



Tracking Number: (Click here to enter text.)

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. 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.

**AMENDED PETITION TO THE CALIFORNIA FISH AND GAME COMMISSION
FOR REGULATION CHANGE**

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: Scott Williams on behalf of the Kashia Band of Pomo Indians of the Stewarts Point Rancheria

Address: Berkey Williams LLP, 2030 Addison Street, Suite 410, Berkeley, CA, 94704

Telephone number: 510-548-7070

Email address: swilliams@berkeywilliams.com

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested:

Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 203, 203.1, 205(c), 219, 1590, 1591, 2860, 2861 and 6750 of the Fish and Game Code, and Sections 36725(a) and 36725(e), of the Public Resources Code, and to implement, interpret or make specific Sections 200, 202, 203.1, 205(c), 219, 1580, 1583, 2861, 5521, 6653, 8420(e) and 8500 of the Fish and Game Code, and Sections 36700(e), 36710(e), 36725(a) and 36725(e) of the Public Resources Code, retains the authority to amend Section 632, Title 14, California Code of Regulations, relating to marine protected areas.

3. Overview (Required) - Summarize the proposed changes to regulations:

The Kashia Band of Pomo Indians of the Stewarts Point Rancheria (“the Tribe”) proposes to amend Title 14, California Code of Regulations 632(b)(33) and (34) such that the existing Stewarts Point State Marine Conservation Area (section 632(b)(33)) would be shifted southward in accordance with the attached map (containing coordinates); the Stewarts Point State Marine Reserve would continue



to completely protect Horseshoe Cove (near the Salt Point State Park) and otherwise remain unchanged.

4. Rationale (Required) - Describe the problem and the reason for the proposed change:

The Kashia Band of Pomo Indians is a federally recognized Indian Tribe whose ancestral lands extended along the Sonoma County coast and into the coastal range from what is now the Russian River north to the Gualala River. The Tribe's ancestral lands include both those within the exterior boundaries of the Tribe's current Reservation near Stewarts Point as well as parts of the Sonoma coastline located within the Stewarts Point State Marine Reserve (SMR) and the Stewarts Point State Marine Conservation Area (SMCA). Located within the Stewarts Point SMCA is Stewarts Point, traditionally called *Danága* by the Kashia, the creation place of the Kashia people. *Danága* is sacred to the Kashia and serves as the center of spiritual life for the Tribe. The Tribe holds ceremonies and engages in traditional cultural practices such as gathering, fishing, and prayer at *Danága* throughout the year. Despite the cultural importance of the coast to the Kashia, colonization stripped Kashia members of direct access to the shoreline for over two hundred years. During this time, it was necessary for Kashia members to obtain permission from private landowners to gain access to essential places within their ancestral homeland.

In 2011, at the request of the Tribe, the California Fish and Game Commission designated a small ribbon within the Stewarts Point SMR as the Stewarts Point SMCA for the sole purpose of allowing the Kashia Tribe to engage in traditional cultural and ceremonial activities within the SMCA. The Commission made the SMCA designation to allow for "recreational take" because that was the only option then available in the law that would authorize the Tribe to fish and gather from the shore. Because the land surrounding the Stewarts Point SMCA was privately owned and access was available only to the landowners and, with the landowners' permission, to Tribal members, the Commission and the parties involved concluded that a designation permitting recreational take would not put the Stewarts Point SMCA's resources at risk. There has been a change in circumstances since the Commission's decision in 2011.

In 2015, the Kashia Tribe purchased land with coastal access within the Stewarts Point SMR, giving Tribal members unimpeded access to the coast for the first time in two centuries. Prior to the purchase of this property, the Kashia members were, as phrased by Tribal Chairman Reno Franklin, a "coastal people without access to the coast." This 700-acre property, now known as the Kashia Coastal Reserve, is contiguous to the Salt Point State Park on the south and extends from the shoreline eastward to the inland ridge. The property contains ancient Kashia village sites, trails, native plants, ceremonial areas and other culturally significant places. But the shoreline of the Kashia Coastal Reserve is entirely within the State Marine Reserve, a designation that does not allow for take of resources of any kind. Accordingly, the Tribe seeks to shift the SMCA south such that Tribal members may engage in the traditional activities of fishing and gathering along their newly-acquired shoreline (except for Horseshoe Cove, an area that the Tribe agrees is so degraded that it must remain in Reserve status). The Commission's purpose in creating the SMCA was to permit Kashia Tribal members to engage in such traditional activities where they had access to the shoreline. This change is consistent with that purpose.



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A second change in circumstances is that the Kashia Tribe has an agreement with the landowners to secure, permanently, Tribal member access to the shoreline on the private land at Stewarts Point, within the SMCA. No change in the SMCA is necessary or sought as a result of this new agreement.

A third change in circumstances is that, as part of these two land transactions, the California State Coastal Conservancy has acquired the right to construct a public trail along the shoreline of both the Kashia Coastal Reserve within the Stewarts Point SMR and the Stewarts Point property within the current SMCA. Upon construction of the trail, the public will have access to the Kashia Coastal Reserve and Stewarts Point. The public will be restricted to the trail and will not have authorized access to the shoreline. This petition will not alter the public’s right to be present on the properties only on the trails.

In summary, a change in regulation is necessary to secure unhindered access to the shoreline for Kashia Tribal members and to allow members to engage in traditional fishing and gathering on the Kashia Coastal Reserve. Accordingly, the Tribe asks that the Commission amend 632(b)(33) and (34) such that the SMCA would begin at the northernmost boundary of the Stewarts Point property and extend to the south to a point near the northern end of Horseshoe Cove at the coordinates set forth on the attached map.

SECTION II: Optional Information

5. **Date of Amended Petition: 12/15/2017**

6. **Category of Proposed Change**

- Sport Fishing
- Commercial Fishing
- Hunting
- Other, please specify:

Re-Designation of location of State Marine Conservation Area.

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):632(b)(33); 632(b)(34)
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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: *Click here to enter text.*



- 10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: See attached map.
- 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:

The proposed changes would result in no significant economic impact to state agencies, individuals, businesses, jobs, other state or local agencies, schools or housing. Under the current regulations, only the Kashia Tribe can access and take from the SMCA for cultural and ceremonial purposes because only the Tribe has the permission of the landowners to be present on private property. That will not change with this amendment. Though the public will have access to private property when coastal trails are constructed, the public will be prohibited from access to the SMCA on private lands, including the Kashia Coastal Reserve. Kashia Tribal members will continue to comply with State regulations for recreational take. Tribal members do not, and will not engage in commercial activity. Only Kashia Tribal members would have access to the shoreline at the Kashia Coastal Reserve. The proposed amendments to the regulations would maintain these current conditions in light of the recent changes in property ownership, and would result in no new adverse impacts to marine resources.

- 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: _____

Meeting date for FGC consideration: _____

FGC action:

- Denied by FGC
- Denied - same as petition _____
- Granted for consideration of regulation change

Tracking Number