Enhancing engagement with Tribes

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Senior Marine Biodiversity Program Manager & Tribal Liaison
California Ocean Protection Council

Regional Tribal Operations Committee Meeting
January 26, 2022
Who we are and what we do

• OPC is a cabinet-level state policy body nested within the California Natural Resources Agency

• OPC works to advance the Governor’s priorities for coastal and ocean policy
  • Advancing innovative, science-based policy and management
  • Making strategic investments
  • Catalyzing action through partnerships and collaboration

• OPC is committed to meaningful engagement with California’s Tribes and Tribal Governments
Enhancing engagement with Tribes: recent accomplishments

- **Tribal Engagement Strategy (Strategic Plan Target 2.1.1)**
  - A framework for enhanced partnership between OPC and Tribes on ocean and coastal issues
  - Fall 2021- engaged 10+ coastal Tribes through consultations and listening sessions
  - Next steps- draft Strategy distributed to Tribes for further consultation and collaboration

- **Wiyot Tribe sea level rise project**
  - $250,000 in Prop 68 funds to the Wiyot Tribe to support climate change adaptation and resiliency
  - Two complementary approaches: Traditional Knowledge and GIS inventory/mapping
  - Traditional Knowledge use protocol
Enhancing engagement with Tribes: recent accomplishments

• **Prop 1 projects**
  - $1M to support construction and restoration at Redwood National and State Parks
  - $1.2M to support the Wiyot Tribe’s acquisition and restoration of 48 acres of ancestral land

• **Tribal Marine Stewards Network**
  - Pilot program launched in June 2020 with 4 partner Tribes: Resighini Rancheria, Tolowa Dee-ni’ Nation, Kashia Band of Pomo Indians, Amah Mutsun Tribal Band
  - $1M initial investment from OPC, $500K+ from philanthropic partners
  - Improving Tribal capacity to monitor and manage marine protected areas (MPAs) within ancestral territories
  - Next steps- scale up, broaden scope, include more Tribes
Enhancing engagement with Tribes: recent accomplishments

- MPA Statewide Leadership Team
  - Regional Tribal representation
  - New 2021-2025 Work Plan includes statement committing to strengthening G2G relations
Enhancing engagement with Tribes: Next steps

- Improve coordination and reduce burden of engagement
- Increase co-management of ancestral lands and waters
- Support coastal and ocean access, including land return
- Co-develop research, monitoring, and restoration projects
- Provide consistent and stable funding, technical assistance, and capacity building to Tribes
Thank You!

Questions?
Michael.Esgro@resources.ca.gov
Overview of California’s Marine Protected Areas Management Program and Tribal Engagement

Stephen Wertz, Senior Environmental Scientist, CDFW

Regional Tribal Operations Committee Meeting
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Marine Protected Areas in California

- Marine Life Protection Act, 1999
- marine protected areas (MPAs) Management Program
- Engagement with Tribes
- Planning for 10-year management review
Marine Life Protection Act (1999)

- Requires redesign of California’s system of MPAs
- Science-based ecologically connected network
- Applies to state waters (0-3 nautical miles offshore)
- Department of Fish and Wildlife lead management agency
- Fish and Game Commission (Commission) authority to adopt MPAs
- Ocean Protection Council (OPC) is policy lead for California’s MPAs
Marine Life Protection Act Goals

- Protect biodiversity
- Rebuild populations
- Enhance research, education, recreation
- Protect marine heritage
- Manage, enforce, and sound science
- Ecologically connected network
California’s MPA Network

California's Network of Marine Protected Areas

- **State Marine Reserve**
- **State Marine Conservation Area (SMCA)**
- **SMCA (No-Take)**
- **SMCA / State Marine Park**
- **State Marine Recreational Management Area**
- **Special Closures**

Map showing the network of marine protected areas along the California coast, including state and federal reserves, conservation areas, and special closures.
MPA Management Program

Outreach and Education

Research and Monitoring

Enforcement and Compliance

Policy and Permitting
MPA Statewide Leadership Team

Regional Tribal Representation

Logos of various organizations related to marine and environmental conservation, including:
- California Department of Fish & Wildlife
- California Coastal Commission
- National Park Service
- California Water Boards
- California Ocean Science Trust
- MPA Collaborative Network
- Resources Legacy Fund
- National Marine Sanctuaries
- California State Parks
- U.S. Department of the Interior Bureau of Land Management
- California State Lands Commission
- United States Coast Guard
Tribal Representation on Leadership Team

Tribal Related Workplan Priorities:

• Recognition of Traditional Ecological Knowledge and its role in MPA management

• Recommend Tribal priorities for MPA Management Program

• Contribute to the development of MPA regulations, policies, and legislation affecting Tribes

• Develop co-management measures collaboratively with Tribes
Tribal Engagement To Date

- 2012-2018: OPC funded North Coast Tribal Baseline Project
- 2012-2017: Commission exempted Tribal take in several MPAs
- 2020: Commission adopted definition for co-management
- 2020: OPC Funded Marine Tribal Stewards Network Pilot Program
Decadal Management Review: 2022

- Research and Monitoring
- Tribes
- Stakeholder Input
- CDFW Coordination
- Science Advisory Teams
- CDFW Report to Fish and Game Commission
- Adaptive Management
- Future Monitoring Strategies
- Gaps in Knowledge/Additional ?’s

Adaptive Management

Future Monitoring Strategies

Gaps in Knowledge/Additional ?’s
Opportunities for Ongoing Engagement

Engagement thus far:

- Notification letter about MPA Management review
- Informal Tribal Steering Committee and Engagement Plan
- Fish and Game Commission meetings
  - Tribal committee
  - Marine Resources committee

How can we effectively engage Tribes for the review?
Thank You  ◆  Questions

Stephen.Wertz@wildlife.ca.gov, or (562)343-3808

MPAManagementReview@wildlife.ca.gov

wildlife.ca.gov/Conservation/Marine/MPA
Commission Origins and Role

1870: Board of Fish Commissioners

1909: Renamed Fish & Game Commission

1927: Division of Fish and Game established

1940: Became a separate, constitutional body by initiative
Commission Origins and Role

Public-facing body to make complex public policy and regulatory decisions on behalf of Californians and California’s fish and wildlife

Decisions require understanding and weighing a mix of science and social values

Close partnership with the Department of Fish and Wildlife (DFW) to address issues

Work with other agencies, tribes, landowners, NGOs, industry, and more

Fish and wildlife issues can be contentious!
Over 200 in Fish and Game Code

Public Resources Code

Government Code

In general, jurisdiction over nearly every living thing in California except agriculture, domestic animals, and people
Types of Decisions (partial list)

Formulate policies for the Commission and DFW

Regulate take for various birds, mammals, sport and some commercial fish, amphibians, reptiles

Approve framework documents, such as master plans for marine fisheries

Listing/delisting species under the California Endangered Species Act

Establish and regulate uses on wildlife areas and other protected land/water

Restricted species, aquaculture, kelp harvest, license/permit appeals
Commission Structure

Five members, appointed by governor, confirmed by Senate, with 6-year staggered terms

Approx. $1.8 million budget and staff support of 12 people

Supported by the work of hundreds of DFW staff

Meetings every two months, spanning 1-2 days

Meet throughout state to encourage participation
Committees

Marine Resources, Wildlife Resources, and Tribal committees

Each chaired by up to two commissioners

Workgroups composed of a breadth of interests, such as predator policy, fisheries bycatch

Special outreach projects, such as Coyotes in the Urban Environment, Coastal Fishing Communities, Tribal Subsistence

Public Process [subject to Bagley-Keene/APA] Goal is informed, transparent, public, decision-making
Tribes and the Commission
Tribes and the Commission

No jurisdiction on Tribal Trust Lands, federal lands or waters, federally-managed species (e.g. marine mammals, Pacific salmonids [outside of state waters])

No enforced treaties in California (versus other western states)

In general, jurisdiction over nearly every living organism in California (except agriculture, domestic animals, and people)

Most of the 100+ reservations in California are very small (all under 12 mi²)

Most tribal subsistence/culturally significant resources reside off reservation, under state jurisdiction
Purpose of the Policy

• California Native American Tribes, whether federally recognized or not, have distinct cultural, spiritual, environmental, economic and public health interests and unique traditional knowledge about the natural resources of California.

• The purpose of this policy is to create a means by which tribes and FGC can effectively work together to realize sustainably-managed natural resources of mutual interest.
Tribal Consultation Policy (continued)

Policy Implementation – four elements

1. Communication. FGC will annually host a tribal planning meeting to coordinate the upcoming regulatory and policy activities before FGC. The meeting will provide a venue for education about process, identifying regulatory and policy needs, and developing collaborative interests; this will include inviting sister agencies to participate.

2. Collaboration. In areas or subjects of mutual interest, FGC will pursue partnerships with tribes to collaborate on solutions tailored to each tribe’s unique needs and capacity.

3. Record-keeping. FGC will maintain a record of all comments provided by tribes and will include them in administrative records where appropriate.

4. Training. FGC will provide training to interested tribes on its processes for regulation and policy development.
Sample submitted items for discussion:

- Improving Commission engagement with tribes
- Costs associated with tribal subsistence activities (e.g., permit and license fees), including hunting, fishing and gathering
- Tribal rights to subsistence on state lands, including marine reserves, sanctuaries, easements, and conservation and wilderness areas
- Mechanisms to expand access to plant materials for food, medicine, basketry, ceremonial items, and other traditional practices
- Access to aboriginal lands for cultural and religious purposes
- Access to animal remains, including species listed under the California Endangered Species Act and seized items from state repositories [related, wildlife salvage permits/roadkill program per California Senate Bill 395]
- Rights, resources, and access to lands for cultural burning to maintain and revitalize the health of aboriginal lands, cultural and natural resources
## California Fish and Game Commission Tribal Committee (TC) Work Plan
### Scheduled Topics and Timeline for Items Referred to TC

*Updated August 18, 2021*

<table>
<thead>
<tr>
<th>Topic / Goal</th>
<th>Type / Lead</th>
<th>Aug 2021</th>
<th>Dec 2021</th>
<th>Apr 2022</th>
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<tbody>
<tr>
<td><strong>Special Projects</strong></td>
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<tr>
<td>FGC justice, equity, diversity and inclusion plan</td>
<td>FGC Project</td>
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<td>X</td>
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<tr>
<td>Co-management definition implementation</td>
<td>TC Project</td>
<td>X</td>
<td>X</td>
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<td>Coastal Fishing Communities Project: Updates</td>
<td>MRC Project</td>
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<td>X</td>
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<tr>
<td><strong>Regulatory / Legislative</strong></td>
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<tr>
<td>Kelp and algae harvest management regulations: Updates and then recommendation and guidance</td>
<td>Regulation Change</td>
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<td><strong>Developing Management Issues</strong></td>
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<tr>
<td>FGC Climate Policy: During development of policy, make recommendations and provide guidance</td>
<td>FGC Policy</td>
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<tr>
<td><strong>Management Plans</strong></td>
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<tr>
<td>Sheep, deer, antelope, trout, abalone, kelp/seasword: Updates and guidance (timing as appropriate for each)</td>
<td>DFW</td>
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<td><strong>Informational Topics</strong></td>
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<td>Definition of “tribal subsistence” and related management mechanisms</td>
<td>FGC</td>
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<td>Marine Protected Areas Statewide Leadership Team (MSLT): Update on tribal participation in MSLT and implementation of the MSLT work plan</td>
<td>OPC Project</td>
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<td>Wildfire impacts and state response: Update as requested</td>
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<td>Statewide kelp recovery efforts: Update as requested</td>
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<td>Kelp recovery efforts at Casper Cove and Tankers Reef</td>
<td>DFW</td>
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<td>Annual tribal planning meeting: Review topics discussed at annual meeting</td>
<td>FGC</td>
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<td>Cross-pollination with MRC and WRC: Identify tribal concerns and common themes with WRC and MRC</td>
<td>FGC Committees</td>
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<td>FGC regulatory calendar: Update</td>
<td>FGC staff</td>
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<td>Status of abalone recovery: Update as requested</td>
<td>DFW</td>
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<tr>
<td>Proposition 64 (cannabis): Update as requested</td>
<td>DFW</td>
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<td>West Coast Ocean Alliance Tribal Caucus: Presentation and discussion regarding work to enhance coordination and management along the West Coast (Aug 2020)</td>
<td>FGC staff</td>
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</table>

**Key:**  
-X = Discussion scheduled  
-X/R = Recommendation developed and moved to FGC  
FGC = California Fish and Game Commission  
MRC = FGC Marine Resources Committee  
DFW = California Department of Fish and Wildlife  
WRC = FGC Wildlife Resources Committee
California Fish and Game Commission
Co-Management Vision Statement and Definition
February 2020

Vision Statement
The vision of tribes, the California Fish and Game Commission, and the California Department of Fish and Wildlife is to engage in a collaborative effort between sovereigns to jointly achieve and implement mutually agreed upon and compatible governance and management objectives to ensure the health and sustainable use of fish and wildlife.

Definition
A collaborative effort established through an agreement in which two or more sovereigns mutually negotiate, define, and allocate amongst themselves the sharing of management functions and responsibilities for a given territory, area or set of natural resources.
California Fish and Game Commission
What is the Tribal Committee?

The Tribal Committee is a statutorily-identified committee of the California Fish and Game Commission, comprised of no more than two commissioners, with assignments made by the Commission each year. The Committee serves in an advisory capacity to the Commission.

The goal of the Committee is to allow greater time to investigate issues before the Commission than would otherwise be possible. Committee meetings are less formal in nature and provide for additional access to the Commission. The Committee follows the noticing requirements of the Bagley-Keene Open Meeting Act. It is important to note that the Committee co-chairs cannot take action independent of the full Commission; instead, the co-chairs make recommendations to the full Commission at regularly scheduled meetings.

The Commission's goal is preserving our outdoor heritage and conserving our natural resources through informed decision-making; Committee meetings are vital in developing recommendations to help the Commission achieve that goal.

The Tribal Committee operated as an ad-hoc committee of the Commission between 2014 and 2017, and then was formally established as a permanent committee through State law effective January 1, 2018. California Fish and Game Code Section 106.5 specifies:

The commission shall form a **tribal committee** from its membership consisting of at least one commissioner. The committee shall report to the commission from time to time on its activities and shall make recommendations on all tribal matters considered by the commission. The committee or its designee shall, to the extent practicable, attend meetings of the department staff, including meetings of the department staff with interested parties, in which significant tribal management documents are being developed.

*(Added by Stats. 2017, Ch. 457, Sec. 1. (SB 161) Effective January 1, 2018.)*
What’s on the horizon for Tribes and FGC?

New Tribal Committee Project

Goal
Identify opportunities to develop in state statute and/or regulation an actionable definition of California Native American subsistence activities that is distinct from “commercial” or “recreational”.

At least four (4) working meetings of an informal work group will be convened in 2022.
Thank you

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https://fgc.ca.gov/