

COMMUNITY

News in Brief for March, 2010

In this newsletter...

President Bob Bertelli's final report	Page 2	Executive Director's column	Page 3
Scientific Collecting permits & MLPA	Page 1	Report on the MLPA	Page 4
The Coast Guard offers advice	Page 1	Reports from the Ports	Page 5
Sea Otter Lawsuite Update	Page 1	Feb. Commission meeting summary	Page 6

Scientific Collecting Permits and the MLPA

At the February 16th meeting of the Marine Resources Committee, the Department of Fish & Game presented an issue paper on potential issues and conflicts with the scientific research and collection process, and the Marine Life Protection Act.

In its presentation, DFG noted that research and monitoring "play a critical role in management of MPA's", adding that all MPA's allow for "research, restoration, and educational activities." However, DFG noted that the master plan for the MLPA process did not provide guidance for managing research activities within MPA's.

-continued on page 5

Commercial Urchin Vessel Safety Regulation Exemptions

By Peg Murphy, U.S. Coast Guard

U.S. Coast Guard boardings on commercial urchin vessels check for a variety of safety gear as required by federal law. One of these items includes an immersion suit.

Immersion suits are required for each person onboard if a vessel is documented and transiting or fishing in cold water (59 degrees Fahrenheit or less) beyond 3 nautical miles of shore. In warm water (greater than 59 degrees Fahrenheit), which occurs during specific times off the coast of California, fishermen with stateregistered and documented fishing vessels have a couple other options for this regulation.

-continued on page 4

Update on the sea otter lawsuit

By Peter Halmay, Chair Sea Otter Committee

George Manninna, of the D.C. law firm of Nossaman LLP, appeared in court on March 22 on behalf of the California Sea Urchin Commission's efforts to intervene in a lawsuit between Environmental Defense Center/Otter Project and the USFWS. The lawsuit is seeking to force FWS to terminate the sea otter translocation and management plan adopted in 1987.

The Sea Urchin Commission is putting together a negotiating team recommended by its Sea Otter Committee who will, if the opportunity presents itself, engage in multi-faceted negotiations to show that the translocation is a huge success, with a substantial growing colony of sea otters at San Nicolas Island who are the healthiest sea otters this side of the Kuril Islands.

This negotiating team will also show that the sea otters in California should be delisted since they have recovered and are approaching carrying capacity along an extensive stretch of the California coast.

PRESIDENT'S REPORT & FAREWELL

By Bob Bertelli, outgoing Chair

Sea Urchin Divers, Processors, and interested parties,

At the time most of you read this, the final vote tally will be nearly done, leading to a "new" Commission. The infusion of new blood can be a good thing if it comes with new and workable ideas, and the understanding that the problems and issues remain the same:

- 1. Prices, and diver-processor market relationships;
- 2. Diver-to-diver and diver-to-Commission relationships;
- 3. Processor-to-Commission relationships;
- 4. Port-to-Port relationships;
- 5. Interaction with other fishing groups: sport, commercial, and international;
- 6. Monitoring and influencing legislation and fisheries policy, both in California and D.C., as well as internationally;
- 7. Developing new programs and strategies to improve the well-being of divers, and the processors that have demonstrated a concern for the divers' futures, not just their own "bottom line";
- 8. Sea otters!;
- 9. The MLPA (Marine Life Protection Act);
- 10. The MLMA (Marine Life Management Act);
- 11. Supporting science projects and scientists that tell us the truth: good, bad or otherwise thus contributing to our goal, of sound, science-based management of marine resources;
- 12. Improving communications and education within our community, the public, and target audiences;
- 13. Day-to-day Commission operations;
- 14. Whatever else that I may have left out, or may come up in the future.

Now here is the conundrum: even when you try to prioritize (and the Commission has), unforeseen events can and often have changed the prearranged order. When this happens, there can be honest disagreement within the appropriate level of response in terms of time and resources. Therefore, it is imperative that the Commission remains flexible in structure and action, that commissioners and staff are well informed, and that divers who want a positive future do more for themselves to help achieve it. "To see what is right and not do it is want of courage" Confucius.

During my two years as Chairman of your Commission, I have experienced the full range of emotions, save for one: boredom! I thank all of you who have helped, offered support and constructive criticism. I would also like to thank staff, past and present, all the commission members (not just the divers) and the many individuals outside of industry who have stepped forward to help us. Yes, we have powerful enemies, but we also have powerful friends. Where we can turn an enemy into a friend, we have won a great victory; where we turn a friend into an enemy, we have suffered a greater loss; and when a supposed friend stabs us in the back, we need to choose our friends more wisely.

In parting, I would like to leave you with some words that have helped guide me: "A great statesman is he who knows when to depart from traditions, as well as when to adhere to them". John Stuart Mill. "Knowledge comes but wisdom lingers...." Alfred Lord Tennyson. "The nation behaves well if it treats natural resources as assets which it must turn over to the next generation increased, and not impaired in value." Theodore Roosevelt. "It is hard to fail, but it is worse never to have tried to succeed." Also T.R. These thoughts are in my day book along with several others. They have helped guide my decisions.

Staff would like to particularly acknowledge Pres. Bob Bertelli's work, his dedication, his patience, and his wisdom in guiding the Commission. Thanks, Bob!

EXECUTIVE DIRECTOR'S COLUMN

By Vern Goehring, Executive Director

What's to Come of the Sea Urchin Commission?

Although some would ask what has already become of the Sea Urchin Commission, the real question should be asked looking forward. The new Commission that will take office after the election, currently underway, will have two main issues to wrestle with, with little time to transition or warm up to the job.

First it will need to decide what the Commission and the fishery attempts to do in 2010/11 and future years, and second it will need to decide what it pays to have done and what it and other volunteers do themselves.

A naïve view might be that with \$100-200,000 budget we can do it all –file sea otter lawsuits; undertake campaigns to counter MPAs; collect data and science; promote sea urchin sales; conduct economic/business analyses; update websites; write timely and informative newsletters; ensure accuracy in managing finances; facilitate direct marketing; organize and notice port meetings; distribute timely summaries and detailed minutes; prepare and conduct surveys and workshops; liaison with CDFA; lobby state legislation; comply with Fair Political Practices Act mandates; schedule committee meetings and prepare action reports; represent or monitor the CSUC at FGC, OPC, and other meetings; maintain current address and email lists; update strategic plans; pursue delinquent assessments; collaborate with other fisheries; liaison with DFG; monitor federal legislation; silence trouble-makers; change regulations regarding capacity and transferability; keep tabs on DOD; coordinate outreach to local officials and legislators; conduct elections and referendums; compile and prepare simple background information on complex technical and political issues; and by all means send frequent notices and alerts regarding all of the above.

All are good things and it's likely no one would argue that any one of the above is totally needless and unimportant. But, certainly people would have different priorities. Some things are required by law for the Commission to do. Others, once started must be pursued to completion. Some need outside expertise and others could be done by diver volunteers. The vast majority of the above activities or programs have a wide range of what might be considered acceptable accomplishment.

Whether Commission candidates knew it or not, this is their challenge: decide what should be done, who should do it, and to what standard it should be done? Some will insist on their priorities and will be suspicious of anyone arguing for different priorities. Some will start out convinced that whatever is decided will fail because there won't be any follow through. Others will insist process is most important, not knowing or caring about program or project details.

It should be obvious that the Commission does not have the capacity to do it all, either by hiring someone to do it or by volunteers doing it themselves. Picking one thing likely means something else doesn't get done or is done less robustly. Some things will need to be postponed. Some people will need to decide whether to contribute in some, even small way, or just sit on the sidelines supervising.

What the new Commission will need is patience with themselves and each other and the conviction that their collective decisions will be the best they could do under the circumstances. What they will need from others is tolerance - recognizing that <u>collective</u> decisions have been made but that perfect decisions have not.

So what will become of the Sea Urchin Commission? Exactly what divers want it to become.

Either a sufficient number will step up and take responsibility to help it accomplish something positive. Or they will stand back keeping their options open to point out deficiencies. Do you know yet where you will be?

Commercial Urchin Vessel Safety Regulation Exemptions

(Continued from page 1)

The San Diego Urchin Producer Association currently has on file an approved Coast Guard exemption for the immersion suit requirement. It states that on commercial urchin vessels with 3 persons or less onboard, a wet suit **and** a Type 1 PFD for each person onboard may be substituted for immersion suits within 20 nautical miles of shore or when on a direct transit from San Diego to San Clemente Island.

This exemption also contains a provision for carriage of a survival craft. The exemption allows substitution of an auxiliary craft (rigid dingy or tender, workboat or skiff) of sufficient size to hold all persons onboard within 30 nautical miles of shore.

In order for either part of this exemption to be valid, the owner and/or operator of the vessel **must** hold a copy of the San Diego Urchin Producer's Association exemption letter on the vessel **and** have a valid Commercial Fishing Vessel Safety (CFVS) decal issued within the last year. If either one of these items is missing, the exemption is invalid and normal regulations apply. These two safety items are considered essential, and if missing, constitute an especially hazardous condition for the crew. Especially hazardous conditions will normally result in the termination of a vessel's voyage until the discrepancies are corrected.

Commercial urchin divers are urged to contact their local CFVS examiner for the specific regulations that pertain to their vessels. All dockside examinations are free-of-charge. For the Los Angeles area, please call Jack Gaskill at 310-508-4773. In the San Diego area, please call August Klotz at 619-278-7249.

The MLPA and the sea urchin dive fishery

By Dave Rudie, member, MLPA Committee

The California Sea Urchin Commission (CSUC) was able to seat four members on the Regional Stakeholders Group (RSG) in the southern California round of the MLPA, more than any other interest group. We worked hard to protect the harvest rights of divers and, to the extent possible, all fishermen. It was a complicated and somewhat biased process, but the end result seems to be better what could have occurred.

We will likely lose two important areas (North end of San Clemente Island, and Point Dume area), but the overall economic impact is projected to be less than 10% for Southern California. The Blue Ribbon Task Force (BRTF) selected the Integrated Preferred Alternative from the RSG plans, and this has now been forwarded to the California Fish and Game Commission for likely final approval later this year.

In northern California, the process is just getting started. Tom Trumper has been selected and is serving on the RSG. The RSG will make their maps by the end of summer and the BRTF will make a map in October. We are asking the SAT (science advisory team) to allow for sea urchin harvest in some of the Marine Protected Areas (MPA's) as part of an adaptive management regime for the MPA's. The communities in Northern California are supportive of fisheries, and of the sea urchin dive/fishery in particular.

Currently, the Commission has spent around \$7,700 developing the video "Sea Urchins and Adaptive Management", \$1,000 for advice on the science of sea urchins and MPA's, \$9,000 to support our RSG members meeting attendance, and \$18,500 in contributions to the California Fisheries Coalition in their MLPA work. In my opinion, the most effective money has been spent in support of our members' attendance, the video, and the scientific expertise.

Scientific Collecting Permits and the MLPA

(Continued from page 1)

DFG stated that, "a balance between ocean enjoyment and use, research and monitoring, and minimal disturbance must be struck" when determining MPA management decisions.

With the increasing numbers of MPA's, interest in research proposals has already grown significantly, and this growth, in light of no consistent management, poses a problem: specifically, DFG is concerned about potential ecological impacts from unrestricted research and monitoring in MPA's.

Because of this increasing pressure, DFG developed both a series of questions to guide decision making regarding scientific activities within MPA's, and a series of questions (in draft form) in helping them determine whether or not to allow particular scientific research or monitoring activities.

In the short term, DFG recommended following the protocols it developed, with a special note to prohibit research and monitoring using trawls. In the long term, DFG recommended the department seek guidance from the MLPA Science Advisory Team, Monitoring Enterprise scientists, and DFG Commission staff to develop processes for managing science activities within MPA's.

Scientific Collecting - Another Issue

DFG has long issued scientific collectors permits to individuals collecting wildlife specimens for their own research or for researcher-employers. It is a violation to sell specimens taken with this permit; however, many collectors get around the prohibition by "charging for services" rather than charging for specimens. There is ample evidence that businesses collecting with this permit are selling their specimens.

For under \$60 a 2-year permit allows "researchers" to collect wildlife with any number of assistants. They get a permit by simply identifying their regular customers and/or explaining the ultimate scientific purpose (etc. scientific education).

While a report is required to be submitted after the permit period indicating species types and numbers collected, many reports are never submitted and the DFG doesn't have sufficient enforcement staff to get them. In addition, the DFG admits it does not know how much of an impact scientific collecting has on many of the species collected.

As several sea urchin divers know, some research scientists acquire marine specimens from licensed fishermen with the equipment and experience necessary to do the job correctly.

In 2008, legislation was introduced that would have made it easier for businesses to collect more specimens under a single permit. The CSUC opposed the legislation because of uncertain resource impacts and minimum enforcement capacity of the DFG. We also argued where target species were subject to commercial fishing, researchers should acquire specimens from licensed fishermen. Fortunately the Governor vetoed the 2008 legislation.

REPORTS FROM THE PORTS

No reports from the ports were submitted by commissioners for the newsletter.

CALIFORNIA SEA URCHIN COMMISSION MEETING - SUMMARY

February 26, 2010

Three Commissioners were present at the start of the meeting: Dan Williams, Harry Liquornik, and Bob Bertelli, and Tom Trumper soon joined the call to give the Commission a quorum for passing motions. Approximately 8-10 other divers also participated in the call.

Vern gave a report, reminding everyone about the dates for the election of new commissioners (3/5 ballots mailed, 3/26 ballots returned, 4/9 vote results announced). Personal statements of nominees are due ASAP. Vern also noted that the CSUC submitted comments re: the MLMA "lessons learned" study – they were posted on google groups sometime ago. Vern also mentioned concerns regarding delinquent assessment payments from certain processors. There were several ideas regarding how to deal with the situation: contact a collections agency, "grade" processors' overall interactions with divers, including assessment payments, and post offending processors names.

The Commission approved the Chair's appointments to the MLPA Committee (8 persons heavily engaged in the MPA process) and the Memorandum of Agreement Committee (regarding the voluntary contributions of some processors) which includes 2 divers and 2 processors.

Peter Halmay explained the history and work behind the proposed MOU with British Columbia's Pacific Urchin Harvesters' Association. The Commission approved the MOU, setting the stage for a work plan to be developed. The hope is that we may cooperate effectively as diver organizations on shared issues.

Peter Halmay also explained the sea otter legal issues, specifically the current situation and suggesting the creation of a Sea Otter Negotiating Team – essentially, divers willing and able to seriously take up studying, teaching and organizing other fishermen around the issue. This team would serve a dual role: Preparing themselves to negotiate with the environmental plaintiffs & FWS and use what they learned to inform other divers and fisheries. There was significant discussion about this issue. The next major date, March 22nd, is when a federal judge will rule on a number of issues, including whether to allow the CSUC to be an intervener in the case.

Dave Rudie and Tom Trumper presented the current MLPA situation, explaining that the North Coast currently has a lot of anti-MLPA momentum behind it. Tom expressed guarded optimism regarding some environmentalists showing up on various local boards and groups, claiming to have a local-sustainability mindset, and to be accommodating to fishing. Also, Native American tribes on the North Coast have stepped up pressure in favor of fishing interests. Dave mentioned that the Commission is helping to pursue an open-meeting issue, where the Blue Ribbon Task Force may be in violation of state law. Vern added that MPA staff was pressured into adding another fisherman rep to the RSG, from Albion.

Harry summarized the Santa Barbara port meeting: they discussed items on recent Executive Committee meetings and provided updates on a number of other issues. No other commissioners held port meetings.

Vern mentioned the upcoming questionnaire, noting that two researchers have volunteered to help design questions and analyze results. Commission staff hopes to mail the questionnaires in two weeks.

Harry noted that Stephanie Muntz has been in contact with divers about re-starting a data collection effort. Right now, her proposal includes approx. \$10k for the project. Dirk Ammerman said he was interested in the concept, but had some concerns, and suggested seriously studying the issues that arose during previous attempts.

The upcoming newsletter was discussed and Bob and Tom offered to write articles. The Coast Guard has submitted an article on safety issues, and other divers are welcome to submit articles for review. The deadline for submissions is Monday, March 15th.

For future agenda items, Bob noted that he will appoint members to a Dept. of Defense Coordinating Committee, to report to the Commission about issues surrounding San Clemente Island; Dirk Ammerman suggested discussions about a future data collection effort; and Bob suggested a four-hour workshop prior to the next CSUC mtg to focus on a 2010/11 budget and work plan.

The Commission set its next meeting for Friday, April 30, 2010, at the Los Alamitos office of DFG. The meeting adjourned at 11:12 am.

Upcoming Events

April 7th & 8th, 10 AM

Ca. Fish & Game Commission meeting, Monterey

April 10th, 5 PM

Comments due regarding NOAA Catch Share policy

April 21st

Ca. Fish & Game Commission meeting, teleconference

April 24th

Santa Barbara Maritime Museum Sea Festival

April 28th Marine Resources Committee, Monterey
April 30th Deadline: California Commercial Fishing Permit filing
May 3rd MLPA Blue Ribbon Task Force meeting – location TBD

May 5th & 6th, 8:30 AM

May 12th, 9 AM

Ca. Fish & Game Commission meeting, Stockton

MLPA Science Advisory Team teleconference/webinar

May 19th & 20th, 8 AM MLPA North Coast Regional Stakeholder Group meeting, location TBD

June 11th-13th Isleton Crawdad Festival ("staff's" hometown)

June 23rd & 24th Ca. Fish & Game Commission meeting, greater Sacramento area

June 29th & 30th, 9 AM MLPA Science Advisory Team, Eureka

More fishing related events and meetings are posted at www.fishcalendar.net.



1621B 13th Street Sacramento, CA 95814 Phone: 916.444.8194 www.calurchin.org