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Fish and Game Commission



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MARINE RESOURCES COMMITTEE

Committee co-chairs: Commissioner Sklar and Commissioner Murray

July 14, 2022 Meeting Summary

Following is a summary of the California Fish and Game Commission (Commission) Marine Resources Committee (MRC) meeting as prepared by staff. A video and audio recording of the meeting is available at: [Marine Resources Committee - July 14, 2022 - Santa Rosa / Webinar/Teleconference - YouTube](#).

Call to order

The meeting was called to order at 9:37 a.m. by Co-chair Sklar at the North Coast Regional Water Quality Control Board office in Santa Rosa; the meeting also included remote participation via teleconference/webinar. Marine Advisor Susan Ashcraft gave introductory remarks, noting that Co-chair Murray was unable to attend the meeting, and outlined instructions for participating in Committee discussions both in person and via teleconference/webinar. The following Committee member(s), Commission staff, and California Department of Fish and Wildlife (Department) staff, and invited speakers participated:

Committee Co-chairs

Eric Sklar	Present
Samantha Murray	Absent

Commission Staff

Melissa Miller-Henson	Executive Director
Susan Ashcraft	Marine Advisor
Chuck Striplen	Tribal Advisor
Cynthia McKeith	Staff Services Analyst
David Haug	Staff Services Analyst
Kimberly Rogers	Sea Grant State Fellow

Department Staff

Eric Kord	Assistant Chief, Marine Enforcement District, Law Enforcement Division
Randy Lovell	Statewide Aquaculture Coordinator, Wildlife and Fisheries Division
Craig Shuman	Regional Manager, Marine Region
Sonke Mastrup	State Managed Invertebrates Program Manager, Marine Region

Kirsten Ramey	State Managed Finfish and Nearshore Ecosystem Program Manager, Marine Region
Jason Kraus	Captain, Marine Enforcement District, Law Enforcement Division
Jenny Hofmeister	Environmental Scientist, Marine Region

Invited Speakers

Lindsay Bonito	Lindsay Bonito, Marine Protected Areas Program Manager, California Ocean Protection Council (OPC)
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1. Approve agenda and order of items

MRC approved the agenda in the order listed.

2. General public comment for items not on agenda

A representative from an environmental non-governmental organization (NGO) provided an update on pursuing an experimental fishing permit (EFP) to test pop-up trap gear as an innovation for the Dungeness crab fishery. While the NGO still desires to pursue the proposed EFP, it is not receiving fleet-wide support, which has caused all formerly-interested fishery participants to opt out of the opportunity to participate. The sponsoring NGO hopes to secure participants and submit an EFP application in the near future to allow testing before the coming season; they would appreciate continued support for gear innovations that could allow continued fishing when whales and turtles are present.

One commenter reiterated comments provided in the MRC meeting materials regarding salmon; the commenter would like for Department wardens to look more closely into poaching.

Discussion

Co-chair Sklar asked the Department to share an update about the EFP process and how to accelerate the potential EFP application for pop-up trap gear.

Melissa Miller-Henson clarified that anyone can apply for an EFP through the Department's website; the Department is planning to present an overview of the new EFP program and its implementation at the August Commission meeting, when the Commission is scheduled to receive and consider the first EFP application under the program.

3. Red abalone fishery management plan (FMP) review

Sonke Mastrup provided an update on FMP development, including discussions about the draft FMP chapter related to management, harvest control rule, and *de minimis* fishery concepts presented at the March MRC meeting. The Department acknowledged a communication breakdown with partners and stakeholders following the August 2020 Commission meeting as the Department identified challenges with integrating management strategies. Department outreach suffered due to the COVID pandemic, and aims to improve it.

Outreach efforts since the March MRC meeting include conversations with key partners, such as The Nature Conservancy (TNC) and ReefCheck, to discuss the proposed new management strategy and partner concerns in depth; and a meeting of the Red Abalone Advisory Committee (RAAC) to vet the draft proposed management strategy and receive input. The

Department is committed to providing an updated data stream table, to identify data needs and opportunities for citizen science, and utilizing partners to broaden the data. In addition, Department summer field surveys to assess the current red abalone stock status will begin soon. The Department proposes to add a “recovery” section to the FMP to identify existing efforts to restore red abalone. Finally, the Department recommends using the RAAC, in addition to MRC discussions, for further discussions about FMP development, including a potential *de minimis* fishery option if supported by MRC.

Public Comment

A representative from TNC expressed appreciation for recent conversations with the Department and for the Department’s recognition that additional, upfront communication on FMP developments is needed. TNC will have continuing concerns about the FMP until there is an updated management chapter draft. TNC staff sees the red abalone FMP as setting precedent for how principles in the MLMA master plan will be applied, such as how partnerships are leveraged to help guide management outcomes, what “best available science” is, and the role of management strategy evaluation and peer review.

Several former abalone fishermen shared concerns about the lack of community engagement in the process. Two expressed continued support for the spawning potential ratio (SPR) model instead of the Department-proposed egg production model. One suggested the Department spend more time collecting data to support a future, environmentally-flexible fishery than time on designing a fishery management plan that may not be used for decades.

Discussion

Co-chair Sklar asked Chuck Striplen about tribes’ involvement in the process. Chuck shared that tribes have been involved and that there may be continued interest in discussing this topic at a Tribal Committee meeting. Co-chair Sklar suggested that Chuck and Sonke coordinate to ensure that tribes stay involved.

Co-chair Sklar urged the Department to reprioritize public involvement and transparency as the effort proceeds. Sonke concurred and shared the Department’s intent to involve partners and stakeholders both through MRC meetings as well as in between MRC meetings with greater frequency. In particular, Department staff believes there needs to be more in-depth and clear explanations of how staff arrived at the current proposed management strategy.

Co-chair Sklar stated that a hybrid methodology with two separate data streams, is the best approach, consistent with the approach the Commission was expecting. He would like to see the possibility of a *de minimis* fishery.

Susan Ashcraft suggested the Department update MRC on its outreach conversations with the RAAC. Co-chair Sklar agreed and asked the Department to provide a more thorough update on the process at the next MRC meeting.

4. Aquaculture leasing in California – public interest determination

Randy Lovell shared an update on the public interest determination criteria development process. Following the Mar 2022 MRC meeting, the Department developed initial draft public interest criteria, shared the initial draft with state and federal agencies in May, and with interested stakeholders in June. Several agencies and stakeholders provided input, including

redlined suggested edits and general comments about the draft criteria. On July 12, the Department and Commission staff co-led an informational webinar to present the initial draft criteria and answer questions. The Department and Commission staff plan to hold one or more workshops to develop the public interest criteria for MRC and, ultimately, Commission consideration.

Public Comment

Several representatives from environmental NGOs, commercial and recreational fishermen, a representative from the Greater Farallones National Marine Sanctuary, and aquaculture industry representatives provided public comments.

Commenters from environmental NGOs emphasized the need for clarity on how criteria in the “Considerations” section would be weighted and suggested no new leases be issued until the public interest criteria are developed. One sought to confirm that the proposed criteria were not intended to contemplate authorizing finfish culture; based on Department confirmation, the commenter recommended that the criteria document explicitly state they are not intended to authorize finfish culture. Another suggested developing public interest criteria considerations that would ensure aquaculture projects be conducted in collaboration with the communities that they exist in or are next to, highlighted the need for defined best management practices, and suggested that additional funding is needed for staffing this effort. Each of these representatives supports the development of the criteria and stated they would like to continue to be involved in the process.

A representative of commercial fishermen in Santa Barbara expressed concern about competing space for ocean uses — including the cumulative impact of MPAs, area closures, potential wind farms and aquaculture on fishing communities — and is opposed to finfish aquaculture, especially in the Santa Barbara area. A representative from the commercial passenger fishing vessel industry also asked to include criteria for protecting recreational fishing grounds.

Co-chair Sklar and Randy Lovell stated that interference with fishing activities will be considered during review of aquaculture lease applications.

One aquaculture industry representative shared concern about an equitable future for seafood producers and stated that the criteria would be an additional roadblock to permitting. They suggested including a section about what a leaseholder could do (rather than what they cannot do) and developing programmatic permitting.

A representative from the Greater Farallones National Marine Sanctuary highlighted the nexus between their work and the criteria, offered spatial data from Tomales Bay, and stated that they would like to continue to be involved.

A commenter representing Ventura Port District and an aquaculture leaseholder noted that they submitted comment letters on behalf of each entity. While they support development of public interest criteria, they suggested that several items in the “Considerations” section were duplicative of existing regulatory processes and should be removed. They also requested that lease applications continue to be considered while public interest criteria are developed.

Discussion

Co-chair Sklar suggested that the issue of a moratorium on approving new leases until criteria are approved is the purview of the full Commission. He also noted that clarity on applicability to finfish leases is needed.

Co-chair Sklar concluded by stating that he would like the next iteration of draft criteria to include most of the suggestions and edits received to date and through the upcoming workshop, and specify options recommended by the Department versus the public to inform a specific MRC recommendation.

5. California spiny lobster fishery regulations

Jenny Hofmeister presented an overview of Department-proposed adjustments to recreational and commercial spiny lobster regulations implemented in 2017, summarized outreach to lobster fishery participants, and provided a proposed regulatory timeline. The Department evaluated two potential changes proposed by commercial fishery participants, one to authorize lobster tailing and one to allow end-of-season live possession at commercial fish processing facilities. The Department developed conditions that would address enforcement feasibility and conducted a survey of commercial lobster fishermen and buyers to gauge support for the options under Department-defined measures. The lobster tailing option as proposed was not supported by a majority of survey respondents; this option would require more vetting and development, thus the Department does not recommend including them in the proposed rulemaking. The end-of-season live possession option as proposed was not supported by a majority of respondents; therefore, the Department recommends not pursuing this option further.

Public Comment

Two commercial lobster fishery representatives shared that lobster tailing is an important management tool to be available in response to domoic acid closures and think this idea should still be considered.

Discussion

Assistant Chief Kord stated that the DFW-recommended changes are important to move forward for the Law Enforcement Division (LED) in regard to staffing and safety concerns, and to close regulatory loopholes that could be exploited as an excuse for illegal fishing.

Co-chair Sklar expressed support for the proposed timeline and suggested that this topic does not need to be discussed at the November MRC. However, he encouraged the Department, Law Enforcement Division, Commission staff, and stakeholders to continue to explore options for end-of-season live possession that may address enforcement concerns in a manner palatable to fishermen. He also suggested the conversation on a tailing option be continued separately.

Melissa Miller-Henson asked Jenny Hofmeister about how the proposed change would impact the ability of fishermen to retrieve gear if the gear is lost or abandoned, or if the permittee is incapacitated and cannot provide written approval. Jenny explained that provisions allow people to retrieve another's gear when something catastrophic happens to the permittee, or to recover up to six lost or derelict traps, and that those provisions are not proposed to change.

Following discussion, MRC developed a recommendation for Commission consideration.

MRC Recommendation

MRC recommends that the Commission: (1) Schedule a rulemaking to consider revisions to recreational and commercial spiny lobster fishing regulations as proposed by the Department; (2) request that the Department continue to work with industry on options to allow end-of-season live possession at commercial fish processing facilities, and present at the notice hearing for potential addition to the rulemaking if an approach amenable to both enforcement and the industry is developed; and (3) request that the Department continue to explore a tailing option with industry separately from this rulemaking.

6. Ocean sport fishing regulations

Craig Shuman provided an update on implementing AB 817 (Chapter 607, Statutes of 2021) to establish a 12-consecutive-month sport fishing license. The Department has identified a regulatory timeline that would allow license sales to begin by mid-2023. The Department has received funding in the 2022-2023 budget to complete required technological developments; they plan to roll out the mobile application in the summer of 2024.

Public Comment

A representative from a recreational fishing organization would appreciate continued regular check-ins with Department staff to make sure the proposed timelines are met and asked how partners can ensure that the Department has the necessary funding to move this process forward.

Discussion

Co-chair Sklar is glad to see this moving forward and supports the adjusted process.

7. Staff and agency updates requested by the Committee

Susan Ashcraft introduced the topic to highlight that written updates were provided in the meeting materials; the agenda topic provides an opportunity for MRC or the public to ask questions or comment.

(A) California Ocean Protection Council (OPC)

Susan Ashcraft noted that OPC provided a written update that will be posted with the meeting materials online following the meeting and invited OPC staff to present the overview verbally.

Lindsay Bonito shared several updates including initiatives related to implementing 30x30; development of internal and external plans to improve equity in the workplace and improve environmental justice; a tribal engagement strategy; a restoration mitigation policy; a virtual summer webinar series; and a request for proposals for projects that explore the role of marine protected areas in enhancing climate resilience.

Discussion

Co-chair Sklar would like to see the Commission shift focus forward to the 30x30 process and engage on the planning effort with the California Natural Resources Agency. He would like as much Commission involvement as possible, including a potential seat on the planning committee. Co-chair Sklar would like to raise this issue at the next Commission meeting to see if commissioners have an interest in becoming more involved. Lindsay offered to follow up with her leadership.

Susan Ashcraft confirmed that staff would follow up to schedule discussion of this topic with the full Commission.

(B) Department

I. Law Enforcement Division (LED)

- a. Presentation on marine-protected-area-related enforcement actions in 2021

Assistant Chief Kord gave a presentation on enforcement actions across marine protected areas (MPAs) in 2021. He shared that 665 citations were issued during MPA patrols in 2021 and of those, 271 were specifically issued for violations occurring inside an MPA. He shared in which MPAs these violations most often occur and shared that the law enforcement fleet recently added a new vessel.

Public Comment

A representative of Environmental Action Committee (EAC) of West Marin supported expanded enforcement of the MPA network and the Department's increased efforts. They shared some of the training and education EAC of West Marin has provided.

A representative from WILD Coast shared some of the success of the Marine Monitor, or "M2," radar system that has assisted in citations of violators. Assistant Chief Kord expressed appreciation for the collaborative outreach efforts and shared that it is a helpful tool for enforcement, but also recognized that officers are still needed to take offenders to court.

II. Marine Region

- a. California halibut fishery bycatch evaluation in support of the fishery management review

A written update prepared by the Department was included in meeting materials.

Public Comment

Two environmental NGOs requested that Commission and Department staff prioritize bycatch analysis for trawl and gill nets. They would like bycatch to be assessed across gear types as a whole. One noted they have been analyzing federal observer data for set gill net and trawl fisheries, signaling

that the data is difficult to parse out by target type; he plans to present the analysis at the November MRC meeting. Other NGOs echoed similar concerns and would like to continue to be involved in the bycatch evaluation process.

A fisherman highlighted that there are many types of gillnets, not just one, and that they are built differently for different purposes, including avoiding incidental take of small halibut. The types should be evaluated separately; an understanding of the gear is crucial for any evaluation. Another fisherman is concerned about the cost of this process.

Discussion

Co-chair Sklar provided remarks in response to comments received. He questioned the level of Department engagement with stakeholders about the bycatch review and urged the Department to explore reviewing gillnet and trawl gear bycatch by gear type.

Craig Shuman clarified that the Department has been engaging stakeholders regularly as it pursues its priority of evaluating California halibut management at the direction of the Commission. Craig suggested that Department staff continue with the current process for California halibut and then move into broader evaluations of the gear type; staff can do additional analyses on other fisheries if needed.

Kirsten Ramey and Craig Shuman discussed some of the challenges they are facing with federal observer data in regard to discards.

Co-chair Sklar suggested that the Department continue to work with stakeholders before the November MRC meeting to find some common ground.

b. California halibut trawl grounds evaluation

A written update prepared by the Department was included in meeting materials.

Public Comment

One NGO requested that the Department share a project outline with MRC to explain how it would evaluate whether bycatch levels are acceptable or not, to help support early stakeholder engagement.

c. Market squid fishery management and fishery management plan review

A written update prepared by the Department was included in meeting materials; there were no comments or questions.

(C) Commission staff

I. Coastal fishing communities policy development

Kimberly Rogers provided a verbal update on the coastal fishing communities policy development. Commission staff postponed a June policy drafting workshop to reassess and evaluate the draft policy following comments made by Department staff and an academic partner. Staff are developing a small working team to improve the policy and potentially develop a draft implementation plan and expect to hold a policy drafting workshop in the fall, with an update to MRC in November.

There were no comments or questions about the staff report.

8. Future agenda items

(A) Review work plan agenda topics, priorities, and timeline

(B) Potential new agenda topics for Commission consideration

No changes or additions other than those discussed during the meeting were identified.

MRC adjourned at 1:44 p.m.