

Commissioners
Eric Sklar, President

Saint Helena

Jacque Hostler-Carmesin, Vice President
McKinleyville

Russell E. Burns, Member
Napa

Peter S. Silva, Member
Jamul

Samantha Murray, Member
Del Mar

STATE OF CALIFORNIA
Gavin Newsom, Governor

Fish and Game Commission



*Wildlife Heritage and Conservation
Since 1870*

Melissa Miller-Henson
Executive Director
P.O. Box 944209
Sacramento, CA 94244-2090
(916) 653-4899
fgc@fgc.ca.gov
www.fgc.ca.gov

MARINE RESOURCES COMMITTEE

Committee Co-chairs: Commissioner Silva and Commissioner Murray

November 5, 2019 Meeting Summary

Following is a summary of the California Fish and Game Commission Marine Resources Committee (MRC) meeting as prepared by staff. An audio recording of the meeting is available upon request.

Call to order

The meeting was called to order at 9:05 a.m. by Commissioner Murray at the California Natural Resources Building, Redwood Room, in Sacramento, California. She noted that MRC co-chair Commissioner Silva was not yet in attendance due to a delayed flight. Commissioner Silva arrived at approximately 10:30 a.m.

Elizabeth Pope gave welcoming remarks and outlined meeting procedures and guidelines for participating in Committee discussions, noting that the Committee is a non-decision-making body that provides recommendations to the California Fish and Game Commission (Commission) on marine items. She reminded participants that the meeting was being audio recorded for posting to the website with a meeting summary prepared by staff and introduced Commission and California Department of Fish and Wildlife (Department) staff. The following Committee member(s), Commission and Department staff were in attendance:

Committee Co-Chairs

Peter Silva	Present
Samantha Murray	Present

Commissioner Staff

Melissa Miller-Henson	Executive Director
Elizabeth Pope	Acting Marine Advisor
Sergey Kinchak	Staff Services Analyst
Maggie McCann	Sea Grant State Fellow

Department Staff

Bob Puccinelli	Captain, Law Enforcement Division
Chris Stoots	Captain, Law Enforcement Division
Dr. Craig Shuman	Regional Manager, Marine Region

Debbie Aseltine-Neilson Senior Environmental Scientist (Specialist), Marine Region
Ryan Bartling Senior Environmental Scientist (Specialist), Marine Region
James Ray Environmental Scientist Marine Region
Andrew Weltz Environmental Scientist Marine Region

Invited Speakers

Jenn Eckerle Deputy Director, California Ocean Protection Council
Dr. Alexis Jackson Fisheries Project Director, The Nature Conservancy

1. Approve agenda and order of items

MRC approved the agenda in the order listed; however, agenda item 8 Kelp Restoration and Recovery Efforts was heard out of order, following agenda item 10.

2. General public comment for items not on the agenda

Public comments included support for the Pacific Herring Fishery Management Plan (FMP) adopted by the Commission in October, a highlight of the recent release of 2,300 halibut in San Diego, and concerns from a former commercial abalone fisherman about Department personnel issues, promised versus realized effectiveness of the marine protected area network, and current urchin policy.

3. Staff and agency updates

(A) Ocean Protection Council (OPC)

Jen Eckerle provided an update on the release of the draft OPC strategic plan, noting its areas of interest, goals, and opportunities for public comment, and highlighted projects to be considered for approval at the November 13 OPC meeting. She also provided information on the development of two marine protected area monitoring and resilience work groups.

Discussion

A commenter asked for clarification regarding when OPC would issue a request for proposals (RFP) for whale and sea turtle entanglement funding. The response was that the RFP would likely be issued in early 2020.

(B) Department

Marine Region: Craig Shuman, provided an update on the Department director's determination of a need to delay the opening of commercial crab season by eight days and noted that approximately 20 comments on issues associated that determination had been received by the Department.

- 1. Update on rulemaking to consider changes to commercial herring eggs on kelp regulations:* Andrew Weltz provided an overview on the proposed regulatory changes to address the commercial herring eggs on kelp (HEOK) fishery as requested by the Commission in October following specific comments and concerns identified by a HEOK fishery participant. The proposed regulatory changes, which are expected to be noticed at the April 2020 Commission meeting, address the seven items identified by the HEOK participant.

Discussion

The HEOK participant in attendance shared his perspective that the rulemaking changes would allow for a more straightforward fishery and rationale for several of the seven requested changes. There was additional discussion between the HEOK participant, the Department's Law Enforcement Division (LED) and Department program staff on gear marking requirements, with LED noting that marking the ends of lines is an important aspect to include in the HEOK fishery.

Co-chair Murray asked for clarification on the proposed regulatory timeline. The Department identified an April notice hearing with potential adoption in June, to allow the regulations to be in place for the 2020/2021 season. The MRC co-chairs expressed support for the timetable identified by the Department.

Law Enforcement Division: Captain Bob Puccinelli provided an update on various marine citations including undersized pismo clams, undersized salmon, the take of a Coho salmon, illegal abalone and lobster, and derelict crab pots. He also discussed LED's involvement with the ropeless gear/gear innovation demonstration day and assistance with the Conception fire.

Discussion

Commissioner Murray thanked the organizers and participants of the gear innovation day that she attended. One commenter asked for clarification about previously-identified enforcement concerns with ropeless gear. LED clarified that they were involved with the discussions and would be monitoring for ongoing enforcement concerns. Commenters expressed general support for the development of ropeless gear; one commenter provided specific support for the use of zinc-links that degrade in a specific amount of time, triggering "pop-up" of buoys.

(C) Commission staff

No update was provided.

4. Experimental Fishing Permit (EFP) Phase II

Sonke Mastrup provided an overview on initial efforts and core considerations in developing an EFP program through a two-phase process. Phase I was adopted in October. Initial planning efforts for Phase II, which establishes a comprehensive EFP program consistent with the new law, is now underway. A public workshop to solicit feedback and stakeholder input on potential program components and core considerations is scheduled for January 14, 2020.

Discussion

Stakeholders asked general questions about how EFPs would be integrated into new fishing opportunities, asked specifically if the EFP program could authorize recreational fishing participants to sell catch to offset research costs, expressed concern with the evolution of the EFP program, and offered input on how to best structure the EFP program to explore emerging fisheries. Sonke clarified that, consistent with existing regulations, selling sport take would not be allowed by EFPs. He expressed that the comments from stakeholders would help inform the development of the EFP program

and could be discussed in greater detail during the January 14 workshop. Co-chair Murray commented that EFPs could be explored in the context of supporting the coastal fishing community project. There was general stakeholder support for the workshop and the opportunities for continued public involvement.

MRC requested that the Department return to the MRC in March 2020 with an update; no action was taken.

5. Marine Life Management Act (MLMA) master plan implementation

Debbie Aseltine-Neilson provided a detailed presentation on the ongoing Department efforts to prioritize fisheries for focused management efforts (including FMPs), and presented species prioritization as informed by a productivity and susceptibility analysis (PSA) analysis and an ecological risk assessment (ERA). The Department has completed PSAs for 45 (21 finfish and 17 invertebrate) species and an ERA for 32 (21 finfish and 3 invertebrate) of the 41 species also evaluated under a PSA. While the resulting scores and priority rankings surprised the Department in many ways, they would like to use the rankings presented to the MRC to carry out MLMA master plan implementation efforts to develop scaled management plan.

Discussion

A discussion between stakeholders and the Department focused on how finfish fisheries were prioritized and how the ranking systems were applied. The MRC co-chairs and stakeholders expressed concern about the ranking results of the PSA and ERA analyses, concern that the ranking does not include all invertebrate species due to ERAs not yet being completed, and concern over the limited use of socio-economic information in species ranking. The Department commented that the ranking system was an attempt to provide transparency about decision making and the thinking behind prioritization, and that socio-economics will be included as one aspect of ongoing management efforts to prioritize fisheries. Craig and Debbie emphasized that the ranking system was one tool to think about prioritization, but that a holistic approach would be taken, which includes economic considerations. They urge that the process of developing FMPs move forward without excessive fine-tuning of prioritization methodology.

MRC Recommendation

MRC recommends that the Commission (a) support the species prioritization as developed by the Department and support moving forward to the next steps in the process of prioritizing management efforts; and (b) encourage the Department to complete ERA analyses for remaining invertebrate fisheries as soon as feasible for integration into the species prioritization, and (c) schedule a discussion about the species prioritization list at the December 2019 Commission meeting under the Marine Region update.

6. Kelp and algae commercial harvest regulations

Craig Shuman gave an update on the efforts to revise commercial kelp regulations, which have been underway since 2016, and gave an overview of proposed regulatory amendments for seven topics. DFW also identified a proposed regulatory timeline for

2020, with a notice in April, discussion in June, and potential adoption in August. He committed to provide a more specific overview of proposed regulations to the Tribal Committee and the MRC in January and March 2020, respectively.

Discussion

Elizabeth Pope clarified that revising the proposed timeline to have notice occur in June, rather than April, would allow for detailed proposal updates to occur at the March MRC while allowing time to meet required document deadlines. She also noted that commercial regulations only require a two-meeting process, rather than three. Craig supported the two-meeting approach with notice at the June Commission meeting. One commenter expressed concern that regulations incentivise overharvest and kelp waste.

MRC Recommendation

MRC recommends that the Commission schedule the commercial kelp and algae harvest management rulemaking for notice in June and potential adoption in August, to be preceded by Department presentation of detailed proposals to the Tribal Committee in January and the MRC in March.

7. Red Abalone Fishery Management Plan (FMP)

Alexis Jackson gave an update on the efforts to develop triggers for a de minimis fishery option across three geographic management zones to include in the red abalone FMP. She also discussed additional management considerations of the project team, evaluations underway by the modeling team, and next steps for the project and modeling teams.

Jack Likins gave a brief presentation focused on the specific question of red abalone management zones, noting issues he identified as pros and cons for the red abalone fishery to be divided into three versus four zones, and suggested they be further evaluated by the modeling team.

Discussion

There was discussion between MRC co-chairs, Department staff and stakeholders about the management zone options, including the benefits and the use of potential indicators. A commenter suggested raising the size limit and multiple stakeholders encouraged the use of the diving community to gather data. Commissioner Murray asked why there were not more Department reference sites further north (Humboldt and Del Norte counties). The Department identified that weather, water conditions, and staff/funding resources were all limiting factors for establishing additional reference sites, although a local citizen science program could be a realistic approach to gathering more data in Humboldt and Del Norte counties. The MRC co-chairs expressed support for the ongoing efforts.

No action was taken.

8. Kelp restoration and recovery efforts

James Ray gave a presentation introducing a proposal to develop a statewide kelp restoration strategy which will be called the “kelp restoration strategy toolkit” to aid

restoration and recovery efforts. The toolkit will be a suite of science-based restoration projects to fill data gaps and evaluate on-the-ground restoration activities such as purple urchin control. Once the toolkit and potential policy considerations in promoting kelp recovery are developed, they will be first applied to the north coast and then, if successful, applied at a statewide level. The Department identified spring 2020 as the time when projects would be in place and stated that there would be opportunities for interested stakeholders to engage.

Discussion

Tristan McHugh of Reef Check California gave a presentation under public comment about an urchin removal project being conducted by Reef Check in Monterey under a Department scientific collecting permit. Representatives from several partner agencies, including OPC and Greater Farallones National Marine Sanctuary, as well as partner stakeholders attended to inform MRC of the efforts their respective agencies/groups were coordinating and/or funding to contribute to kelp restoration.

There was significant support from stakeholders for the Department to develop the toolkit and/or a series of actions to promote kelp restoration and recovery. Several stakeholders commented on the ecological devastation to the kelp forest from extreme urchin densities, noted the ecological importance of kelp and expressed a desire to restore kelp for future generations. Several stakeholders offered to assist the Department on future restoration projects.

MRC requested that DFW return in July 2020 with an update; no action was taken.

9. Whale and turtle protections in the recreational Dungeness crab fishery

Consistent with the MRC recommendation approved by the Commission in August 2019, Ryan Bartling presented an overview of potential management strategies to manage marine life entanglement risk in the recreational Dungeness crab fishery for discussion and consideration, background context on broader Department efforts to manage entanglement risk in the commercial Dungeness crab fishery, and rationale for supporting changes to recreational fishery regulations to help further reduce risk, including potential inclusion in the habitat conservation plan the Department is developing as part of the incidental take permit (ITP) package for submission to the federal government in 2020.

The Department proposes six “common-sense” management strategies for the recreational fishery, with a rulemaking timeline of April notice, June discussion, and adoption in August, to be in effect by the November 2020 season opening.

Discussion

There was support for some but not all the management measures proposed by the Department. Recreational representatives requested additional outreach and focused dialogue opportunities from the Department and expressed concern that taking a proposal to the Commission too soon could limit in-depth discussion opportunities. A commercial representative lent support to recreational representatives by noting the issues both the commercial and recreational fisheries would face if an ITP was not secured should there be future entanglements. He supported the proposed Department

regulatory solutions as well as additional outreach and discussion opportunities to the recreational community.

Craig Shuman addressed the concept of equity between the recreational and commercial fisheries noting that relatively few regulations were currently applied to the recreational fishery which could lead to an overall fishery closure in case of entanglement. Additional discussion on the value of data collected through a report card system, potential ropeless gear solutions, and Commission authority over the recreational fishery were all addressed. The Department committed to additional outreach efforts outside Commission and MRC meetings to more actively engage stakeholders.

MRC Recommendation

MRC recommends that the Department return to the Commission at its December meeting with a suite of options to be analyzed for potential regulatory actions that may include part or all of the fishery management proposals as presented in the Department report at today, and supports scheduling a rulemaking on a timeline commencing with notice in April 2020.

10. Coastal Fishing Communities Project

Maggie McCann gave a presentation and update on the MRC coastal fishing communities project and staff efforts to meet previous MRC direction. Following the July MRC meeting, staff posted the final *Draft Staff Synthesis Report on California Coastal Fishing Communities* and hosted a stakeholder work session to develop a coast fishing community definition. Maggie confirmed that no additional public comments had been received on the report and presented the MRC with two coastal fishing community definitions developed by stakeholders for consideration.

Discussion

One commenter identified that she wanted additional time to review the report in that she had not reviewed it since July. Co-chair Murray confirmed that the report had been complete and posted since July and that its potential adoption at the November meeting had been a point of detailed stakeholder discussion at the July MRC meeting. She also reiterated that the report was a summary of meetings and adopting it as final would allow the coastal fishing communities project to move forward to a more substantive action-based level. There was general support for adopting the report as final and discussion on the two draft fishing community definitions.

MRC Action

MRC adopted the staff synthesis report as final, adopted a draft working definition of a coastal fishing community for the purpose of the coastal fishing communities project, and directed staff to return to the MRC with additional information on the ten options outlined in the staff synthesis report. The adopted definition:

“A coastal fishing community is a social, cultural, economic, and/or place-based group whose members are fishermen dependent upon or engaged in commercial, recreational, or subsistence fishing to meet the social or economic needs of the community; this includes, but is not limited to, businesses and organizations that

depend on or support fishing by providing goods and services, including infrastructure.

A fishing community may be a subset or member of larger or associated coastal communities which have an interest in and/or are dependent on healthy ocean ecosystems.”

11. Future agenda items

(A) Review work plan agenda topics and timeline

Elizabeth Pope gave an overview of the MRC work plan and confirmed that updates on topics requested during the meeting would be added to the schedule with Commission approval. She also recommended, based on follow up with stakeholders and commercial representatives, that the stakeholder presentation on “commercial fisheries not under Commission authority” be removed from the work plan. There was support from commercial stakeholders and the co-chairs to remove the item.

(B) Potential new agenda topics for FGC consideration

No new agenda topics were identified.

MRC recommendation:

MRC recommends that the Commission remove the referred subject of “commercial fisheries not under Commission authority” from the MRC work plan based on follow up with stakeholders and commercial representatives.

Adjourn

The committee adjourned at approximately 3:10 p.m.