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NATURAL
RESOURCES
AGENCY

Enhancing engagement with Tribes

Michael Esgro

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**



KCET



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



Tribal Marine
Stewards Network



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



Tribal Intertidal Digital Ecological Surveys (TIDES) Project

- 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



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Thank You!

Questions?

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Overview of California's Marine Protected Areas Management Program and Tribal Engagement

Stephen Wertz, Senior Environmental Scientist, CDFW

Regional Tribal Operations Committee Meeting
January 26, 2022





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





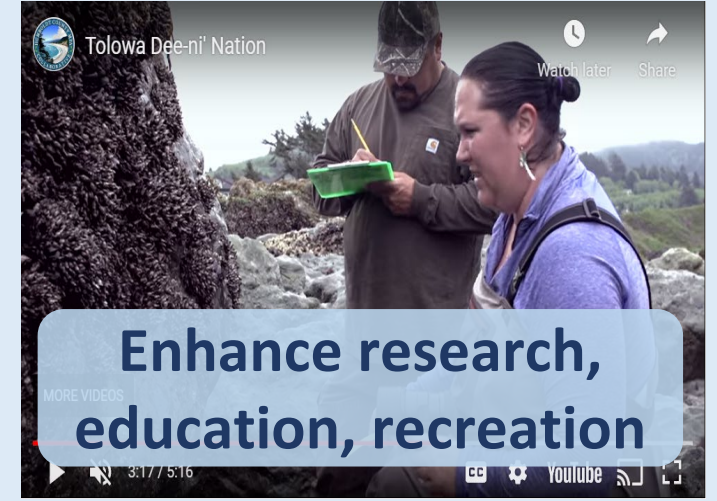
Marine Life Protection Act Goals



Protect biodiversity



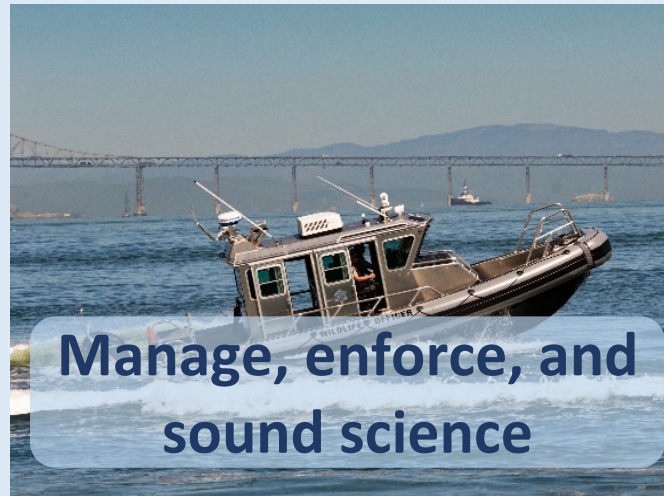
Rebuild populations



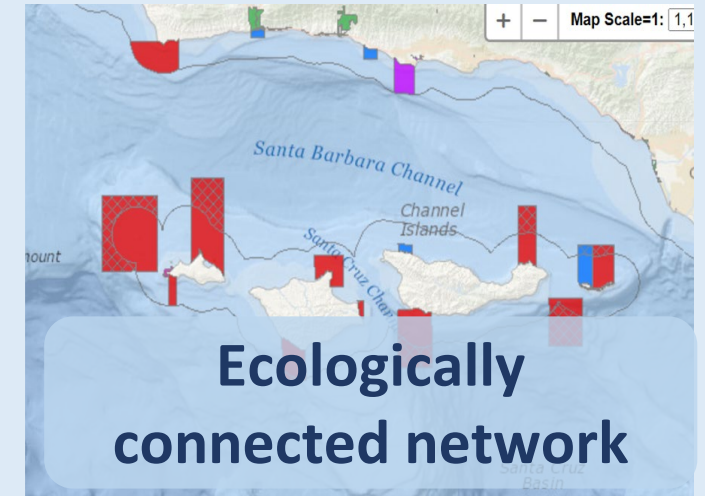
Enhance research, education, recreation



Protect marine heritage



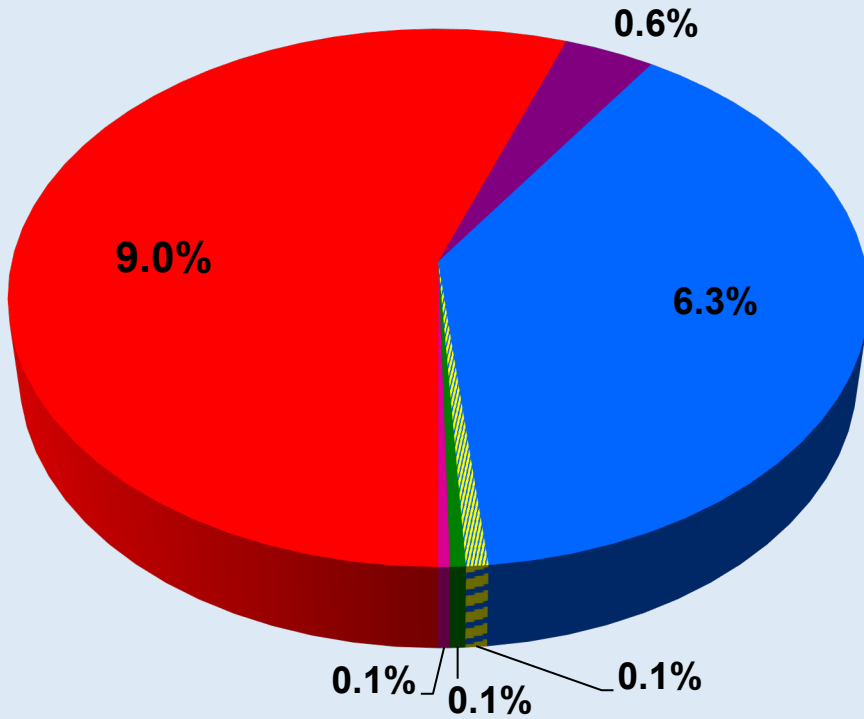
Manage, enforce, and sound science



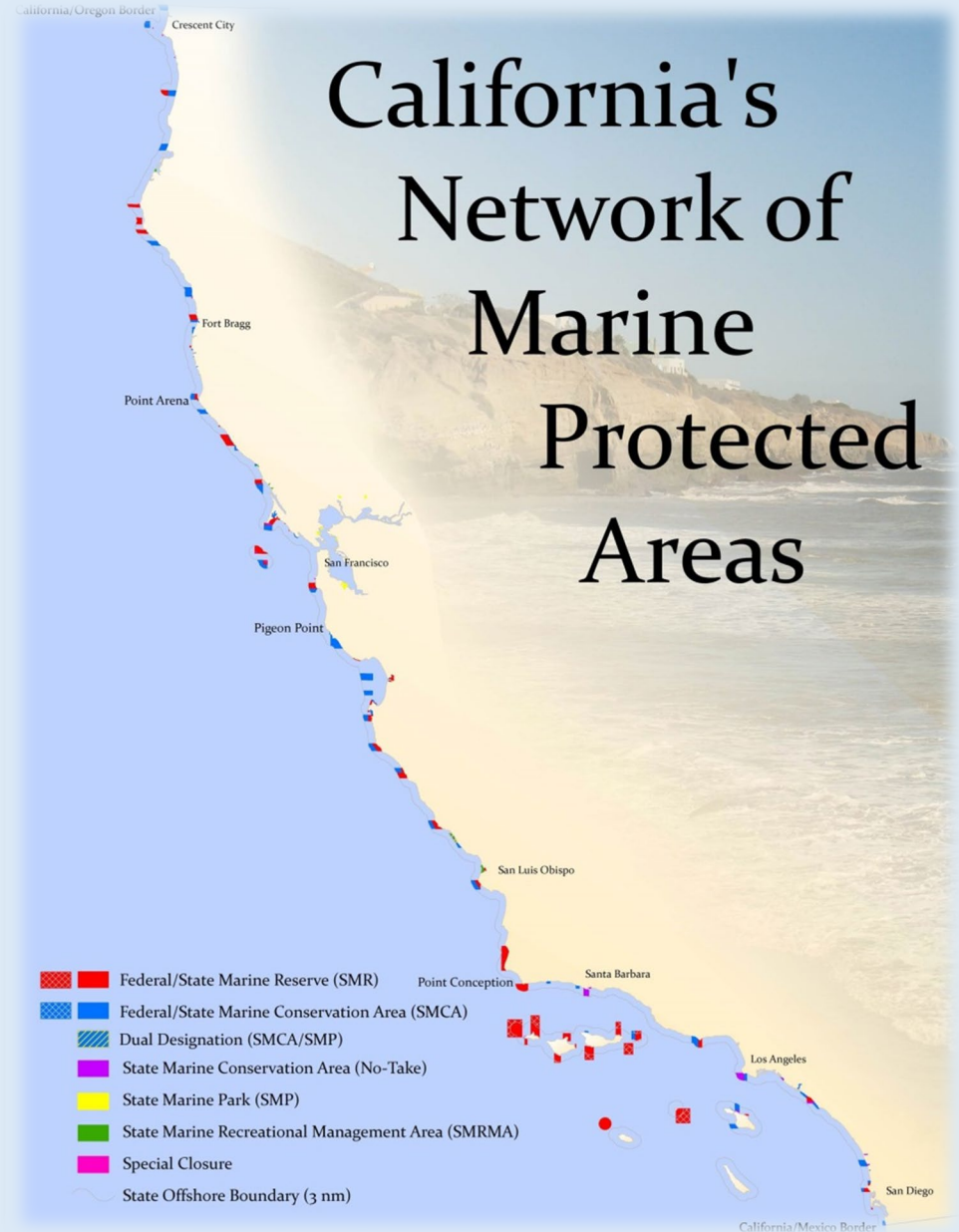
Ecologically connected network



California's MPA Network



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





MPA Management Program



Outreach and Education



Research and Monitoring



Enforcement and Compliance



Policy and Permitting



MPA Statewide Leadership Team



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Regional Tribal Representation



CALIFORNIA
Water Boards
STATE WATER RESOURCES CONTROL BOARD
REGIONAL WATER QUALITY CONTROL BOARDS



CALIFORNIA
OCEAN
SCIENCE
TRUST



MPA COLLABORATIVE
NETWORK



RESOURCES LEGACY FUND
Creative Solutions. Lasting Results.



NATIONAL MARINE
SANCTUARIES
WEST COAST REGION

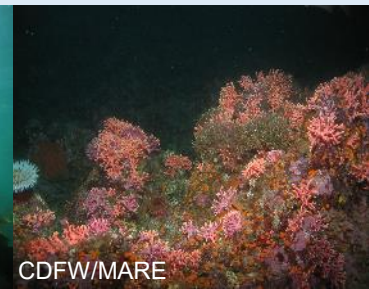




Tribal Representation on Leadership Team

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





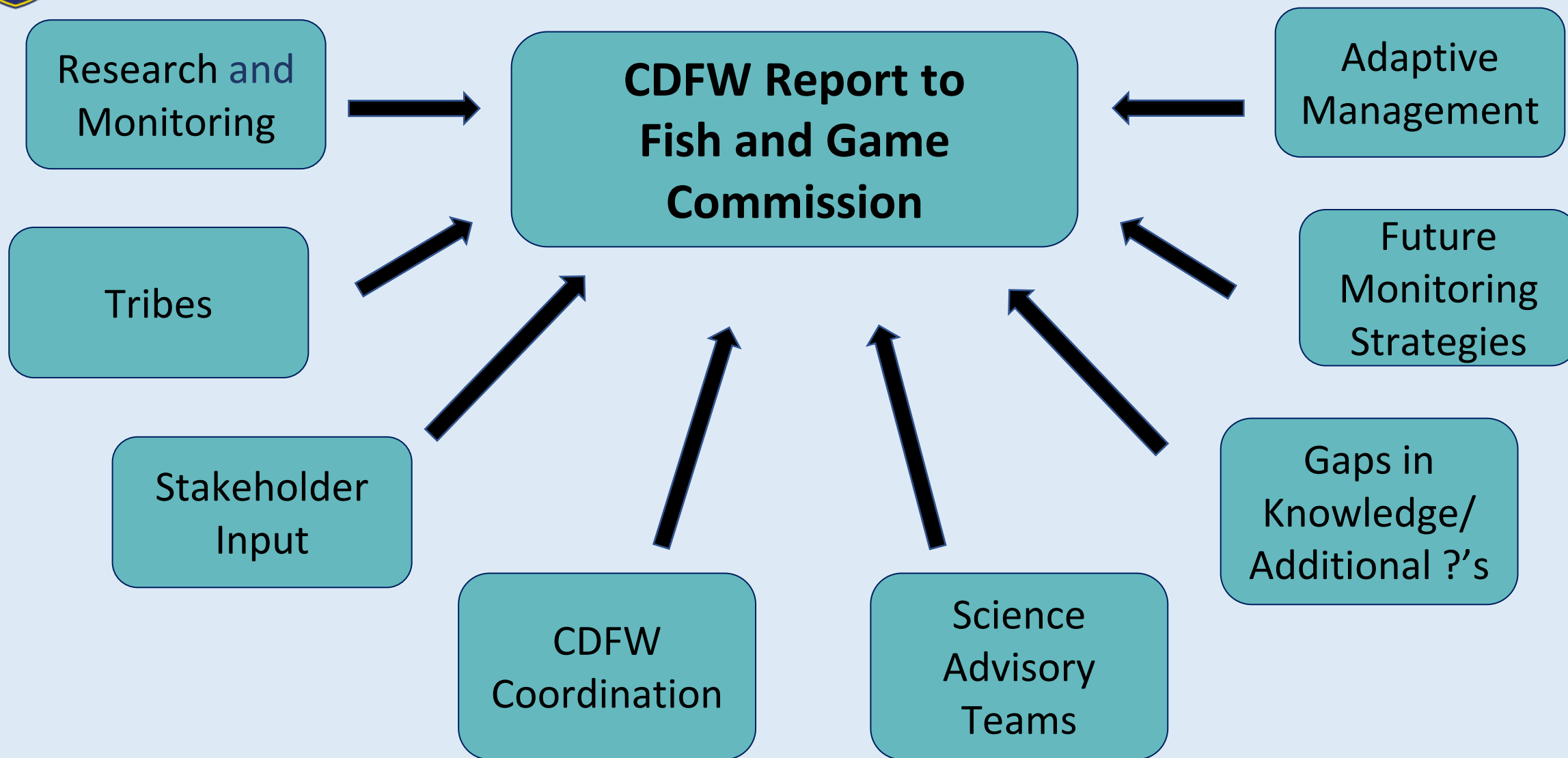
Tribal Engagement To Date

- 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



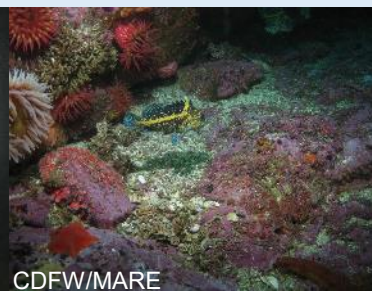


Opportunities for Ongoing Engagement

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

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wildlife.ca.gov/Conservation/Marine/MPA





California Fish and Game Commission

Regional Tribal Operations Committee – Winter Meeting

January 26, 2021

Chuck Striplen, Tribal Advisor & Liaison

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

FISH AND GAME COMMISSION. Assembly Constitutional Amendment 45. Amends Constitution, Article IV, section 25½. Creates Fish and Game Commission of five members, appointed by Governor subject to confirmation by Senate, with six-year terms, removable by majority vote of Legislature; rotates terms by requiring terms of those first appointed shall expire one each year. Empowers Legislature to delegate to Commission powers relating to protection, propagation and preservation of fish and game.

YES

NO

Assembly Constitutional Amendment No. 45—A resolution to propose to the people of the State of California an amendment to section 25j of Article IV of the Constitution of said State, relating to fish and game and a commission to enforce and administer the laws relating thereto.

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California, at its fifty-third regular session, commencing on the second day of January, 1939, two-thirds of all of the members elected to each of the two houses of the Legislature voting in favor thereof, hereby proposes to the people of the State of California that section 25j of Article IV of the Constitution of said State be amended to read as follows:

(This proposed amendment expressly amends an existing section of the Constitution; therefore, EXISTING PROVISIONS proposed to be DELETED are printed in STRIKE-OUT TYPE; and NEW PROVISIONS proposed to be INSERTED are printed in BLACK-FACED TYPE.)

PROPOSED AMENDMENT TO THE CONSTITUTION.

SEC. 25j. The Legislature may provide for the division of the State into fish and game districts; and may enact such laws for the protection of fish and game therein in such districts or parts thereof as it may deem appropriate to the respective districts.

There shall be a Fish and Game Commission of five members appointed by the Governor, subject to confirmation by the Senate, with a term of office of six years, except that the terms of the members first appointed shall expire as follows: one member, January 15, 1943; one member, January 15, 1944; one member, January 15, 1945; one member, January 15, 1946; and one member, January 15, 1947. Each subsequent appointment shall be for six years, or, in case of a vacancy, then for the unexpired portion of such term. The Legislature may delegate to the commission such powers relating to the protection, propagation and preservation of fish and game as the Legislature sees fit. Any member the commission may be removed by concurrent resolution of the Legislature passed by the vote of a majority of the members elected to each of the two houses thereof.

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!



Commission Mandates and Authorities



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



California Fish and Game Commission

Tribal Consultation Policy

Adopted June 2015

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.



California Fish and Game Commission

Roundtable Discussion about Tribal Priorities and Issues of Concern

July 28, 2021

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

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

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/>