



Executive Committee Quarterly Meeting
Via Video Conferencing

May 18, 2022
4:00 pm

Minutes

Attendees: Tamara Anderson, *Central Coast Regional Water Quality Control Board*; Crow White, *Cal Poly*; Virginia Flaherty, *Central Coast Outdoors*; Blake Fixler, *SLO County*; Gary Ruggerone, *Bay Foundation*; Becka Kelly, *Morro Bay Harbor Dept*; Sally Krenn, *Bay Foundation*; Marshall Ochylski, *LOCSO*; Lisen Bonnier, *Ag interest seat*; Suzanne Marr, *USEPA*; Ann Kitajima, *MBNEP Staff*; Melodie Grubbs, *MBNEP Staff*; Paul Michel, *NOAA*.

1. **INFORMATIONAL:** Presentation on Proposed Chumash Heritage National Marine Sanctuary (NMS)

Paul Michel has been working on NOAA sanctuary projects for last 15 years at the regional office. His primary charge is to lead the process to designate a new NMS, which would be the first new sanctuary in California in 30 years. The process has been challenging due to COVID, since a big part of the effort at this stage is to visit partners and the public to get feedback on the effort. NOAA began the public process in November and had a comment period where they received 22,000 comments. Most were positive, with about a thousand being more substantive comments on what people would like to see. The Northern Chumash Tribal Council and other tribal leaders are primary players. While there have been various iterations of proposals for a sanctuary going back to the 1980s, NOAA accepted the Northern Chumash Tribal Council application in 2015, which then sat in the inventory process until NOAA did a five-year review of all applications. NOAA received the green light from the Biden-Harris admin to move forward. At the same time, the Morro Bay wind energy area was being proposed.

Over next several months, NOAA produced a draft management plan, environmental impact statement (EIS), and draft proposed rule. Part of EIS process is to come up with alternatives for the sanctuary area. In other estuaries, the National Estuary Program (NEP) and National Estuarine Research Reserves (NERR) coexist in same area. Paul reached out to Mel about issues facing us, benefits of a marine sanctuary, etc. We have similar missions - education/outreach, resource protection, volunteer programs, visitor centers, deep sea and nearshore research, advisory council structure, etc. One of the sanctuary alternatives they are exploring includes the Morro Bay estuary. When they release documents at end of the year, there will be another public comment period. The timeline estimates another year to finalize everything with a January 2024 target for a final decision for the designation. At that point, they will know whether or not the Morro Bay estuary is included in the proposed NMS.

NOAA feels that the area between the two sanctuaries to the north and south has a need for community-based, ecosystem-based planning forum. There are multiple bands of Chumash and Salinan tribes that have various interests in the process which NOAA will be working on over next year or so. It's likely the NMS would have a traditional management council and a tribal management element as well.

Sally had a question about the Chumash tribes and whether the ytt Chumash are involved. Paul said that they are involved. The Santa Ynez band is the only federally-recognized tribe involved. NOAA is getting input on what each group would like to see. Sally asked how current Marine Protected Areas (MPAs) interact with the NMS. Paul answered that those areas do exist and do well partnering on enforcement, education, monitoring, and research. While the MPAs highly regulate take, the NMS don't regulate fishing. So when have both, this is like the gold standard for marine conservation.

Bill asked if the NEP was within the Chumash NMS, would there be potential for regulatory conflicts and how would they be resolved. Paul said that it would be similar to what we see at the Elkhorn-Slough NERR

and Monterey Bay NMS. There are no regulatory aspects to the sanctuary. It would be more of a partnership between the NEP and NMS and should not result in any conflicts.

Suzanne asked about the Army Corps of Engineers annual dredging and how that would fit into the NMS. Paul responded that the harbors themselves are not part of the sanctuary since they are not compatible with the sanctuary designation. Once a designation occurs, there is a 90-day period for any activity with a current valid permit to ask for it to be grandfathered into the sanctuary. NOAA has already talked to the city about their dredging and disposal, and NOAA would likely exempt the activity or create a zone that is exempt. Suzanne asked about funding that the NMS this might bring to the area that might require non-federal match. Could that potentially conflict with the NEP need for non-federal match? Paul answered that the NMS is a line item in NOAA's budget, and every sanctuary has a Friends type group. The NMS are not required to have any kind of match. A NMS would provide expanded opportunities for research and monitoring collaborative efforts, for working with stakeholders to partner, and for bringing more funding to efforts. In Monterey, the NMS brought in \$4M to \$5M in grants to partners. There are a number of areas for collaboration: education & outreach, establishing a visitor center, developing signage, and special events.

Ann asked about permitting requirements that might arise out of the NMS that could curtail monitoring and research efforts. Paul answered that these activities might either be exempt or covered by an existing permitting system. The NMS program is typically more concerned with discharge and disturbance of sea bed.

Crow asked about the Morro Bay wind energy area. If it moves forward, will there be a carve-out between the Chumash and Monterey NMS areas to allow for cables to reach shore. Paul doesn't think that would be necessary. They can permit a cable going through that area. A proposal for a wind farm within the NMS would be different. They would review it on a case by case basis. They are already working closely with the Bureau of Ocean Energy Management (BOEM) on that proposed wind project.

Tamara asked about discharges to the sanctuary such as from wastewater treatment plants. Paul answered that they haven't drafted any regulations yet for the sanctuary, but you can look at Monterey Bay NMS regulations to get an idea. They typically have discharge prohibitions on harmful matter reaching a sanctuary. Activities like lawful fishing and deck washing are exempted. They would be considered on a case-by-case basis. If an activity already has a permit from an entity like the California Department of Fish & Wildlife or the Water Board, then they just have to ask NMS to authorize that permit. They don't need a separate permit from NMS. Existing outfalls are typically grandfathered in but possibly would not allow a new sewer outfall. Desalination plants were a big issue in Monterey Bay. NOAA worked with the State Lands Commission on their permit applications, trying to find a way to have those happen that would not have significant impact on sanctuary area. If an activity is already permitted at time of designation then it could be grandfathered in.

Bill asked Paul for a summary the substantive comments both in favor and opposed to the sanctuary. Paul said that on the con side, they heard a lot from the fishing community about fear of government regulation and were not in favor of a sanctuary. Also some agricultural interests such as the SLO County Farm Bureau and Shipper/Packer organization didn't see the need for a sanctuary and were concerned about additional regulation of water quality. The NMS partnered with the Ag Water Quality Alliance in Monterey to do demonstration projects and other non-regulatory efforts. The Monterey County Farm Bureau doesn't think there's any reason to fear a sanctuary. The SLO County Board of Supervisors expressed some opposition, but Paul thinks that is because some didn't understand what a sanctuary is and were opposed to federal interference. On the pro side, there were a lot of comments about highlighting/celebrating tribes with a NMS. Others touted the opportunities for education and outreach partnerships with museums and aquariums, as well as an interest in research and monitoring.

Bill asked whether there was any consideration to renaming the sanctuary to represent Salinan and Chumash since the area would potentially extend into Salinan territory and south to Gaviota. Paul answered

that it is an issue for the Salinan - they aren't happy about the proposed name. Chumash comments were primarily focused on supporting the name.

Suzanne asked where it would be likely that a main office and visitor center would be located. Pal answered that the site would need a place to dock a research boat, etc. Potential locations are under discussion right now.

Crow asked when this location decision would be made. Paul thought they may know when the NMS is designated but may not know until later. Crow will follow up with Paul with information about potential resources in Morro Bay.

Suzanne asked if the NMS could help get funding for a much needed boat haul out facility. Paul answered that NMS are often first responders for vessel groundings, often due to unseaworthy vessels. NMS often brings in wastewater recycling and pumpout facilities. While other dockside facilities is not something they've done in the past, it is something that they could potentially do in the future.

Mel asked if tribal partners are interested in including the estuary in the designated area. Paul responded that they haven't heard that from the tribes.

Paul concluded by saying that a potential plan will include the Morro Bay estuary unless they hear from us that we don't think the area should be part of the NMS. They'll want to hear from us on the document that will be ready at the end of this year. He will be traveling down here more and would be happy to come and speak to any groups we are associated with or he can be reached via email at Paul.michel@noaa.gov

2. Introductions and Updates

- Melodie Grubbs: Gave us some background on her experience with the Land Conservancy and the Santa Monica National Estuary Program.
- Blake Fixler: No updates for the group.
- Crow White, Cal Poly Bio Dept: On the wind energy project, Crow, Dr. Ben Ruttenberg, and Dr. Ryan Walter of Cal Poly continue to do contract research with BOEM on the potential farm. They are assessing the wind potential and power levels over space and time. They are also assessing the fisheries activities in and around the wind energy area. Drs. Kristin Hardy and Kevin Johnson are working on Pacific oysters in the bay, partnering with Grassy Bar Oyster Company. They are looking at mortality, growth, and stress on juvenile oysters due to high mortality events during the summer. They are trying to identify what conditions are hurting oysters the most, what type of oysters might do better, and how to protect them against mortality.
- Tamara Anderson: At the April Board meeting update, the Board approved the \$5.9M funding allocation plan resolution for the PG&E Diablo Canyon settlement. It allocates \$4.1M to grow their Central Coast Ambient Monitoring Program – Groundwater Assessment and Protection (CCAMP-GAP) endowment to generate ongoing revenue, \$600k to support region-wide drinking water well testing, and \$1.2M for a community-based program to fund water quality projects that benefit the region, with an emphasis on small and underrepresented communities. The next Board meeting is June 16 and 17. Topics include a revised National Pollutant Discharge Elimination System permit for the new Morro Bay water reclamation facility. The Board is going to tour the new plant on June 17. She will see if they can do a tour for EPA as well since EPA funding supported the project. The plant has already started operation.
- Virginia Flaherty: They are expecting a busy summer season, starting with Memorial Day weekend.
- Becka Kelly: The dredging has begun. It will go on for 22 days, with the dredger planning to leave on May 31. It's been a very windy spring, which makes it tough for them to work.
- Ethan Bell: Stillwater has been out managing pikeminnow on Chorro Creek this last year and just finished sampling the reservoir. They didn't see a lot of pikeminnow, so it seems like previous management efforts there have substantially reduced the source population.

- Sally Krenn: Sally serves on the BF board and has a long career of work on the Diablo Canyon coastline.
- Bill Henry: A special thanks for Mike Multari for serving as interim executive director through our transition. At their meeting last week, the Bay Foundation approved the 2023 workplan and staff's Restoration Fund funding request.
- Lisen Bonnier: Lisen was interested in Paul's presentation, especially the comments from the agricultural community. She might invite him to speak to the Agricultural Liaison Advisory Board for the County about what the proposed NMS would entail.
- Suzanne Marr: Good to hear from NOAA about the potential NMS. When talking about sanctuary and if want any input from EPA, just let Suzanne know. At EPA, they are figuring out the guidance for the Bipartisan Infrastructure Law (BIL) funding. Also State Revolving Fund money is coming, focused on disadvantaged communities and climate change.
- Marshall: The Los Osos Community Services District (LOCSO) is looking at drilling a new well on the west side which should help alleviate saltwater intrusion. The LOCSO has taken over the solid waste management for the community and are going to have chipping days like they used to in the past.
- Ann Kitajima: We will be having a light detection and ranging (lidar) survey of the bay's intertidal areas in June. The data will be used to assess changes in bay floor elevation. This information supports monitoring, restoration, and research efforts related to eelgrass.

3. Public Comment – None.

4. Agenda Revisions – None.

5. **ACTION:** Consider Approval of February 16, 2022 EC meeting minutes.

Vote: Marshall motioned to approve, Lisen seconded. All in favor. None opposed.

6. **ACTION:** Recommend Approval of the Fiscal Year 2023 Workplan (see attached)

Staff presented a summary of the budget and new tasks for the Fiscal Year (FY) 2023 workplan. Tamara has comments on the Areas of Special Interest section. They recommended that we discuss the Water Board's Agricultural Order in the section addressing nutrient pollution and that we include the city of Morro Bay's water conservation efforts in the Water Reuse and Conservation section. Staff will research these topics and add any relevant information to this section.

Vote: Marshall motioned to approve the workplan with the addition of the items brought up by the Water Board, if relevant. Crow seconded. All in favor. None opposed.

7. **ACTION:** Recommend Approval of EC Bylaws Update (see attached)

Staff described the proposed changes to the bylaws, which had originally been discussed in the fall. Changes were made to broaden the definition of the Agricultural Interest seat and to clarify that the Water Board's Executive Officer or their designee approves the Restoration Fund spending. There were also a few logistical updates that were made.

Lisen asked why the definition of the Ag seat was being broadened, and staff explained that in the past, they had had difficulty recruiting members from the ag community to join the EC. By broadening the definition to Watershed Landowner, they thought it would be easier to fill the seat.

Vote: Bill moved to approve the EC bylaws per staff recommendations. Lisen seconded. All in favor. None opposed.

8. **ACTION:** Recommend Approval of Restoration Fund Spending to Support Eelgrass Work

Staff explained the need for non-federal funding to provide match for a federal grant supporting eelgrass monitoring. Marshall commented that he thought this was a good use of Restoration Funds.

Vote: Marshall motioned to approve the funding request. Bill seconded. All in favor. None opposed.

9. DISCUSSION: Semi-annual reports

Staff presented a highlight of the budgets from the semi-annual reports for the rollover funding and for the first half of FY2022.

10. DISCUSSION: ANEP and EPA Updates

The Association of National Estuary Programs (ANEP) has been working on the budget for FY2024, building support for the NEP budget. The Congressional Estuary Caucus submitted a letter of support for \$50M, which would give \$1M to each NEP. It seems more likely to be around \$800k for FY2024 for each program. There is still strong bipartisan support for the NEP program.

For the Comprehensive Conservation and Management Plan (CCMP) update, we are incorporating the final round of EPA comments and then the document will go through EPA's review process at the regional and headquarters levels.

11. DISCUSSION: Program Highlights

- **Community Project Updates:** Staff provided updates on the one recently completed and two ongoing Community Projects.
- **Monitoring Updates:** Staff provided an update on the spring bioassessment effort and the fall 2021 eelgrass map.
- **Restoration Project Highlights:** Staff provided updates on eelgrass restoration and an upcoming easement agreement. Also, projects can be difficult to get underway with Army National Guard Base Camp San Luis Obispo because the commander position turns over often. We've recently entered a Memorandum of Understanding with the California Military Department and multiple partner organizations to support sustainable water management.
- **Chumash NMS:** Staff referenced the presentation at the start of the meeting.
- **BIL Updates:** Staff are still awaiting the final guidance. We anticipate \$900k in supplemental funding. It looks like the funding will be prioritized for climate and equity related projects. Staff will be developing a strategy to spend the funds. If members know of projects that might be a priority for the region, please reach out to staff.

12. Adjourn at 5:37 p.m. to the next meeting of August 17, 2022 at 4:00 p.m., to be held remotely via Zoom.