



Tracking Number: (Click here to enter text.) *2015-006*

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, 1416 Ninth Street, Suite 1320, Sacramento, CA 95814 or via email to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov). Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov).

### **SECTION I: Required Information.**

*Please be succinct. Responses for Section I should not exceed five pages*

- 1. Person or organization requesting the change (Required)**  
Name of primary contact person: Dennis Thibeault, Vice President Forestry, Mendocino Redwood Company, LLC  
Address: P.O. Box 996/ 850 Kunzler Ranch Road, Ukiah, CA 95482  
Telephone number: 707-463-5112  
Email address: [dthibeault@mendoco.com](mailto:dthibeault@mendoco.com)
- 2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested:** California Fish & Game Code § 1580; California Fish & Game Code § 2855; California Public Resources Code § 36600, 36700 , 36725[(a),(e)]
- 3. Overview (Required) - Summarize the proposed changes to regulations:** Remove special closure regulations for Rockport Rocks in 14 CCR § 632 (b)(17)
- 4. Rationale (Required) - Describe the problem and the reason for the proposed change:** The above-mentioned special closure was enacted on a parcel private property owned by Mendocino Redwood Company, LLC (MRC). The special closure as currently written prohibits complete access to this parcel of land from March 1 to August 31. MRC was never informed—neither verbally nor in writing—by the California Department of Fish and Wildlife or the North Coast Regional Stakeholders Group about including Rockport Rocks in a special closure when formally proposed in 2010. Evidence from historical documents establishing the North Coast Marine Protected Area (MPA) indicate that the designation of Rockport Rocks as a special closure area was an unintentional error because it was mistakenly assumed to be a part of the Coastal National Monument managed by the Bureau of Land Management. The CDFW is also on record stating that MPAs “will not affect private property rights” and that the “MPA designation process must take into account existing California State Lands Commission leases, California Fish and Game Commission state water bottom and kelp leases, tide and submerged lands grants, private tidelands, and any other legal entitlements.” Overall, had these facts been disclosed during the MLPA process, this area would have been removed from the original proposal prior to the Commission’s vote on the matter.



## SECTION II: Optional Information

5. **Date of Petition: November 17, 2015**

6. **Category of Proposed Change**

Sport Fishing

Commercial Fishing

Hunting

Other, please specify: Special Closure Area for

7. **The proposal is to:** (To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)

Amend Title 14 Section(s): Click here to enter text.

Add New Title 14 Section(s): Click here to enter text.

Repeal Title 14 Section(s): 14 CCR § 632 (b)(17)

8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** Click here to enter text.

Or  Not applicable.

9. **Effective date:** If applicable, identify the desired effective date of the regulation.

If the proposed change requires immediate implementation, explain the nature of the emergency: As soon as possible; the designation of Rockport Rocks special closure area was an unintentional error as all the facts of ownership were neither made available to the CDFW nor the Commission during the special closure designation process.

10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Supplementary information including a cover letter substantiating MRC's case is attached to this petition.

11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: Designation of Rockport Rocks as a special closure is a potential encumbrance to MRC being able to sell the parcel or sell a conservation easement to an interested party.

12. **Forms:** If applicable, list any forms to be created, amended or repealed:

Click here to enter text.

## SECTION 3: FGC Staff Only

Date received: Click here to enter text.

FGC staff action:

Accept - complete



- Reject - incomplete
- Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: 11/24/15

Meeting date for FGC consideration: Receive 12/9/15, Action 2/10/16

FGC action:

- Denied by FGC
- Denied - same as petition \_\_\_\_\_  
Tracking Number
- Granted for consideration of regulation change



**November 23, 2015**

Mr. Jack Baylis, President  
California Fish and Game Commission  
1416 Ninth Street, Suite 1320  
Sacramento, CA 95814

Dear Mr. Baylis

We have recently been made aware a parcel of our property, referred to as "Rockport Rocks," was included in a special closure area during the Marine Life Protection Act (MLPA) designation process. Unfortunately this occurred without any type of notification to us from the California Department of Fish and Wildlife (CDFW) or the North Coast Regional Stakeholders Group (NCRSG). MRC's ownership of Rockport Rocks (aka "Sea Lion Rock") is well-established by a patent, grant deed, and numerous historical documents and photographs spanning nearly a century and are available upon request.

This special closure, 14 CCR § 632(b)(17), inhibits our private property rights and our ability to enjoy our property. We provide limited public access to Rockport Beach and the beach is visited and enjoyed by hundreds of employees, family and friends every year. The seasonal closure, which goes from March 1 to August 31, effectively prohibits access to this parcel of land by the property owner, and potentially limits recreational and educational activities (e.g., fishing, abalone diving, kayaking, kelp harvesting, bird watching, tidepooling, etc.) in nearshore waters historically enjoyed by visitors to Rockport Beach.

The public nature of the special closure has also created a potential encumbrance to MRC's ability to sell the parcel or negotiate a conservation easement with an interested party should it ever decide to do so. In 2011, the Bureau of Land Management (BLM) and the United States Fish and Wildlife Service indicated interest in acquiring Rockport Rocks for conservation purposes in the Report "Potential Murre Restoration Projects Northern California".

Our investigation into this matter leads us to conclude that the inclusion of MRC property in a special closure was done in error. First, documents for the MLPA process suggest that the CDFW and the NCRSG assumed that Rockport Rocks were part of the publically owned California Coastal National Monument system administered by the BLM. Secondly, the CDFW stated in a memorandum dated 1/31/08 from John Ugoretz to the MLPA Stakeholder Group that MPAs "will not affect private property rights" and that the "MPA designation process must take into account existing California State Lands Commission leases, California Fish and Game Commission state water bottom and kelp leases, tide and submerged lands grants, private tidelands, and any other legal entitlements". In fact, the Vizcalno Rocks special closure, located 0.6 miles to the south of Rockport Rocks, clearly embodies this philosophy as it has a modified boundary that extends 300' from only the seaward side of the rock, presumably because a buffer around the entire rock would overlap with a private beach owned by the Save-the-Redwoods League.

We conclude had CDFW, NCRSG, or the Commission known MRC was the owner of Rockport Rocks, this special closure would not have been included in the final rulemaking package that was eventually adopted. Based on the facts presented here, we kindly request that the Commission remove the special closure regulations on Rockport Rocks.



If you have any questions, would like documentation of the above statements or would like to discuss the matter further, please give me a call at (707) 463-5112 or email me at [dthibeault@mendoco.com](mailto:dthibeault@mendoco.com).

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Thibeault".

Dennis Thibeault  
Vice President Forestry

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## ABOUT MRC

*Mendocino Redwood Company (MRC) was created in 1998 from lands purchased in Mendocino and Sonoma counties with the publicly declared mission to be good stewards of the forest and at the same time run a successful business. We have made significant progress in that regard:*

- 1. Adopting policies to make MRCs forestlands FSC certified (since November 2000);*
- 2. Adding more than 1 billion board feet of redwood and Douglas fir trees by lowering the rate of harvest;*
- 3. Defining of old growth down to the level of an individual tree, along with implementation of a policy to protect all individual old growth trees across our property;*
- 4. Elimination of traditional clear cutting from our property;*
- 5. Long term investments to improve habitat for fish across the property by controlling or holding back more than 1 million cubic yards of sediment (more than 100,000 dump trucks of dirt) from the coastal streams flowing through our forest;*
- 6. Removal of more than 36 long time fish barriers, increasing fish bearing streams by more than 20 miles.*
- 7. Operating as an open and transparent business; including an open invitation to take interested individuals anywhere in the forest;*
- 8. Completing a substantial rebuild of our Ukiah sawmill, assuring that Mendocino County will have infrastructure in the processing of wood products for many years to come; and*
- 9. Employing about 300 skilled employees in Mendocino County earning family-level wages and benefits.*