

# Fishing for Trust

*Does It Take a Certain Kind of Personality to Craft Public Policy?*

**by Jason Mark**



Samantha Murray has her dream job. The 32-year-old's business card states that she is the "Pacific Region Ecosystems Manager" for the Ocean Conservancy, a wonkish title that gives her the opportunity to be involved in one of the most important ocean preservation efforts underway — the implementation of California's Marine Life Protection Act, the first state law in the US to establish a network of coastal protected areas. Equally important for Murray, an athletic and energetic blonde, the job gives her the chance to get out of her San Francisco office and spend many of her days on the water.

"I was like one of those million girls who wanted to be a marine biologist," says Murray, who then jokes that her tattoos of a dolphin and a ring of fish would seem ridiculous if she hadn't ended up as a professional ocean advocate. Although Murray grew up in Minnesota, she says she has always felt a powerful affinity for the sea. "I just love being out on the water because I grew up outside all the time. It reminds me of where I'm from."

These days, when Murray — an occasional surfer and sometime diver — gets out on the water, it's often in the company of fishermen. Because the Marine Life Protection Act (MLPA) encourages collaboration among different interest groups with a stake in ocean health, Murray has made it her job to get to know the dwindling number of fishermen (and they are mostly men) who make their living from the sea. Which is why, on a hazy December day, she has driven to the village of Bolinas to catch up with some of the guys she became friends with during the lengthy MLPA negotiations.

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"She's feisty and smart," Josh Churchman says. According to Samantha Murray, he's "a salty dog with a really big heart."

Photographed at San Francisco's Pier 45 by Anne Hammersky, [www.annehammersky.com](http://www.annehammersky.com).

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When Murray arrives at the Bolinas harbor — little more than a narrow channel with a handful of small boats moored to a tiny dock — Josh Churchman, the *eminence gris* of the local fishing scene, is waiting to greet her. After

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exchanging a hug, Churchman offers her a present: a pair of tomatoes grown in his backyard greenhouse, bright red and perfectly sweet. The tide is still out, and there's at least an hour before Churchman's boat can leave the dock, so the two decide to kill some time at the local café with another area fisherman, Jeremy Dirks.

The group has barely finished ordering when the conversation turns to the touchy subject of ocean regulations. It's clear that Churchman and Dirks are frustrated by the increasingly tangled net of regulations they must navigate to bring in a catch.

"We used to be able to catch rock cod, halibut, tuna, salmon, crab," complains Dirks, a 30-something surfer-fisherman who started fishing with Churchman when he was in the sixth grade. "Now we're down to one half of one species — halibut. It sucks. What am I supposed to live on?"

Churchman — his round, ruddy cheeks and bushy eyebrows sticking out beneath a short-brimmed cowboy

hat — tries to play referee. "I see the MLPA as trying to save something for the future," he says. "But if there's nobody on the water, what is there to save? This boils down to saying, 'You can catch a halibut, but you can't go where they live.'" An ironic laugh bubbles up from his throat: "It's perfectly sustainable!"

Murray weathers the complaints and lets them break over the plates without comment. When she does offer a counterargument, it's to remind them that, with the MLPA process, fishermen are closely involved with the decision-making, and that even if they aren't entirely happy with the final marine boundaries, the system was democratic. "I think they were trying to be fair," Dirks grumbles. "But it wasn't fair."

Before paying the check, Murray offers everyone a peace offering: Ocean Conservancy bumper stickers that read "My other state park is underwater."

"It should say, 'Support your local hook-and-line fisherman,'" Dirks rejoins.

Whatever tensions there had been in the café evaporate as soon as Murray and Churchman board his tiny skiff — a slim, 22-foot vessel barely large enough to accommodate a wheelhouse, a hydraulic winch for pulling up the crab traps, and a few stacks of plastic crates to put the catch in — and head toward the open water.

Churchman has set aside the afternoon to check some of his 200 crab traps sunk about two miles from the Marin Headlands. But it's not easy to spot the buoys marking the crab pots. "I picked these pink buoys years ago and just stuck with them," Churchman says. "But pink is hard to see."

"So why did you choose it?" Murray asks.

"Because pink is hard to see," he responds dryly, a none-too-subtle dig at other fishermen who might try to poach his catch.

As Churchman pilots the boat, the pair chats merrily. They trade notes



Small, artisanal fishermen, like the crabber here, say that federal and state regulations are making it impossible to survive. “Now we’re down to one half of one species,” says a Bolinas fisherman. “What am I supposed to live on?”

on what they bought their families for Christmas. They share gossip. At one point, Murray asks if he still has the dream catcher she gave him. “Oh sure, it’s still over my bed. In fact, right after I got it, I asked my wife, ‘How do you turn this thing off?’”

Murray actually ribs him, poking an elbow into his side. The fisherman — a six-footer with thick, round shoulders — keeps his eyes on the water.

The trip turns out to be disappointing. The crew keeps only three crabs after pulling up seven traps, and further hauls are likewise lackluster. Barely an hour after leaving port, Churchman turns back toward shore with less than 30 pounds of crab filling a single crate.

The boat is almost in the harbor channel when a light rain starts. Veiled sunlight glints off the ocean surface, making the water look like polished platinum, and the two share a quiet moment of appreciation for the simple splendor of the physical world. “Look,

that’s a beautiful sight,” Churchman says as a group of brown pelicans glide past. “Yeah,” Murray whispers.

The camaraderie between Churchman, a veteran fisherman, and Murray, a hired environmentalist, may appear surprising. After all, these are two people whose professional interests are in many ways opposed to each other. Yet despite the conflict, they have become friends. “I like Samantha because she’s feisty and smart,” Churchman says, then adds a joke: “You definitely couldn’t call her a dumb blonde — she doesn’t eat fish.”

The MLPA has been heralded as innovative for its method of creating a chain of ocean reserves to protect marine ecosystems. But perhaps the law’s real genius lies not in the policy outcomes, but in the process of give-and-take required to reach that outcome. “I think, overall, California is setting an example,” says Karen Garrison, an ocean policy expert at the Natu-

ral Resources Defense Council (NRDC). “We are creating networks, not just stand-alone parks, and that creates a bigger bang for the buck. We are also including everyone in the design process.”

That ideal of inclusion is intended to foster compromise, a process that itself relies on the creation of genuine human connections. In this experiment in deliberative democracy — what one participant calls “environmental treaty-making” — real relationships are a prerequisite for success.

“It’s not just a nine-to-five, because you have actual relationships with these people, and the lines between your personal life and your professional life get very fuzzy,” Murray says. “You just have

to act like yourself, and go out on the boat, and have a good time. I really like hanging out with those dudes. They are salt-of-the-earth, real people.”

**T**oday, Garrison and Murray are sought after by policymakers from the EU to Oregon for suggestions on how to replicate the MLPA. That’s a gratifying experience, especially given the fact that the MLPA got off to such a poor start that many people expected the legislation would never be implemented.

Approved by the California Legislature in 1999, the MLPA is exceptional in several ways. One of its goals is to protect “unique marine life habitats” for their “intrinsic value” — especially strong language as environmental legislation goes. And rather than focus on a single species or pursue a blanket regulation for the California coast (which stretches for 840 miles and extends



from the shoreline for three nautical miles, at which point federal jurisdiction takes over), the bill sets out to create a network of protected areas. Some parts of the coast would be established as “Marine Reserves” where no fishing would be permitted. Other areas would be classified as “Marine Conservation Areas” in which some commercial and recreational fishing would be allowed, and still others as “Marine Parks” where only recreational fishing could occur.

“This is the first law in California that takes a proactive approach to protecting ecosystems,” Garrison says. “It protects hotspots of biodiversity, a full range of habitats.”

To set up the marine protected areas, the Fish and Game Department pulled together a team, mostly made up of scientists, to draft a plan. The team worked for 18 months drawing lines on a map, then prepared for a series of meetings to present its conclusions to the public. This type of policy making is what one MLPA participant calls “decide-announce-defend.”

In this case, the defense went poorly. The Fish and Game officials’ proposal was greeted with massive opposition from fishermen who felt they were being shoved off the water. In addition to concerns about the size and location of the protected areas, there were loud complaints about the process.

“The public workshops went over like a lead balloon,” says Melissa Miller-Henson, the program manager for the MLPA. “The public and key stakeholders were really upset that they hadn’t been consulted before the release of the plan. I think the strongest reaction was from the commercial and recreational fishermen. But I heard it from all sides — conservationists, fishermen, divers. The Department learned that they had to involve the public more in the development of these proposals from the very beginning.”

So state officials decided to re-start the process from scratch and convened

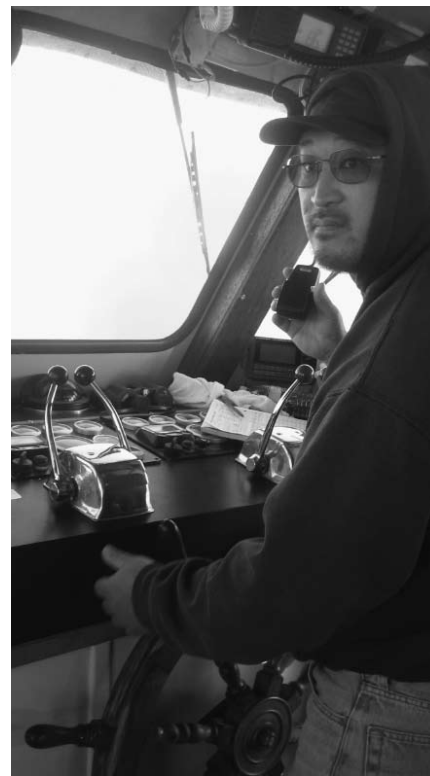
seven stakeholder groups — fishermen, environmentalists, charter boat operators, scientists, and others — to develop the marine protected areas. But the Fish and Game Department had underestimated the time (and money) it would take to complete the process. The stakeholder groups had held just two meetings when a combination of budget shortfalls and the distraction of the Governor Gray Davis’s recall brought everything to a halt.

The second failure of the MLPA led many environmentalists to worry (and many fishermen to wish) that the law was doomed. “Some people, I think, just hoped it would go away,” says Jim Webb, a past president of the Cambria Fishing Club, a group of recreational fishermen.

Then a *deus ex machina* appeared. A coalition of private foundations committed to provide enough money to put the process back on track. With fresh budget support, state officials designed a new system for implementing the law. They split California’s coast into five geographic zones. Each zone would have its own Stakeholder Group — made up of a broad range of interest groups — that would develop proposals for that region’s protected areas. A Science Advisory Team would evaluate the stakeholders’ proposals three times and send them back to the stakeholders for revisions. Next, the proposals would go to a special Blue Ribbon Task Force for additional review. Finally, the state’s Fish and Game Commission would make the lines into law.

The basic idea behind the complex structure was to give the public plenty of opportunities to contribute their views. “It’s the stakeholders who are designing this,” Miller-Henson says. “It’s not the scientists; it’s not the resources managers; it’s not the governor. It’s the people who live, work, and play along these coastlines. And I don’t see anyone in the world who is doing anything similar.”

The third attempt to implement the



Courtesy Samantha Murray

Emeryville charter boat operator Jay Yokomizo says the negotiation process involved “a lot of give and take.”

MLPA began in June 2005, when stakeholders from the Central California coast — the region from Pigeon Point south to Point Conception — gathered to create the protected zones for their shoreline. Over the next nine months, the group would meet regularly to share information, hear each others’ views, and develop a compromise proposal for the region. “It took a long time — months and months and months,” Webb says. “But despite the obvious differences, we were able to see the task done.”

In April 2007, the Fish and Game Commission approved a plan for the Central Coast. Eighteen percent of state waters in the zone were set aside for protected areas, with eight percent of the total put into “no-take” reserves. Fred Keeley, the now-retired California Assemblyman who wrote the legislation, called the agreement “unprecedented.”

With the first zone complete, state officials turned their attention to the

North-Central region, the area stretching from Half Moon Bay north to Point Arena. It was as selected members of that region's Stakeholder Group that Samantha Murray and Josh Churchman met — and eventually became friends.

**T**he first gathering of the North-Central Stakeholder Group did not inspire a lot of confidence. At the start of the meeting, Mike McHenry, a life-long fisherman from Half Moon Bay, assailed NRDC's Garrison for her opposition, years earlier, to squid fishing. "First thing I do is rip Karen Garrison, and say, 'You just want to put us out of business,'" McHenry recalls. "And I started getting in their face pretty good. I said, 'You say you want to work together, but you are putting me out of a job.'"

As past grievances and perceived betrayals clouded the mood, there was a sense, especially among the fishermen, that political games were lurking at the edges of the negotiations. Some participants were confused about what exactly was expected of them as stakeholders.

"Everyone was in their own corner, eyeing each other suspiciously," says John Mellor, a San Francisco fisherman. "Going into it, I was pretty cynical about the whole thing. I was cynical about the environmentalists' position, and I was cynical about the fishermen, because they can be just as knee-jerk. I didn't want to be identified as anything; I didn't want to be caricatured and put into a box."

Many of the stakeholders felt overwhelmed by the sheer amount of information they were being asked to review — enough paper, one participant joked, to fill up a wheelbarrow. This in itself was a source of tension. The fishermen feared the MLPA was relying too much on the "best available science" provided by the state's Science Advisory Team. Well aware that the negotiations would involve minutiae such as the

fishing grounds around Chimney Rock or the exact outlines of Duxbury Reef, the fishermen felt that their experiential knowledge wasn't given the same weight as peer-reviewed studies.

"These f---ing scientists, they don't have a clue about any of this crap, but they have a list of credentials six feet long," McHenry says. "I am out there every day of my life, but they're the ones who think they know what's going on."

"I think the deck was stacked against us," Mellor says. "All of these environmental attorneys are paid to be there, and they are very smart and very good at what they do. And we had five commercial fishermen, none of us with any real education, because we had been fishing our whole lives."

But slowly, steadily, tensions eased as the participants learned they shared one key ideal: a desire to see the oceans become healthier. "I knew we had to close something," McHenry says. "If we didn't, we wouldn't have anything to fish in 50 years."

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Equally important was that as the negotiators spent more time together, they got to know each other, not as competing interest groups, but as actual people. They learned the intimate details of each other's lives — like, for instance, that one of the facilitator's sons plays trombone, and that Josh Churchman likes to paint. Samantha Murray told people how she won her

first fishing trophy when she was eight. John Mellor shared his hope of one day selling his boat and going to college to study Greek and Latin.

Between meetings, the stakeholders kept up their conversations. They e-mailed Bob Dylan lyrics to each other, sent one another poems and short stories, as if trying to find parables for their task. During Christmas 2007, Churchman gave out small handmade ceramic figurines; Murray's was a harbor seal.

"Just by being in this shared situation, we started to see each other as individuals," Mellor says. "When you're faced with people for a time, it's hard to demonize each other. And that affects you. We were altering each other's reality."

Familiarity bred respect, and bargaining positions softened. The web of negotiations grew thicker as the stakeholders sought alliances. Coalitions among different groups formed, dissolved, re-formed, broke apart again.

"It was like a soap opera," Murray remembers. "The dynamics of the process changed from day to day, all the time. There were millions of times when we felt the rug was being pulled out from underneath us."

A key turning point came when two stakeholders — Jay Yokomizo, a recreational fisherman with a charter boat company in Emeryville, and Bob Wilson, a former board member from the Marine Mammal Center — developed a plan to protect the Farallon Islands. The string of rock outcroppings 27 miles west of the Golden Gate Bridge is an important stop for migratory birds and a feeding ground for seals, sea lions, and other marine mammals. It is also, for the same reason, a valuable spot for area fishermen. From the beginning of the North-Central Coast process, everyone had assumed that deciding the fate of the Farallones would be the toughest task, an issue that could shipwreck the talks.

In an effort to jump-start discus-

sion on the disputed area, the working groups assigned Yokomizo and Wilson to start on a proposal for the location. The two went off into a corner and within a few hours, to everyone's surprise, came back with a design that the entire group could accept.

"A lot of people didn't even want to touch it, because people thought it was an area that no one could agree on," Yokomizo says. "But with Bob's knowledge of mammals and my knowledge of the Gulf of the Farallones, we figured the whole thing out. We sort of looked at the charts, and said, 'Hey, what about this?' I drew some lines. Then he drew some lines. And I said there is no way I can accept that. We talked about it some more, and drew some more lines. There was a lot of give and take."

The Farrallones agreement (which the group called "The Jay-Bob Solution") provided the stakeholders with an example of successful trust and collaboration. For starters, Yokomizo and Wilson had to trust each other — their intentions as well as the quality of their information. Beyond that, the different constituencies had to trust their selected representatives. The conservationists had to have faith that Wilson could represent their position with strength and integrity, just as the fishermen had to have confidence that Yokomizo could be a proxy for their interests.

"It resulted in a design that everyone was willing to buy into, partially because it represented the spectrum of people who needed to be comfortable with the result," Garrison says. "They did it just by being open-minded to the possibilities and listening to each other."

As the talks continued, it became apparent to many of the negotiators that the best way for everyone to accomplish their goals would be to present to the Blue Ribbon Task Force a single, agreed-upon proposal; few wanted to repeat the experience of the Central Coast group, which had sent several proposals to the task force that

were then melded, resulting in a final plan that many stakeholders couldn't recognize. So two of the stakeholder groups created what they called the "Preferred Alternative," a middle-ground proposal.

While some fishermen stuck with their own plan and a few environmental

facilitators. "Getting people off of fixed positions and focusing on different ways, multiple ways, of meeting their interests."

Under the preferred alternative, 20 percent of the North Central Coast will be designated as protected areas and 11 percent of the region's coastline will be



Duncan Wright

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organizations presented a wholly different option, the backers of the preferred alternative hoped that their commitment to compromise would win the backing of the state decision-makers. In an op-ed in the *Marin Independent Journal*, Churchman and Murray heralded the deal: "Not everyone got what they wanted ... yet all sides ended up saying they could live with the compromise."

This, of course, represents the heart of the unruly art of bargaining. It wasn't that the architects of the preferred alternative had arrived at some grand agreement, but rather that they had come to embrace what one participant called "accepted disagreements."

"This is classic negotiating," says Scott McCreary, a professional dispute-resolution consultant who was hired by the state to be one of the MLPA

placed in no-take marine reserves. In June 2008, the Blue Ribbon Task Force forwarded a slightly amended version of the compromise deal to the Fish and Game Commission, which will make a final decision this coming spring.

To its proponents, the MLPA is a model form of public policy-making. Yes, the process is time-consuming, emotionally demanding, and often frustrating. But in the end, hopefully, it leads to a result that most participants can accept. While some stakeholders will remain disappointed, the system offers the virtue of ensuring that all views are incorporated, the very essence of deliberative democracy. Other highly contentious issues — logging disputes, water management controversies, even climate change — could, perhaps, be

settled this way if everyone invested the time to do the hard work.

“The basic idea is that people will come away better off than if they had stayed out of the process or if they had filed litigation,” says MLPA facilitator McCreary. “This field has been around for 30 years, but in general the use of these processes has become more prevalent and sophisticated. In the West specifically there has been an upsurge.”

The promise of such grassroots decision-making is predicated, however, on one indispensable — and often elusive — resource: finding individuals with the interest and the ability to hear other people’s views and work together. People like Josh Churchman and Samantha Murray may just be a precious commodity.

Despite their obviously opposing interests, the friendship between Churchman and Murray isn’t hard to understand. They are both outdoorspeople, more comfortable on a boat than on a computer. They are both surfers. They both like — or love — to fish. Certain deeper bonds pull them tight. In Churchman, Murray sees a reflection of her father, who died in 2007 of a heart attack. “He just reminds me of my dad,” she says, “this salty dog with a really big heart.” Likewise, Churchman, who is 52, views Murray as “the older daughter I never had.”

Beyond any shared interests, their relationship appears grounded in strikingly similar personalities. They are each, in their own way, instinctively inquisitive about new people and original ideas. Both are naturally outgoing. “I get along with people easily. I can talk with anyone,” Churchman says. “At the [MLPA] dinners, I wouldn’t sit with the fishermen; I would sit with the people I didn’t know, the conservationists. I love that stuff. It’s like going back to school, to be with someone who sees the world in a different light.”

Churchman is a man who seems ever on the verge of some exciting surprise. A laugh often erupts at the edges

of his sentences, and when he offers an observation or a fact, his eyes double in size in a kind of *can-you-really-believe-it?* expression. “I like hanging out with people who are smarter than me,” he says. “It’s fun.”

Murray is much the same. She is regularly delightfully startled by the world. When she talks, she sprinkles her declarations with “Don’t ya think?” — an expression at once of astonishment and affirmation. “I’m a Gemini, right?” she says. “I’m adaptable. I’m all kinds of people. You want to get along with the politicians and the policy wonks, and also hang out with the fishermen.”

The two possess a generosity of spirit, always eager to assist and lend a hand. This kindness is what makes them ideal negotiators, just as it is their curiosity that makes them effective communicators. A measure of humility (“What do I know? I’ve only been fishing here for 30 years,” Churchman

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says of long-term changes in the ocean environment.) means that they are in some way predisposed to look for compromise.

When asked, McCreary denies that the MLPA organizers intended to cherry-pick any personality type. “I don’t have a training in psychology,” he says. But McCreary, who has a PhD in conflict resolution, acknowledges that in selecting stakeholders, the MLPA staff spent a great deal of time searching

for “people with a natural aptitude to collaborate.”

Churchman recalls his selection interview: “They were trying to weed out the people who were immovable, the people cast in concrete who won’t listen to you. If you have immovable objects — and we had enough of them as it was — the conversation would just stop and you would hit a brick wall.”

This suggests that the MLPA’s success may owe as much to the character traits of the participants as it does to the stakeholders’ stated commitment to preserving ocean ecosystems. The people at the negotiating table — folks like Murray and Churchman, Mellor and Garrison — perhaps possess some special knack for acknowledging all sides of the debate. They have, it seems, an instinct for empathy, a peculiar DNA for dialogue.

If so, that clouds the MLPA’s potential for being a model for other contentious issues. After all, government mediators won’t always be able to find the charismatic individuals with the patience to talk with the other side. The oil executives might just decline to sit at the table, or the environmental organizations might decide that it’s not in their best interest to bargain. In many cases, opponents will make the calculation that they have more to gain through contest — whether in the courts or in the legislature — than through collaboration.

That is, unless and until some two people demonstrate the all-too-rare gift of listening and learning from one another.

“I got Samantha to come around to my way of thinking on a couple of things,” Churchman says, “and she got me to come around to her thinking on a couple of things. That’s how it works. It’s mutual.” ■

**Jason Mark**, the editor of *Earth Island Journal*, is the co-author of *Building the Green Economy: Success Stories from the Grassroots*. In reporting this story, he found that he is prone to seasickness.