



COMMUNITY

News in Brief

Volume 12, Issue 1

December 2018



Nathan Rosser

Chairman's Report

Special points of interest:

- The CSUC 5 year continuation hearing and vote.
- This newsletter provides an extensive overview of the CSUC activities.

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For those of you I've yet to have the pleasure of meeting, I'd like to introduce myself to you as the new Chairman of the CSUC. I've been in the business since 2008, and am currently on my 2nd term as the Ventura County Commissioner. I'm thankful to have learned the ropes from previous industry representatives, in particular departing Chairman Chuck Kavanagh, who I'd like to thank for his hard work, guidance, and significant accomplishments while at the helm of the CSUC these past years. As most of you are already aware, the CSUC is proud to report that our long-awaited regulatory package was approved by the Fish & Game Commission and new regulations are now in effect. The capacity goal for sea urchin permits has been reduced from 300 to

150, the lottery has been modified to give preference to tenders with a history in the fishery, and Fridays are now open for harvest during the summer months in Southern California. Despite these accomplishments, the CSUC has no plans to slow down, and continues to push for industry improvements.

As divers, we are all aware that the sea urchin industry has suffered major declines in landings over the past few years due to a combination of reasons, and landings are now at historic lows. That said, the market has been very good with record prices, and sea urchin fishing remains a lucrative business. I want to protect your livelihood and ensure that sea urchin diving remains profitable, and do everything I can to work with you

towards increasing the sustainability of our fishery.

Over the past year, many, many divers have turned my ear with their concerns and ideas about what the sea urchin fishery needs (or doesn't need) 'next'. Lots of ideas are being tossed around amongst divers on the docks. It is time to sift through all these ideas by conducting a comprehensive, industry-wide survey so that the CSUC, can use *your input* to guide the industry forward and prioritize our collective goals. You will find the survey at the end of this newsletter, and I cannot stress enough how crucial your response on this survey is. Please take the time

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Executive Director's Report



Executive Directors Report

California's sea urchin resources continue to be challenged. Harvests may have bottomed out at the moment, but recovery is slow as kelp has not improved in many areas. Consequently, many divers are facing difficult times. The north has been especially challenged as purples have blanked the bottom and a recovery project continues with piece meal funding from several environmental groups to remove the urchins so the kelp has a chance to re-grow. We are especially grateful for all those involved.

Efforts to obtain disaster assistance took a turn for the worse last month when the Secretary of Commerce Wilbur Ross denied Governor Jerry Brown's request for a disaster declaration for 2016. He cited that the total state's economic loss in 2016 was only 15 percent below the previous 5-year average. The law requires a minimum of 35 percent. Your Executive Direc-

tor requested a conference call with the Department of Commerce and the National Marine Fisheries to request a determination since the many ports including Fort Bragg, Ventura and San Diego experienced losses exceeding 80 percent. The call was held on October 28 and with the help of the Department of Fish & Wildlife, we will re-file for 2016 and 2017 but this time we will demonstrate how the northern and southern fisheries are managed differently. The regulators believed the entire state was managed as one unit.

Last year the California Sea Urchin Commission (CSUC) was able to finally secure the regulatory change necessary from the California Fish & Game Commission to reduce the capacity from 300 permits to 150. We owe a great amount of gratitude to the Department of Fish & Wildlife for their assistance by helping the industry complete the regulatory paperwork neces-

sary to document the need to reduce capacity and write the regulatory language.

The CSUC 5-year Continuation Hearing is scheduled November 19. The hearing is scheduled to determine whether the industry feels the Commission is meeting its goals and providing a beneficial service. All divers who had landings in 2017 were sent announcements about the hearing.

The CSUC has been involved in many regulatory and legislative activities during the past year. This newsletter will recap the major events that have occurred over the past 12 months.

Please reach out to your port representatives or myself if you have any questions.

Cordially,

David Goldenberg
Executive Director

Disaster Declaration Request

With the assistance of the California Department of Fish & Wildlife (CDFW), Lt. Governor Gavin Newsom requested a Federal Disaster declaration from U.S. Commerce Secretary Wilburn Ross on September 5,

2017. The request was for 2016 fishery year in Northern California, Orange County and San Diego. The economic returns were roughly 80-90 percent lower when compared to the previous 5-year period. On Septem-

ber 24, 2018 Secretary Ross declined the gubernatorial request because the Federal government stated the state's urchin economic return in 2016 was only 15 percent lower when compared to the Continued on page 3

Legislative and Data Collection Efforts

Each year the California Legislature and the Congress do what they do best and that is to propose good and bad legislation. When necessary the Commission jumps into the fray to support or oppose regulations that impact commercial fishermen. We either work alone or in many instances we join forces with other like-minded organizations and form coalitions to support or defeat legislation. The Commission has a favorable track record. Some years the legislative calendar is full of fishery or environmental bills. No matter the case, the CSUC monitors state and national pieces of legislation. In 2017, the Governor's office proposed increasing landing taxes

as a way to make up for losses in the Department of Fish & Wildlife's budget. The CSUC worked in a coalition to defeat the drastic increases, but settled on minor increases instead. In 2018 the Governor's office sought to make up the Department's budget shortfall and provided additional revenue from the general fund this time instead of attacking landing taxes. The legislature cut the budget request, from \$50.6 million to \$30 million, and left the landing taxes alone. They also added \$2 million to be used to audit the Department's operations. Of the \$30 million appropriation, \$10 million is new money for projects, and new positions.

CSUC continues to underwrite the 26 year sea urchin larval study conducted by Steve Schroeter, UC Santa Barbara. The larval study provides the longest index of stock health which targets the early and most vulnerable life stages. The study estimates and distinguishes the signals of shifting oceanographic regimes (e.g. El Nino/La Nina conditions and Pacific Decadal Oscillations, Ocean Acidification) from effects of harvesting. In 2018, the CSUC was able to secure funding from the Resources Legacy Fund to help underwrite the project; thus saving the CSUC valuable assessment dollars. This long term study is vital for management decisions.

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previous 5-year period (2011-2015).

CSUC Executive Director David Goldenberg immediately requested a "re-determination" on the grounds that Federal government misunderstood the request. A conference call was held October 26, with CDFW executive staff, and policy staff with the Department of Commerce, NOAA and the National Marine Fisheries Service.

It was obvious the Federal agencies did not understand the red

sea urchin fishery and how it is managed. We informed the Federal officials that the Northern fishery has a different size limit, has a different season structure and has a different abundance and Maximum Sustainable Yield (MSY) harvest rates.

Although the Federal government does not have a formal re-determination process, the agencies suggested to expedite a second review was to submit a second gubernatorial request.

CDFW executives are currently revising the governor request with the differential information need by the Federal agencies to differentiate the northern and southern fisheries. A second round of Congressional appropriation funding is undergoing committee work. If all goes according to plan, the gubernatorial request will now request not only 2016 but also 2017. If approved, it most likely will apply to the entire fishery as all disaster relief packages a handled. We anticipate a positive review in the second request.

Capacity Reduction Finalized

After a decade of perseverance, multiple surveys, untold meetings and over a dozen of regulatory hearings, the industry's effort to reduce the number of permits and harvesting pressure came to fruition on December 7, 2017 at the California Fish & Game Commission (CFGC) hearing in San Diego. That's the day the CFGC officially adopted the sea urchin industry's capacity reduction effort. There are numerous individuals to thank from previous CSUC Board members to staff members with the California Department Fish & Wildlife (CDFW) and CFGC staff.

The industry initially wanted to modify a number of regulations including capacity reduction, a fishing day back, transfer of the permit upon the death of a diver, a permit buyback, an apprenticeship program for new divers, and full transferability. The industry differed on the capacity number but ultimately concluded with 150 from the current 300 permits.

It became obvious the wish list had to be paired down in order to move forward. Eventually the two items wanted most were capacity reduction and a day back in the south.

The new regulations went into effect for the 2018-2019 commercial fishing season. Below is

a summary of the summary of the new Regulations:

Reduce the capacity level of sea urchin diving permits from the current level of 300 to 150

Permit capacity will be reduced by changing the way new sea urchin permits are issued. Instead of issuing one new permit for each one that is retired, one new permit will be issued for every eleven that are retired until the permit level drops to below 150. At that point, one new permit will be issued for each one that is retired.

Both the CSUC and the CDFW have been considering revisiting the 300-permit capacity level for this fishery for many years. This fishery has a high latent harvest potential from non-active sea urchin permit holders and typically less than half of the permit holders make landings. This fishery has been subject to increasing effort compaction due to shrinking harvestable fishing areas and changing environmental conditions that have significantly reduced the statewide abundance of bull and giant kelp, the main food sources for red sea urchin.

Institute Modified-Preference Point Permit drawing system

The previous drawing system has been replaced by a new sys-

tem that will distribute available sea urchin permits based on the total preference points attained since 2006. This system will favor applicants that have been attempting to obtain a sea urchin permit the longest. The first four permits will be available to the applicants with the greatest number of points and the fifth will be available through on a random draw that includes every applicant regardless of points.

Add fishing days in southern California

Red sea urchin can now be harvested Monday-Friday from June 1 through October 31 south of the Monterey-San Luis Obispo county line. After lengthy discussions with statewide divers and processors, the CSUC proposed to add Fridays back for the southern portion of the fishery during the summer and fall months to allow divers to take advantage of weekend markets and demand needs.

See CDFW 2018-2019 Commercial Digest and Title 14, §120.7 of the California Code of Regulations for specifics on these new regulations.



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to fill out and return the survey, the industry thanks you in advance.

I'd like to touch briefly on some of the issues that the survey addresses. For starters, there has been much discussion about creating a 'John Doe commercial tending license' that would bring a great deal more safety to our fishery. Many commercial divers have reported problems attracting and keeping crew, the end result being that many of us work with no surface support. There have been several incidents recently with un-tended divers being run over by recreational vessels. In my opinion, this problem will only worsen as California's population grows and more people venture out onto the ocean. The CSUC seeks to address this serious safety issue by lobbying the California Fish & Game Commission and the Dept. of Fish & Wildlife to implement a 'John Doe commercial tending license' that would make it easier to hire and license a deckhand/tender for your vessel.

There has also been a lot of talk amongst divers about what management measures might serve to improve sea urchin landings and increase diving productivity. Some divers feel that a sea urchin fishing seasonal closure might help restore catches, offset any increase in effort due to the

Friday back in Southern California, and optimize dock prices. Others think that increasing the size limit in Southern California to match the size limit in Northern California (3.5") is the way to go. And yet others, strongly disagree and feel the industry should be left as-is. I have no intention of forcing my opinions upon anyone, however, I would like to point out a few things for you to mull over as you form your own opinions. As part of this newsletter, I have included a recent scientific research publication, conducted in the Santa Barbara region, which studied many of the questions we are asking ourselves. I encourage you to read the paper by Teck et al. and draw your own conclusions. I'd also like to mention that many sea urchin fisheries around the world, such as Japan, Maine, Chile, Mexico, and France, employ a fishing season as a management tool—with varying degrees of success—and I'd be happy to point you in a direction to further investigate those examples for yourself; just shoot me an email.

It goes without saying that these are some hot-button issues with far-reaching implications. It is my impression that opinions vary widely within our industry; which again, is why filling out the survey accompanying this newsletter is so important. Rest assured that the CSUC will take

your suggestions seriously, and will follow up this survey with substantial time devoted at Port and Board meetings to make sure everyone has an opportunity to have their say. Let me be clear, at this stage, nothing has been decided and the CSUC is not pursuing any regulatory changes at this time, merely trying to evaluate our current fishery and gauge the level of support for a variety of possible future management measures.

Changing subjects, you should have recently received a letter from the CA Dept. of Food & Agriculture, explaining that as a result of multiple years of low landings and assessments, the CSUC is now up against serious budget constraints. This has come as no surprise, and the CSUC has been working diligently over the past year to reduce operating costs as much as possible. The silver lining here is that in reducing costs, a new era of advancement and efficiency in how the CSUC operates has been ushered in. The CSUC recently held its first ever digital (web-based) Board Meeting. These meetings are not just a cost-savings measure, they also make it easier for you to call in and participate, and be a part of the process, from the comfort of your own home.

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As explained in the letter, the CDFA has taken the position that the urchin industry would be best served with both sea urchin divers and processors having a stake in the CSUC. The processors' presence will result in an increase in landing assessments, helping alleviate CSUC budgetary concerns, but perhaps more importantly, creates unity and solidarity within the industry that has the potential to make the CSUC a stronger and more powerful mouthpiece for the urchin fishery. Having spoken with

most of the processors myself, it is exciting to hear from a largely new generation of urchin processors that are eager to get involved and help the fishery flourish. The CSUC welcomes the processors back and is looking forward to a productive future working alongside each other and collaborating on projects and issues that will benefit the industry as a whole.

In closing, as Chairman of the CSUC, my goals are simple: to

listen and learn from all of you so that we can increase the sustainability of both the resource we depend on, and our livelihoods. *Please*, feel free to contact me, regardless of where you dive—and give me the opportunity to learn from you and represent you. We're all in this together; let's make the most of it.

Sincerely,

Nathan Rosser
Chairman—California Sea Urchin Commission
Paradisecoveseafood@gmail.com

Sea Otter Legal Challenge Enters Its Final Chapter

By Jonathan Wood, Pacific Legal Foundation

On May 30, the California Sea Urchin Commission, joined by other representatives of the fishing industry, asked the Supreme Court of the United States to review their challenge to the U.S. Fish and Wildlife Service's decision to terminate Southern California's sea otter management zone. In urging the court to restore meaningful judicial scrutiny of administrative agency decisions, the Commission drew the support of several public interest organizations and 17 states led by Texas. This support we felt would significantly boost the chances that the Supreme Court would hear the case. Unfortunately not. On October 28, the Supreme Court notified our of-

office that our case was declined. No reason was given.

The case stems from the Service's 2012 decision to void several protections for Southern California fishermen guaranteed to them by Congress in Public Law No. 99-625. That statute, enacted in 1986, permitted the Service to establish a new population of sea otters on San Nicolas Island, but only on the condition that the Service establish a zone around it in which fishermen could not be prosecuted for accidentally disturbing otters during their work, among other protections.

Although the otter population's growth was initially limited,

there is a thriving otter population on San Nicolas Island today, which has helped push the species over its

Endangered Species Act recovery goal for the first time. Rather than celebrate this conservation success, the Service decided to renege on the deal struck by Congress. In 2012, it announced that it would no longer honor the statutory protections for fishermen because the otters failed to



Jonathan Wood
PLF Attorney

Sea Otter Legal Challenge Enters Its Final Chapter

achieve a benchmark more than 20 years earlier.

The problem, for the agency, is that there is no law that gives it this power. Public Law No. 99-625 is unequivocal. It says that, as a condition of moving otters into Southern California, the Service “must” establish a management zone in which it “may not” prosecute fishermen for incidental take and, for good measure, the Service “shall implement” these requirements.

So how could a court uphold the Service’s decision despite its inconsistency with the law enacted by Congress? The answer is *Chevron* deference, a controversial doctrine according to which courts must generally defer to unelected bureaucrats’ interpretation of the law.

According to the Ninth Circuit—which embraces blind deference to federal agencies with more zeal than most courts—it does not matter that nothing in the statute even vaguely suggests the agency can ignore the law. The court acknowledged that the statute “does not speak . . . at all” about the agency’s power to ignore these requirements. Yet, rather than reaching the obvious conclusion that the agency lacked this power, the court declared the statute silent on the issue, triggering deference to the agency’s interpretation.

In other words, agencies can do anything they want unless Congress passes a law explicitly and emphatically forbidding them from doing it. That alarming conclusion—according to which

agencies can do just about anything they please with no politically accountable oversight—is why a diverse coalition of states urged the Supreme Court to reverse the decision.

States like Texas, Wisconsin, and Arizona may not have a stake in a program concerning California sea otters, but they are rightly concerned by the dramatic shift in power from Congress to unelected bureaucrats that the Ninth Circuit’s decision invites.

Editors Note: The CSUC is working with the PLF to determine what steps can be taken in light of the Supreme Court’s decision to not hear our case. We look to report back our next course of action in a follow up newsletter.

2018 Annual Meeting & BBQ

The 2018 California Sea Urchin Commission BBQ was a success. On Saturday August 25, 2018, we got together and shared stories, met new people, and saw old friends. The event started off with an 11 am meeting, where chairman, Nathan Rosser gave us a report of the current condition of the CSUC and took comments and questions. We enjoyed traditional Paella, salads, Santa Maria style tri-tips, chicken quarters, and meaty brots, as well as a new ad-

dition, a full nacho bar. The BBQ was done over local Santa Ynez Red Oak. 22 participants competed in the first ever CSUC Cornhole Tournament. After an excellent single elimination tournament the winners were the team of Jeff Maassen and Scott Street. The regulation boards and bags were hand made and donated to the BBQ. The raffle featured prizes provided from sponsors, such as Deep Thought, Hueneme Supply, Beacon Ma-

rine, Ventura Harbor Boatyard, Catalina Offshore Products, Tradewind, Brophy Brothers, and The Santa Barbara Fuel Dock. T-Shirts, Fuel Vouchers, Custom Wet Suit Discounts, and many other prizes were given out.

The final event that capped off the get together was the 1st annual Tender Tug-of-War. Although this was not organized as a tournament, it had participants coming from all over to help. Bodies were flying. Continued on page 9..

Introducing Two New CSUC Board Members

Greetings fellow divers,

My name is Scott Thompson and I have recently filled the Santa Barbara port rep seat for our district.

I thought I would take this opportunity to introduce myself to the community as most folks in Santa Barbara know me.

I live in Ventura with my wife Tricia, son Jacob and daughter Grace. I've been diving out of SB for the last 7 years as a walk on diver and am currently building my own 22' Anderson. Prior to diving I was a firefighter for the United States Forest Service in many capacities such as hand-crews, helicopters, and Engines.

I love the freedom that our occupation affords us and feel very blessed to be in the industry. With that being said I look forward to working on the issues we have as an industry with the commission and will try to represent the port of Santa Barbara to my best ability.

I encourage all to attend our port meetings and bring forth questions, concerns, solutions so I can best represent us during commission meetings. I can be reached via email @ Unidiver123@gmail.com or directly by cell phone @ 805-450-3474 for any general questions or concerns about any commission matters.

Happy diving folks!
Scott Thompson

The year was 1984, the place: Morro Bay Harbor. It was night, the moon full, and I was 7 years old.

I sat with my legs dangling off T-Pier and I had a fishing pole in hand. My mom would take us night fishing in the harbor and that became one of my favorite past times.

From the corner of my eye, I saw a large fishing boat full of rigging, a boom, and an oversized mast. As the vessel approached, deck lights were turned on.. I stared at the deck in amazement, noticing the bundled nets huddled in the corners, barrels overflowing with sea-water and halibut tails slapping wildly. I watched the unloading process and admired the salty crew. I felt a rush of inspiration overwhelm my body. I stored that feeling deep down inside my soul.

As life passed by, I was involved in other things, but one thing that stayed constant was my passion for the ocean and my love for fishing. In 2007 at the age of 29, I took a job on an urchin boat. Since then, I have met some of my greatest heroes. I have learned the ins and outs of the industry and paid attention to the issues that arose. I have met and talked with fellow Urchin Divers. More often than not, I already knew who they were and they still had yet to know me. Currently, I am an Alternate Port Representative in Channel Is-

lands Harbor for The California Sea Urchin Commission. I am watching the leaders before me and learning about the purpose and operations of the CSUC.

I have heard frustrations from my peers about issues that may never seem to be solved. What I believe they may not be seeing is the momentum built and the notable changes that have taken place in the last 4 to 5 years.

We are on the brink of having a collective group of Sea Urchin Divers able to communicate as a whole group through tools such as the internet. There is strength in numbers. This is YOUR COMMISSION! Many problems can be solved with good communication. The CSUC already has an email list, but because it is incomplete, we cannot currently use it for communicating with all divers. If you don't receive the Constant Contact email newsletter, please take the time to submit your current email address to the commission. The goal is to have every single permit holder on this list so the CSUC will be able to communicate electronically.

We can continue to do great things and market our product using the tools that are available to us.

Good fishing to everybody and I hope to see you around the bend.
Dave Colker
CSUC Alternate Port Representative, Channel Islands Harbor

2018 BBQ Continued continued from page 7

Thanks to Tim Greiner, fellow Urchin Diver for his efforts behind the scenes coordinating the food purchases and entertainment and a special thank you to the sponsors for their donations to the raffle. Thanks to Gloria Martinez for her delicious Paella and the volunteers that contributed to cooking and preparing the BBQ. We hope to have many more BBQ's and look forward to you joining us in the years to come.



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NOTICE OF PUBLIC HEARING

**To Consider Continuation of the California
Sea Urchin Commission
with the Inclusion of Handlers as Assess-
ment-payers and Board Members**

Monday, November 19, 2018

**A transcript and hearing documents can be
viewed at the url below:**

https://it.cdfa.ca.gov/igov/docs/2018_1120_SeaUrchin_Main_Page.pdf

MISSION STATEMENT:
*"To ensure a reliable,
sustainable supply of quality
sea urchin products to
consumers and enhance the
performance of California's sea
urchin industry."*

We're on the web

www.calurchin.org

CSUC Continuation Hearing

Every 5 years the California Department of Food & Agriculture (CDFA) conducts a hearing on whether the diver industry wishes to continue the CSUC. A hearing was held November 19 in Sacramento. CDFA requested comments on whether handlers should rejoin. As initially designed, the organization was formed with a Board of both divers and handlers. Handlers pulled out in 2009 and since then the organization has functioned as a diver only Commission. In recent years there is an overwhelming desire by many handlers to rejoin and actively participate in CSUC activities.

Based on the November 19 hearing, reaction has been mixed. CDFA will soon be sending a voting ballot to both divers and processors about continuing as a unified organization. It's important to note that a unified organization will bring all parties to the table to discuss important issues impacting the future of the sea urchin industry. Assessing handlers will increase the CSUC's finances allowing it to succeed as the drop in current assessments have negatively impacted the budget. Comments or questions may be sent to Ben Kardokus at ben.kardokus@cdfa.ca.gov or calling 916-500-5018.

CSUC Board of Directors

District 1

Commissioner: Matt Pressly—Vice
Chairman
Alternate: Vacant

District 2

Commissioner: Cliff Hawk
Alternate: Vacant

District 3

Commissioner: Nathan Rosser—
Chairman
Alternate: David Colker

District 4

Commissioner: Scott Thompson
Alternate: Charles Kavanagh

District 5

Commissioner: Bernie Sauls
Alternate: Jon Holcomb