

Marine Hearings Buoyed by Nonprofits

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Anglers sue to block fishing ban

Expanded marine protections for Southern California were recently finalized after months of debate, but fishermen that oppose the outcome maintain the process was tainted because of a little known fact: the hearings were largely funded by non-profits that support marine sanctuaries.

Five non-profits, including one based in Laguna Beach, donated a total of \$20 million to see the drafting process to completion since the state legislature never budgeted adequate funding for the marine-protection law, which was enacted in 1999.

Meanwhile, recreational fishermen continue to fund litigation and lobbying to roll back the new regulations, which could go into effect as soon as April. The new rules will broaden marine protected areas that bar commercial and recreational fishermen from some prized fishing grounds, including most of Laguna Beach's shoreline, a favorite of spear-fishermen and lobster-hunters for decades.

David Myers, owner of Dana Point's Jig Stop Tackle and leader of the southern California recreational fishing group United Anglers, maintains that MLPA funding by environmental supporters is a conflict of interest.

"Since the process was rigged from the beginning, the fact is this is what the government wanted, and created the process to achieve it. We are working after the fact here, because it was totally controlled," Myers said.

Others involved with the legal process refute his contention.

"They wanted the law implemented and were willing to put up \$20 million to ensure that we had a public process and everyone was heard. That's good public policy," said Ken Wiseman, director of the MLPA Initiative, the public-private partnership appointed by state officials to implement the law.

"Private philanthropic foundations were only involved on the condition that there would be a rigorous public process and serious scientific involvement, and deadlines. They would have no say at all over the direct decision-making," said Michael Mantel, a partner in Sacramento's Resources Legacy Fund law firm, appointed by state officials to handle funding of the Marine Life Protection Act.

Four months before broader marine protections were finalized in December, lobbyist George Osborn, hired by four recreational fishing groups, pressed their case in person with gubernatorial candidate Jerry Brown, who expressed sympathy to their cause.

Last May in Sacramento's Superior Court, Robert C. Fletcher, then president of Sportfishing Association of California, successfully sued three state agencies overseeing MLPA regulations in order to obtain their internal communications. Fletcher alleged Fish and Game staff were conducting closed-door meetings in what is mandated as a public process.

Wiseman denies the contention, saying some committee members talked over a meal while traveling, but all meetings involving decision-making were held in public. Wiseman dismisses Fletcher's move as an attempt to derail a process he opposes. Fletcher says the judge's finding in his favor is evidence his contention is correct.

Even so, Wiseman does admit there is an agenda: implement the law even if the state is broke.

“(The funders) are certainly pro-MLPA; that’s why they put up the money. They are conservationists and fishermen. Yes, they wanted the law implemented, just as the PSO wanted it stopped. Now, not able to convince people their program is the only one that’s right, they do this,” Wiseman said of the lawsuit.

The group responsible for shaping the protected areas was made up of appointees named by directors of the state Department of Natural Resources and Fish and Game Department and included Fletcher. “If they wanted a predetermined outcome they wouldn’t put someone like Fletcher on the RSG (regional stakeholder group). But they did,” Wiseman said.

Because the cash-strapped state has ceded underwriting of some public business to such public-private partnerships, the process, at the very least, creates the appearance of a conflict of interest by the funders, a situation others say is likely to flourish as the state’s fiscal crises continues.

“This is not uncommon. It has been done in the health care and education fields. Striped bass regulations and hunting regulations are all funded by fishing and hunting interests,” explained Mantel. “The important thing is transparency, full disclosure, and the decision-making be retained by public officials.

“As the budget crisis gets more severe, there will be more looking for public-private partnerships,” he added.

Others echo his sentiment.

“There is only going to be more stuff that the state is supposed to do and not have the resources to do, and that discussion is going to be taking place more and more,” said Chris Decardi, program director for the Packard Foundation, which contributed \$8.2 million to fund MLPA hearings.

The Laguna Beach-based Marisla Foundation founded by Getty Oil heiress Anne Getty Earhart, which supports environmental causes as well as physical, mental, and financial health for women, gave another \$3 million over several years, according to the Resources Legacy Fund. The most recent tax records show Marisla donated \$12 million in 2008 to 50 causes, including \$1.1 million towards the MLPA. A foundation spokeswoman declined comment.

Remaining MLPA funders were the Gordon and Betty Moore Foundation, which donated \$7.4 million, the Keith Campbell Foundation’s \$1.2 million, and the Annenberg Foundation’s \$200,000.

The Marine Life Protection Act called for the creation of a network of marine protected areas across the state’s entire 1100-mile coastline as well as research, public outreach, and ongoing monitoring of regulated areas. Enforcement responsibility was delegated to multiple agencies, including wildlife and parks officials. Then Gov. Gray Davis signed the law but allocated no funding, saying the law’s promoters needed to raise funds on their own to implement it.

They may want to start a legal fund as well. Fletcher, along with United Anglers of Southern California and Coast Side Fishing Club, again went to court to halt the new sanctuaries. In a lawsuit filed last month in San Diego Superior Court, they claim the Fish and Game Commission has finalized regulations prematurely as it has not satisfied an MLPA requirement to establish a master plan for rolling out marine protected areas.

Seven years ago, the commission approved a draft master plan, which has been amended as each sub-region in the state devises its own marine protections, Wiseman explained.

“That is what we have been operating with. So this lawsuit seems like a new attempt to throw something else into the mix.”