

MONTEREY BAY NATIONAL MARINE SANCTUARY
ADVISORY COUNCIL

FINAL

Meeting Minutes

December 3, 1999

Big Sur Multi-Agency Facility

Big Sur Station

The Monterey Bay National Marine Sanctuary (MBNMS) Advisory Council met on Friday, December 3, 1999 at the Big Sur Multi-Agency Facility in Big Sur. Public categories and government agencies were present as indicated:

Agriculture: Richard Nutter

Diving: David Clayton

AMBAG: Stephanie Harlan

Education: Patricia Clark-Gray

At Large: Steve Webster

Enforcement: Doug Huckins - ABSENT

At Large: Karin Strasser Kauffman

Fishing: Dave Danbom

At Large: Chet Forrest

Ports & Harbors: Steve Scheiblaue

Business & Industry: Steve Abbott

Recreation: Sally Smith - Takashi Hattori

CA Coastal Commission: Tami Grove - ABSENT

Research: Gregor Cailliet

CA EPA: EMPTY

Tourism: Ed Brown

CA Resources Agency: Brian Baird - ABSENT

U.S. Coast Guard: LCDR Phyllis Blanton

Conservation: Ron Massengill

The following non-voting members were present as indicated:

Channel Islands NMS: Ed Cassano - ABSENT

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

Elkhorn Slough NERR: Becky Christensen - ABSENT

Monterey Bay NMS: William Douros

I. CALL TO ORDER, ROLL CALL, APPROVAL OF OCTOBER 1, 1999 DRAFT
MEETING MINUTES, REVIEW OF CORRESPONDENCE

A) Call to Order and Roll Call

The meeting was called to order by the Chair at 9:05 a.m. Lisa de Marignac conducted the roll call - a quorum was present.

B) Approval of Meeting Minutes

The minutes from the October 1, 1999 Advisory Council meeting were approved as amended.

C) Review of Correspondence

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

II. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Steve Shimek, The Otter Project, announced the availability of a postdoctoral research associate position to work on disease mortality of the southern sea otter population. The Otter Project is funding the position.

Jim Stilwell, Moss Landing Harbor District, announced that the U.S. Army is planning to conduct a landing exercise this spring at Moss Landing beach. Army representatives are meeting with harbor representatives on December 17, 1999 to discuss the issue.

Bill Raver, Friends of the Elephant Seal (FES), announced FES' recent release of a book and a video documentary on the Piedras Blancas elephant seals.

David Zaches, Save Our Shores (SOS), introduced SOS' new executive director, Glenda Nelson. Vicki Nichols will return to SOS in February as the director of policy and research.

Kaitilin Gaffney, Center for Marine Conservation (CMC), introduced herself as the new CMC representative for the Monterey Bay region.

David Ebert, US Abalone, announced that his company recently opened "Pearls of Passion", a store selling cultured abalone pearls.

William Douros introduced the Sanctuary's new Assistant Manager, NOAA Corps Officer Michele Finn.

III. FOLLOW-UP ON PREVIOUS AGENDA ITEMS

... Per an earlier request for information by Advisory Council members, Bill Douros provided clarification regarding authorized enforcement officers under the existing National Marine Sanctuaries Act (NMSA). The NMSA states that the Secretary of Commerce is authorized to enforce the Act and to enter into enforcement agreements with state and federal enforcement agencies. NOAA's General Counsel for Enforcement and Litigation (GCEL) and National Marine Fisheries Service (NMFS) enforcement have been designated by the Secretary to enforce statutory mandates placed on the Department of Commerce and subsequently, NOAA. The U.S. Coast Guard is also authorized to enforce the NMSA under separate legislation that grants them broad enforcement powers in U.S. waters. Under the current MBNMS cooperative enforcement agreement, wardens and park rangers from CA Department of Fish and Game (CDFG) and CA State Parks, are also authorized to enforce the NMSA within the MBNMS.

Discussion ensued regarding other possible Memorandums of Understanding (MOUs) regarding enforcement.

... Bill provided an update on the 40 undeveloped oil and gas leases south of the Sanctuary's boundary. Four leases have been terminated and the remaining 36 leases were granted two and three year extensions. The Minerals Management Service (MMS) will now conduct an extensive environmental analysis of each plan, and provide each plan's details with corresponding decisions for review by the California Coastal Commission. The Coastal Commission, however, plans to appeal the decision to extend

the 36 leases without their review.

... Council members expressed concern regarding Bill Douros' follow-up memo on the October 1 workshop and Advisory Council processes. Steve Scheiblauber felt that the memo did not accurately reflect all sides of the discussion that ensued at the workshop. Karin Strasser Kauffman disagreed with all points raised in the memo and requested that MSD put in writing the issue of the Council's authority to write to U.S. Congressionals. David Clayton did not believe the issue of writing to Congress qualified as a topic for a Council working session. Greg Cailliet expressed his concern about re-addressing the issue of writing to Congress, reminding Council members that the issue has been a point of contention in years past, and that he did not want to see this issue create conflict again. Council members agreed to wait for the written clarification from Washington, D.C. regarding the Council's authority to write to U.S. Congressionals.

IV. UPDATE: FY2000 BUDGET AND NMSA REAUTHORIZATION

Regarding the current reauthorization bills, HR1243 (Saxton) has been approved in the House and S1482 (Snowe) is currently in the Senate. Bill pointed Council members to copies of letters written by local harbors regarding the reauthorization of the NMSA. Bill explained that the issue of changing a particular Sanctuary's boundary such as the harbors' letters suggested would not be an issue addressed by reauthorization, but could be addressed in a Sanctuary's management plan review. Bill also stated that he disagreed with the harbors' suggestions that "buffer zones" be established around harbors so that Sanctuary boundaries would not abut harbor boundaries. He believes a "not in my backyard" attitude regarding Sanctuary boundaries near harbors would set a bad precedent for other users of the Sanctuary. Discussion ensued regarding Sanctuary boundary issues and highly urbanized areas.

Bill announced that the President has approved a \$26 million FY2000 budget for the NMSP, which is a significant increase over last year's budget at \$14.3 million. The Sanctuary is expecting to receive news of the final budget allocation to the MBNMS by the end of January. Council members discussed programs and projects they felt were a priority for new funding.

Chet Forrest made a motion that the Council send a letter to Stephanie Thornton, MSD, making recommendations for priority projects to receive new funding, including education and outreach programs; implementation of program plans supported by the Council - vessel traffic strategies and the Agricultural Plan for water quality; and research on site characterization and ecosystem monitoring. Karin Strasser Kauffman seconded and the motion passed unanimously.

V. UPDATE: WORKING GROUPS' TIDE POOL RECOMMENDATIONS

Ron Massengill presented the tide pool management recommendations drafted by the tide pool subcommittee, and edited by the three working groups. The CWG led the subcommittee's effort to address the issue of tide pool management Sanctuary-wide.

Karin Strasser Kauffman asked for clarification on the issue of the Point Pinos tide pools as a result of the public comment letter submitted by Mr. James Willoughby on the issue. In response to the points raised in the letter to Advisory Council members from the Coalition to Preserve and Restore Pt. Pinos Tidepools, Steve Webster discussed his personal involvement in the issue. Lisa de Marniac provided a brief background on the Sanctuary's involvement in the Point Pinos tide pool issue. The Sanctuary has dedicated extensive staff resources and funding specifically for education and research initiatives at

the Point Pinos tide pools. Discussion ensued on the need for scientific data to make resource management decisions and ways to make the collaborative process underway in Pacific Grove a positive one.

Greg Cailliet made motion to endorse the submitted tide pool management recommendations and to send thanks to the tide pool subcommittee for their work. Chet Forrest seconded and the motion passed unanimously.

Greg Cailliet made a motion requesting that the Sanctuary Superintendent send a reply letter to Mr. James Willoughby providing a copy of the tide pool management recommendations and identifying the work of the tide pool subcommittee as well as that of the Sanctuary staff, related to the tide pool issue. Chet Forrest seconded and the motion passed unanimously.

The Advisory Council, in endorsing the tide pool management recommendations below, has advised Sanctuary management to consider these recommendations as a proactive approach to managing one of the Sanctuary's valuable habitats throughout its boundaries:

1. As coastal human populations and ecotourism increase, rocky shores are a habitat that will potentially feel the brunt of this growth. Rocky shores should be considered a high priority habitat for resource management, and efforts should be made to attract state and federal funding to gather baseline and archival research of past studies, and to address the questions below.
2. The Advisory Council and Sanctuary staff should play a major role in the state process of reviewing marine protected areas. An example of how this could be done is by obtaining seats on related review and advisory committees and demonstrating strong influence at public proceedings. This effort would match well with the Sanctuary's priority to study zonal management.
3. There is great concern about the use of piecemeal regulation for small segments of coastline. The Sanctuary should be viewed as the agency to address concerns, and then it should facilitate a process with citizens and management agencies to come up with regional solutions. The Advisory Council may want to consider the best ways to inform the public of this opportunity.
4. Related to the above recommendation, tide pool management issues should be viewed in regional and Sanctuary wide perspective. For example, we may be interested in increasing access at some sites for education while discouraging access a sites with sensitive species. We do recognize, however, that there is so much variability between rocky shore sites that each merits individual assessments.
5. When possible, Sanctuary staff should be present at regional public meetings where tide pool issues are on the agenda, clearly stating the Sanctuary's interest and role in this process.
6. Monitoring information with studies to address specific questions, see below, are needed for effective long-term conservation. Management decisions should be based on objective information. Public perceptions, accurate or not, must be addressed as part of management and regulatory solutions.
7. The Sanctuary should be mentioned in the CDFG publication "Sport Fishing Regulation" which talks about all the different regulatory agencies involved in resource management.

8. The Sanctuary should play a lead role in coordinating and working with regional partners and communities to conduct education programs aimed at the importance of habitat and tide pool etiquette (especially including reduction of adverse human impacts).

Questions related to the management of the Sanctuary's rocky shores:

1. Are there harvested (legally and illegally) species that are heavily depleted?
2. What species are susceptible to local and regional extinction?
3. How do different human uses and varying intensities of these uses impact rocky shore communities? Trampling, harvesting, water quality degradation from land use practices, and ship groundings are examples of human impacts.
4. What is the natural variability in time and space for the distribution and abundance of rocky shore species (this includes biodiversity)?
5. What is the potential for oil spills, and what are the optimum cleaning schemes to maximize recovery rates? A response plan for an oil spill on Sanctuary rocky shores should be outlined and understood by potential responders.
6. What are the impacts of road maintenance on the Big Sur coast to rocky shore systems?
7. What is the potential for restoring rocky shores that have been damaged by human impacts (trampling, collecting, oil spills, groundings, land use issues)?
8. What is the best method to assign monetary value to rocky shore resources? This is critical information for mitigation after human impacts, and for knowledge of the value of maintaining a healthy ecosystem (i.e. for tourism, etc.).
9. What trends could be detected from CDFG collecting permits, and should the permit process be modified?
10. Are there potential management schemes, such as a rotating human access in time, to maintain healthy species assemblages while allowing compatible multiple use?

This list should be viewed as preliminary, not as comprehensive.

Karin Strasser Kauffman made a motion authorizing Ron Massengill and the CWG to publicize these recommendations. Stephanie Harlan seconded and the motion passed unanimously.

VI. PRESENTATION: NRDC REPORT ON UNDERWATER SOUND

Karin Strasser Kauffman reviewed the role of the Advisory Council in the issue of underwater sound and expressed her desire for the Council to be helpful in addressing this issue. Karin introduced Mr. Michael Jasny, author of the Natural Resources Defense Council's (NRDC) report, "Sounding the Depths." Mr. Jasny provided a presentation on the report.

Mr. Jasny reviewed how sound is measured in water and discussed what he believes are potential impacts of noise in the sea. Mr. Jasny provided details on these impacts, which

included physiological, behavioral, cumulative and long-term impacts to marine mammals. Mr. Jasny also discussed sources of noise, including shipping, fisheries and fishing boats, oil and gas exploration, low-frequency active sonar, and acoustic thermometry. Mr. Jasny emphasized that there is very little scientific data about the noise sources and their potential impacts. Mr. Jasny made several recommendations regarding noise and Monterey Bay which included the following:

- ... Request from the U.S. Navy any data it possesses on the Sanctuary's acoustic environment, as may have been compiled on a scale of decades through the Navy's SOSUS system.
- ... Establish a system of fixed passive receivers (or "hydrophones") to monitor the Sanctuary's acoustic environment, particularly in impacted habitat used by endangered/threatened species or species known to be affected by anthropogenic noise.
- ... Request data from CDFG and/or NMFS on the use of Acoustic Deterrence Devices (ADDs) and Acoustic Harassment Devices (AHDs) by fisheries, aquaculture farms, and recreational fishing boats within Sanctuary waters. If this information is unavailable, request that it be compiled.
- ... Send letter to NMFS requesting that the agency propose and adopt regulations for the use of non-lethal acoustic devices by fisheries, as the Marine Mammal Protection Act requires.
- ... Continue to push IMO for rerouting of large container vessels away from significant habitat. Consider using a 2000m isobath, rather than a 12nm zone, as a standard for rerouting.
- ... Send letter to NMFS (as proposed by Conservation subcommittee) requesting workshop on impact of shipping noise and on "quiet" ship technologies.
- ... Evaluate extant methods of detecting marine mammals and sea turtles (i.e., ship-based visual spotting, aerial spotting, passive acoustics) and develop new methods of detection.
- ... Using data compiled through monitoring program, conduct comparative population analyses or other studies of long-term physiological or behavioral impacts of noise exposure.
- ... Test for threshold shift in marine mammals and sea turtles.

Advisory Council members questioned the sources of information and/or data to support much of the conclusions drawn in the NRDC report. Greg Cailliet explained that studies have been conducted on undersea sound and that the RAP has addressed this issue in the past. He feels that RAP would agree to a letter to NMFS that would support more research in the area of undersea noise and a non-redundant workshop on the issue, but could not support the CWG draft letter as it is currently worded. Ron Massengill agreed that he would work with Andrew DeVogeleaere, MBNMS staff, to get the latest information the Sanctuary has on the issue.

VII. PRESENTATION AND DISCUSSION: FORT ORD STORMWATER PIPES

Patrick Cotter, MBNMS, provided an overview of the Advisory Council and staff involvement in Fort Ord issues. The Advisory Council sent a letter to the U.S. Army on January 31, 1995 regarding clean-up activities in the marine environment, and the Army responded by addressing the Council at its February 24, 1995 meeting. Discussions focused on the Sanctuary's concerns about potential environmental impact in the Danger and Restricted Zones off Fort Ord. The Advisory Council was instrumental in helping the Sanctuary achieve its goal of urging the Army to assess potential environmental impacts in the zones off Fort Ord and helped produce the Army's "Enhanced Preliminary Assessment of Monterey Bay" published in January 1999. The document included input from the RAP and many local scientists.

Recently, the Sanctuary, along with State Parks, the Fort Ord Reuse Authority, and the City of Seaside have all supported the idea of removing stormwater pipes located in the Fort Ord dunes and using the stormwater wisely. One of the stormwater pipe outfalls has been broken for about two years and a gully has been eroded into the historical dunes. As of November 18, 1999, the gully was about 450 feet long and about 75 feet wide. Three other pipelines are in danger of erosion and breakage. On September 10, 1999, the Sanctuary sent a letter to the Army detailing the Sanctuary's continuing concerns about the dissolution of the Restoration Advisory Board; the degrading stormwater pipes; ordnance and explosives; and the trichloroethylene plume under Fort Ord sites 2 and 12 that may be flowing into Monterey Bay.

Army representatives explained the Army was legally in compliance with the RWQCB requirements regarding stormwater discharge. A representative from the RWQCB confirmed this. Discussion ensued regarding the lack of water quality testing at the outfalls and the pending response from the Army to the Sanctuary's letter.

The Advisory Council agreed that they would wait to receive a copy of the Army's response to the Sanctuary letter before taking any action.

VIII. UPDATE: FIBER OPTIC CABLE PROJECTS

Bill Douros updated the Advisory Council on the latest activities regarding the two proposed fiber optic cable projects. Global Photon submitted a Draft Environmental Impact Report (DEIR) to which to the Sanctuary commented on in a detailed letter to the State Lands Commission, in short, advising extensive revision. The Sanctuary continued to urge preparation of a joint DEIR and Draft Environmental Impact Statement (DEIS).

Karin Strasser Kauffman expressed her concern about the lack of scientific data in the Global Photon document and made a motion to send a letter to the State Lands Commission expressing concern about the DEIR, requesting a full DEIS and supporting the Sanctuary letter. Greg Cailliet seconded and the motion passed unanimously.

Discussion ensued about the differences between the two proposed projects and the high level of scientific research being conducted as part of MCI's Globenet project.

Bill reported that the Sanctuary is still working with MCI to develop an out-of-the-Sanctuary alternative, and that a DEIS on this project should be available in March.

The NMSP and the Department of Commerce are considering developing a policy regarding fiber optic cable projects.

IX. DISCUSSION: FUTURE AGENDA ITEMS

Steve Webster and Bill Douros directed Advisory Council members to written suggestions for future agenda items. Additional suggestions from Council members included ecosystem monitoring for April, and follow-up on the Fort Ord stormwater pipes issue (pending Army response). Other suggestions included a post-SAC meeting social in the future, and a coastal managers meeting (separate from a SAC meeting).

X. COUNCIL MEMBER ANNOUNCEMENTS

Richard Nutter announced that the Sanctuary is planning a "rollout" for the Agricultural

Plan which will include participation from the Department of Commerce.

Steve Scheiblauber reported on a successful Navy visit in Santa Cruz and that another diver clean-up day is being planned.

Karin Strasser Kauffman announced that Friends of Moss Landing Marine Laboratories is planning a party for the new opening of MLML for April 7-9.

Greg Cailliet suggested that the April Advisory Council meeting be held in or near Moss Landing because of the planned festivities for the new MLML.

Phyllis Blanton announced that the ceremony for the arrival of the new USCG Cutter is scheduled for January 7. Also, the USCG is hosting a "Coastal Aquatic Safety Forum."

The meeting adjourned at 3:10 p.m.

Submitted by
Lisa de Marignac
Advisory Council Coordinator