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*Celebrating 150 Years of
Wildlife Heritage and Conservation!*

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MARINE RESOURCES COMMITTEE

Committee co-chairs: Commissioner Silva and Commissioner Murray

November 10, 2020 Meeting Summary

Note that in this document the California Department of Fish and Wildlife is referred to as the Department.

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 9:04 a.m. by MRC Co-chair Silva, who confirmed that co-chair Murray was present and gave welcoming remarks; the meeting was held via webinar/teleconference.

Susan Ashcraft outlined instructions for participating in Committee discussions. The following Committee members, and Commission and Department staff, attended:

Committee Co-Chairs

Samantha Murray	Present
Pete Silva	Present

Commission Staff

Melissa Miller-Henson	Executive Director
Rachel Ballanti	Deputy Executive Director
Susan Ashcraft	Marine Advisor
Cynthia McKeith	Staff Services Analyst
Rose Dodgen	Sea Grant State Fellow

Department Staff

Steve Johnson	Captain, Law Enforcement Division
Randy Lovell	State Aquaculture Coordinator
Craig Shuman	Regional Manager, Marine Region
Sonke Mastrup	State Managed Invertebrates Program Manager, Marine Region
Becky Ota	Marine Habitat Conservation Program Manager, Marine Region

Kirsten Ramey	State Managed Fisheries Program Manager, Marine Region
Debbie Aseltine-Neilson	Senior Environmental Scientist Specialist, Marine Region
Tom Mason	Senior Environmental Scientist Supervisor, Marine Region
Armand Barilotti	Environmental Scientist, Marine Region
Amanda Van Diggelen	Environmental Scientist, Marine Region

Other Invited Speakers

Jenn Eckerle Deputy Executive Director, California Ocean Protection Council

1. Approve agenda and order of items

MRC approved the agenda in the order listed, except for agenda item 8(A), California Ocean Protection Council (OPC) agency update on aquaculture principles and action plan development, which was heard after agenda item 4. For purposes of this summary, outcomes are provided in the original noticed order.

2. General public comment for items not on agenda

A representative from National Oceanic and Atmospheric Administration (NOAA) Channel Islands National Marine Sanctuary provided an informational presentation on an electronic fisheries information network system (eFINS) being tested in partnership with the Department's Law Enforcement Division. The co-chairs expressed interest in the potential for broader usership to provide a dataset for the 2022 marine protected areas (MPA) decadal review. Captain Steve Johnson explained that current use varies depending on the patrol team and region as it is a voluntary effort, but offered to follow up with Chief Bess.

A representative from The Nature Conservancy provided an informational presentation on its use of drones to survey kelp canopy along the California coastline in 2020, and promising signs of kelp recruitment and recovery.

A discussion touched on threats to native kelp and algae from non-native invasive species, interest in review and comment on Department documents related to kelp recovery and its urchin removal research plan, and an inquiry into what actions are being taken to preserve kelp forests in MPAs on the central coast. A tribal representative highlighted the importance of kelp as a tribal resource.

A commenter highlighted concerns about the spread of non-native invasive invertebrate species, requested that MRC discussion of non-native kelp and algae (Agenda Item 6, this meeting) be expanded to cover all non-native marine invasive species, and requested the Department implement its 2008 aquatic invasive species plan.

A representative from WildCoast provided a verbal presentation on the "M2 radar system" and extended an offer from partners to provide trainings to enforcement officials and allied agencies.

3. Recreational California grunion

Susan Ashcraft introduced the topic, which was initiated through a regulation change petition granted by the Commission. Craig Shuman highlighted how fisheries prioritization was adjusted to accommodate grunion; this prompted a discussion with the co-chairs about prioritization. Grunion was not included in the initial finfish prioritization developed through the 2018 Marine Life Management Act (MLMA) master plan framework. Staff from both agencies are aware that there is a need to consider future requests within a prioritization context, and staff will provide such context when making recommendations on future regulation change

petitions. Co-chair Murray noted that criteria for considering the priority of emerging species are laid out in the MLMA master plan, and that she believes the grunion fishery does meet the prioritization criteria. The criteria should be considered for emerging fishery issues to allow shifts in prioritization when these considerations are met.

Armand Barilotti provided a Department presentation on grunion and the proposed regulation changes. The proposal includes a bag and possession limit of 10-20 fish and extends the current two-month seasonal closure by one month (April through June) in light of recent declines in population as reflected in a dataset compiled through the volunteer “grunion greeters” program.

Discussion

The co-chairs discussed how the Department might pursue more informative conversations with tribes on grunion. Given that grunion have been a traditional food source for tribes, tribal ecological knowledge on grunion could assist with the data limitations of the fishery. Craig Shuman suggested, and Co-chair Silva supported, discussing this item at the upcoming Tribal Committee meeting; though it would not be added as a stand-alone agenda item, Melissa Miller-Henson suggested it could be incorporated into an update item. The co-chairs requested that a presentation be provided to the Tribal Committee when appropriate.

Four commenters spoke in support of the proposed changes. One touched on the data-limited nature of the fishery: anglers do not have to report catch, and there is no information from other sources such as cooling data from power plants. One commenter offered contact information for a tribal representative who works with the grunion greeters.

In closing, Craig Shuman added that those who fish for grunion are not typical MRC stakeholders and probably do not come to MRC meetings. The Department may need to manage adaptively as needs emerge moving forward.

MRC Recommendation

MRC recommends that the Commission advance a rulemaking with the proposed management measures for the California grunion recreational fishery as recommended by the Department (including a bag and possession limit range of 10-20 fish) on a timeline to be determined.

4. Existing structures in marine protected areas

Amanda Van Diggelen provided a Department presentation regarding pre-existing artificial structures in MPAs, and the need for a regulation to authorize take associated with required operation, maintenance, repair, replacement or removal of artificial structures that existed prior to MPAs being designated. A regulation would establish a definition for artificial structure, establish a defined buffer zone around structures within which take associated with permitted activities would be authorized, and specify that the term “pre-existing” means structures that pre-dated the original MPA implementation dates for each region. The Department recommends that the proposed rulemaking be scheduled to go to notice in Feb 2021.

Amanda further clarified that this rulemaking is essentially administrative in nature; this action is intended to allow lease holders to maintain their equipment in consultation with permitting agencies before it becomes an emergency. The Department is working directly with coastal agencies of jurisdiction on the MPA Statewide Leadership Team, who are responsible for issuing the leases and permits to authorize any projects involving the pre-existing structures.

Discussion

Co-chair Murray and two public commenters spoke in support of the proposed changes.

MRC Recommendation

MRC recommends that the Commission support the rulemaking proposed by the Department to allow take associated with permitted operation, maintenance, repair, replacement, or removal of artificial structures that were installed prior to MPA designation within a defined work area around the structure (a “buffer zone”), and requests that the Department develop options and a recommendation for the buffer zone size following consultation with permitting agencies on the MPA Statewide Leadership Team.

5. New marine aquaculture leases in California

Susan Ashcraft and Randy Lovell introduced the topic. A temporary hiatus on receiving new state water bottom leases has been in place since the Commission’s June 2020 meeting, and is currently scheduled to lapse in December 2020. Prior to this year, FGC had not received a new state water bottom lease request for approximately 27 years. The Department recognized that it needed to establish an administrative process for review, coordination, and communication in concert with Commission staff. Unless otherwise directed, staff intends to prioritize existing lease amendments, followed by the three lease applications already in queue, then new lease applications. Staff recommended that the Commission allow the hiatus to lapse. While capacity constraints remain, maintaining the hiatus in effect places a hiatus on considering any new marine aquaculture in the state, as the Commission is the first point of contact for approvals through issuance of a state water bottom lease, followed by additional permits and conditions from other agencies.

Discussion

There was a robust public discussion. Several commenters spoke in support of lifting the hiatus, or in general support of expanding aquaculture in California; The commenters raised concerns that applying too broad a precautionary principle or waiting for a perfect set of standards or an action plan will harm the aquaculture industry in the long run by keeping it in limbo. These commenters suggested that sustainability standards and existing literature could be used to expedite the review process.

Additional commenters, including representatives from several environmental non-governmental organizations (NGOs) spoke in support of maintaining the hiatus until OPC aquaculture principles and/or a statewide aquaculture action plan are established. Jenn Eckerle stated that the aquaculture principles will be finalized in the next few weeks and could be ready to discuss with the Commission in early 2021 if desired.

After some discussion, the co-chairs agreed that while private business needs to advance, aquaculture plans are significant, and additional staff capacity and resources have not emerged since the hiatus was first enacted. Examining whether future leases are in the public interest in a piecemeal, ad hoc manner is not ideal, and resources ideally would be put in place before moving forward. That said, the co-chairs ultimately decided that extending the hiatus while OPC finalizes interagency aquaculture principles could provide a policy lens through which to reconsider the hiatus and Commission review of new lease applications. The principles will be used to guide discussion at the March 2021 MRC meeting.

MRC Recommendation

MRC recommends to extend by four months the current hiatus on receiving new lease applications and re-evaluate the need for a continued hiatus at the Mar 2021 meeting; during that time, marine aquaculture principles are expected to be developed by OPC with leadership of state agencies, and staff will have further advanced existing lease requests and new lease applications.

6. Non-native invasive marine kelp and algae species

Susan Ashcraft provided background about this informational topic, which was prompted by public requests to the Commission to authorize removal of the invasive kelp species *Sargassum horneri* through recreational, commercial, or research approaches to remove or control its spread. Craig Shuman discussed current Department perspectives related to the spread and control of non-native invasive marine kelp. Dr. Lindsay Orsini provided a Department overview of the biology of *Sargassum horneri*. The biology of this species in particular raises concerns about the efficacy and risk of removal, and management goals need to be identified where eradication is not feasible.

Jenn Eckerle provided an overview of OPC's current efforts to develop a policy and a comprehensive strategy for responding to invasive species.

Discussion

Several commenters spoke in support of a petition for regulation change received by the Commission in October (Petition #2020-014) to authorize unlimited recreational take of *Sargassum horneri* during the non-reproductive months outside of MPAs and within Crystal Cove State Marine Conservation Area (SMCA), and to authorize controlled research removals of the species in Crystal Cove SMCA under Commission authority. Commenters cited concerns about the spread of other invasive species in the state, especially into MPAs, and offered that the potential research project would provide a promising starting point for evaluating effectiveness. The distinction between removal and restoration activities was discussed in detail.

A commercial urchin fisherman also requested a permit to remove *Sargassum horneri* commercially to provide a financial incentive for removal efforts, and an edible seaweed company expressed interest in commercial harvest and suggested a potential action plan.

There was also a discussion of vectors of invasive species. Ballast water discharge control efforts to curb import of invasive species were suggested. A representative from NOAA's Channel Islands National Marine Sanctuary highlighted boat traffic as a vector for bringing invasive species to the Channel Islands. Management measures are needed to help those in the community stop the spread through this vector, and sanctuary staff are prepared to assist the Department.

The co-chairs focused on the concerns surrounding Petition #2020-014 and the related research proposal; they agreed that while they support research in concept, allowing volunteers to remove organisms from MPAs is not good care and keeping of protected areas, and there are areas of the ocean which are not MPAs where research can take place. Divers are the eyes and ears of the community and should report *Sargassum*, but the Department will send professionals to remove the colonies. Unintended consequences are a real concern.

No formal recommendation or direction was provided by the committee.

7. Marine Life Management Act master plan implementation

(A) Review of California halibut fishery management

Kirsten Ramey provided a verbal update on behalf of the Department, including outcomes from the recent California halibut stock assessment, peer review, and public webinar.

Discussion

One commenter advocated that California halibut should be approached as a multi-species fishery and managed as such due to the use of trawl gear, which is limited to the southern California trawl grounds. A commercial fisherman expressed opposition to the multi-species fishery concept and prefers a review of California halibut target alone. A representative of an environmental NGO advocated for implementing the bycatch evaluation tool, developed by the MRC bycatch workgroup, into fishery management. Commenters raised concerns about the limited public review opportunities provided through the stock assessment and peer review; the approach deviates from federal groundfish management stock assessment strategies which allow for direct engagement of fishermen and interested parties in the assessment review process.

(B) Invertebrate fisheries prioritization

Debbie Aseltine-Neilson and Tom Mason provided an overview of the methods of the prioritization process and the current priority fisheries. Invertebrate fisheries did not fit as neatly into the prioritization framework as did finfish, so discretion will be necessary in determining priorities. The next step for this process will be determining the appropriate scale of management for priority fisheries.

Discussion

Co-chairs and commenters expressed support.

(C) Potential commercial pink shrimp trawl fishery management plan (FMP)

Susan Ashcraft introduced the topic of commercial pink shrimp trawl fishery management needs, which has been on the work plan since 2017. Sonke Mastrup provided a Department presentation, explaining that the pink shrimp fishing industry is motivated to support an FMP as a pathway to obtaining Marine Stewardship Council certification. A pink shrimp FMP will be a test case for scaled management, as this will be the first instance of the Department using a basic FMP as defined in the 2018 master plan. Sonke believes that the entire process, including certification, rulemaking, and FMP, will be complete in 18 months.

Discussion

Commission staff and commenters from two environmental NGOs expressed support for developing the FMP.

MRC Recommendation

MRC recommends that the Commission support development of a fishery management plan for California pink shrimp, as recommended by the Department, and refer the

California pink shrimp FMP topic to the MRC work plan. The rulemaking timeline is to be determined.

8. Staff and agency updates requested by the Committee

(A) California Ocean Protection Council

I. Aquaculture principles and action plan development

Jenn Eckerle provided the OPC update, noting that OPC recommends the current hiatus on accepting new state water bottom lease applications for aquaculture be continued until OPC's aquaculture principles are complete. The aquaculture principles are intended to be finalized by the end of this year. OPC's statewide action plan for aquaculture will not be complete until 2023, but Jenn clarified that OPC is requesting that the hiatus be extended only until the principles are complete.

Discussion

One commenter spoke in support of OPC's work and was excited to see outreach to indigenous people. They requested a focus not just on sustainable aquaculture, but also on regenerative aquaculture.

(B) Department

I. Update on recreational red abalone FMP development

Sonke Mastrup provided the Department's update on preparing a revised draft FMP based on input from previous MRC meetings. A chapter on stock recovery has been added, along with additional revisions to better fit the MLMA guidelines.

The Department has been working with representatives from the Greater Farallons National Marine Sanctuary on additional data streams, and it has also refined harvest control rules and developed a system to calculate total allowable catch and minimum threshold for total allowable catch. The Department further has been developing the regulatory component, which will affect the logistics of permitting re-entry into the fishery as the stock recovers. The Department is planning to host a workshop early next year to gather additional input from the community.

II. Update on developing proposed regulations governing commercial kelp and algae harvest, including outreach efforts with affected industry members and interested parties.

Kirsten Ramey gave a verbal update, discussed recent outreach, and highlighted next steps. A consultation with several member tribes of the InterTribal Sinkyone Wilderness Council is underway. Tribes have given comment on various species and have been encouraged to share knowledge where comfortable. The Department will be forming two working groups in the near future—one for edible seaweeds and one for bull kelp—to help shape a revised regulation proposal.

Discussion

There was a robust public discussion. Several harvesters commented on the temporal and spatial variability of kelp and algae as a resource, which they believe is not well reflected in the regulatory changes as originally proposed. Many are of the opinion that the Department-proposed harvest limits are arbitrary and do not take harvesting methods or regional management into account. Economic concerns were also raised. Some commenters expressed gratitude to the Department for making changes requested by harvesters, such as withdrawing its proposal to prohibit take in Humboldt Bay and Crescent City Harbor. Harvesters made it clear that they are invested in adaptive management and wish to cooperate closely with the Department.

Two representatives from NGOs requested that the three administrative kelp beds on the north coast be closed to harvest to align their status with ongoing recovery efforts and a regional management approach. However, it was made clear that the Commission can simply decline harvest requests for these beds if the kelp is at risk.

A key concern was an apparent parallel process occurring between tribes and harvesters concerning kelp and algae resources. The harvesters believe that the moratorium potentially being put forward by the tribes represented by the InterTribal Sinkyone Wilderness Council puts them at odds with each other, which is an uncomfortable position, and harvesters do not wish to conflict with tribes and believe that conflict is detrimental to both groups. One advocate for tribal interests raised indicated that the InterTribal Sinkyone Wilderness Council is not a tribal government, and government-to-government consultation should occur with specific tribes. The commenter requested that the Commission and Department share a plan for mediating direct conversation between tribal members and harvesters. The co-chairs asked that staff follow up on improving communication and getting input from tribal members.

III. Update on the Pacific herring quota under the new FMP

Kirsten Ramey provided a Department update, and an overview of the management regions (Humboldt, Tomales, and San Francisco bays), their management tiers, and the quotas set for the upcoming season based on FMP criteria. The San Francisco Bay region will have a zero quota as estimated spawning stock biomass from the past season was below the minimum stock size threshold to allow for a fishery. Kirsten also noted data needs in the fishery management regions.

Discussion

An NGO representative that participated on the FMP steering committee spoke in support of how the FMP is being applied, and hopes to see additional openings as the stock recovers.

One commenter expressed frustration that the permit he has sought for small-scale experimental fishing with lampara gear to harvest herring in Humboldt Bay for the fresh fish market had been unable to move forward for several years even though it is a pathway identified in the FMP. The delay is due to the loss of the statutory experimental gear permit provision and in the need for a rulemaking to establish a new experimental fishing permit program recently authorized. The

commenter had urged the Department to include an allowance for lampara nets for the fresh fish market in the new Pacific Herring FMP, but it was not included. The Commission approved including an option in the FMP for approval of small projects like this, to allow commercial herring harvest of small volumes of food grade herring for the fresh fish market. He hopes the Commission will be responsible in the future. Department and Commission staff expressed agreement that this project should have a pathway, but rulemaking staff capacity limitations are slowing progress on the rulemaking to establish an experimental fishing permit program.

(C) Commission staff: Update on Coastal Fishing Communities Project

Rose Dodgen provided a presentation on progress on the Commission Coastal Fishing Communities Project since the July MRC meeting. Staff has continued to analyze staff recommendations from the 2019 staff synthesis report and hopes to re-engage community members on discussions concerning needs for a potential Commission policy on coastal fishing communities before the next MRC meeting. This item will be discussed as a stand-alone agenda item at the March 2021 MRC meeting.

9. Future agenda items

Susan Ashcraft provided an introduction of the topic and an overview of the changes discussed during the meeting today. The co-chairs agreed to support the items as proposed.

MRC Recommendation

MRC recommended that the Commission schedule (a) an update on implementation of MLMA master plan for fisheries, (b) an update on the red abalone fishery management plan, (c) discussion of kelp restoration and recovery tracking, (d) the coastal fishing communities project, and (e) a review of the hiatus on state water bottom leases, wherein the co-chairs will consider aquaculture principles brought forward by OPC and assess next steps for the state aquaculture program. No new topics were identified.

Adjourn

The meeting adjourned at 4:05 p.m.