as Lisa W mentioned in the Superintendent report), appreciated the USCG’s efforts to coordinate the ships awaiting access to

the ports of SF/Oakland, so they are not congregating nearshore in sensitive areas. The USCG staff will be receiving a Sea Star award for these prevention efforts.

#### Agriculture Plastics Program

Pam identified this issue for MBNMS and has really done the ground work to quantify the problem and to work with growers on the best management practices to help reduce plastics moving to the sanctuary. Pam and Jazmine are presenting this work in San Diego at a conference.

Healthy Soils projects continue at ranches and farms to improve the best management practices for plantings, hedgerows, etc.

WQ Monitoring: Snapshot day in May saw 65 volunteers participating (safely) at 85 sites. Of these sites, 85% met all water quality objectives and of the remaining 31% had some concerns. Other water quality monitoring is ongoing through Urban Watch, storm drain effectiveness and illicit discharge monitoring.

#### Bay Net/ Team OCEAN

Bay Net has 7 volunteers active now out on the shoreline. This 20-year-old program has ‘blue coated’ volunteers engaging with the public to protect wildlife at key viewing areas. Tom and Kim Akeman are receiving the Sea Start Award for Education & Outreach.

Working on the weekends, Team OCEAN has 12 active kayak-based volunteers in the Elkhorn Slough and along Cannery Row, with a total of 180 hours on the water and 1,315 contacts in this last month.

#### Permits

35 permits were issued this year (Research 21, Educational 5, Special Use 4, Authorizations 3, mixed 1 and Management assistance 1). Removed the Notice of Intent for Deepwater Desal, as it had not moved forward in 2 years. Reviewed and provided comments on other agency permits. Wildlife disturbance whale watching guidelines for on-the water whale watching have been produced in a new brochure and hard copies will be procured in the next month and it will be available online.

Kicked off a new marine debris program to compile all existing marine data at the sanctuary and with partners, integrating that and identifying potential sources. Continuing to work with Pebble Beach Company on golf ball deposition and prevention.

Whale entanglement, 14 confirmed entanglements this past year and none in the sanctuary. Only one was crab gear, which was a great improvement. Alternative gear testing with National Marine Sanctuary Foundation is underway in Monterey Bay working with NGOS and trials with fishermen.

Brian adjourned the meeting at 1:48pm