

Staff Summary for December 11-12, 2024

8. Marine Protected Area (MPA) Petitions for Regulation Change and Non-Regulatory Requests**Today's Item**Information Action

This agenda item is for the Commission to act on MPA regulation change petitions received from the public and referred by the Commission for review and recommendation at a previous meeting.

- (A) Act on previously received MPA regulation change petitions (“bin 1” petitions only)
- (B) Act on non-regulatory requests from previously received MPA petitions (“bin 1” petitions only)
- (C) Receive comments on referred MPA petitions not yet scheduled for action (“bin 2” petitions)

Summary of Previous/Future Actions

- Received 20 MPA petitions December 13-14, 2023
- Referred 20 MPA petitions to Marine Resources Committee (MRC) and Department for review and recommendation February 14-15, 2024
- MRC recommendation for sorting MPA petitions and evaluating individual actions within the binned petitions July 17-18, 2024; MRC
- Approved MRC recommendation, and supported scheduling action on individual actions as recommendations are ready August 14-15, 2024
- MRC received Department recommendations for individual actions proposed in “bin 1” MPA petitions and developed MRC recommendations November 6-7, 2024; MRC
- **Receive MRC recommendations for “bin 1” petitions and potentially act on individual regulation change proposals and non-regulatory requests** **December 11-12, 2024**

Background

Pursuant to Section 662, any person requesting that the Commission adopt, amend, or repeal a regulation must complete and submit form FGC 1. In 2023, the Commission agreed to receive public proposals for adaptive management changes to the MPA network (a.k.a., regulation change proposals) and the MPA Management Program (a.k.a., non-regulatory requests), bundled into individual petitions on form FGC 1. See Agenda Item 9 (this meeting) for additional background on the process followed for regulation change petition forms submitted by the public.

Due to the complexity and uniqueness of the MPA petition evaluation process, this item is scheduled separately from the standing agenda items for marine-related regulation change petitions (under Agenda Item 9 today) and marine non-regulatory requests (under Agenda Item 10 today). This item covers all MPA regulation change proposals and non-regulatory requests.

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MPA Petition Evaluation Process

In December 2023, the Commission received 20 MPA petitions containing over 80 individual proposed regulatory or non-regulatory actions. In February 2024, the Commission referred all 20 petitions to the Department for review, evaluation, and recommendation.

In March 2024, the Department presented MRC a draft three-phase framework for evaluating MPA petitions, which the Commission approved in April 2024 based on MRC recommendation (See Exhibit A1 for a summary of the three-phase evaluation framework).

Phase 1 *Binning of individual petitions* – was completed in July 2024, with a Department recommendation to categorize five petitions as “bin 1” (near-term evaluation) and 15 petitions as “bin 2” (longer-term evaluation). MRC recommended, and in August 2024 the Commission approved, the proposed petition bin placement and initiated evaluation of bin 1 petitions.

Phase 2 and 3 *Evaluation of individual actions* – was completed for “bin 1” petitions in November 2024, with Department draft recommendations for the 21 individual actions within the five “bin 1” petitions (see Exhibit A2 for background). The recommendations included both regulation change proposals and non-regulatory requests, organized by the type of proposed action (allowable uses, take or classification/take, boundaries, and non-regulatory requests). The MRC discussion built on the Department’s draft recommendations, and helped shape MRC recommendations for receipt and consideration today. Note that phases 2 and 3 will next be initiated for “bin 2” petitions.

Additional Action

Staff recently sent a letter to coastal city and county agencies and elected officials to inform them of the MPA petitions referred for review (in “bin 2”), provide resources to familiarize themselves with proposals in their area, and to encourage their participation in the public process (Exhibit C1).

Today’s Meeting – December 11, 2024

Today, the Commission is scheduled to act on 20 individual regulation change proposals and non-regulatory requests from the five “bin 1” MPA petitions. Each individual action is assigned the associated petition number with an action ID number.

(A) MPA Petitions for Regulation Change – Scheduled for Action

There are 13 individual regulation change proposals scheduled for Commission consideration, organized into the same action categories used to facilitate the November MRC discussion. Note that while the Department evaluated 14 individual proposed actions, one action was withdrawn by the petitioner (Petition 2023-26MPA, Action 1 request to modify boundaries at Swami’s State Marine Conservation Area). The Commission will consider whether to grant, deny, or refer for additional review, individual regulation change proposals within the “bin 1” petitions.

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- I. *Change allowable uses* (seven actions from two petitions)
 - Petition 2023-22MPA, actions 3, 4, 5, 6 and 7 (revise allowable uses in Orange County MPAs)
 - Petition 2023-25, actions 2 and 5 (eliminate fish feeding at two Catalina Island MPAs)
- II. *Change take allowance or classification and take* (five actions from two petitions)
 - Petition 2023-30MPA, actions 1, 2 and 3 (reduce recreational take allowances for Dungeness crab at Big River State Marine Conservation Area)
 - Petition 2023-31MPA, actions 1 and 2 (reclassify Drakes Estero State Marine Conservation Area as a state marine reserve and combine with Estero de Limantour State Marine Reserve)
- III. *Change boundaries* (one action from one petition, after withdrawal of second action, Petition 2023-26MPA)
 - Petition 2023-25MPA, Action 4 (modify boundaries of Long Point State Marine Reserve)

See Exhibit A3 for summaries of individual regulation change requests, Department draft recommendations to MRC for consideration, and MRC recommendations. Petitioned actions granted today will be added to the Commission's rulemaking calendar for development and future consideration.

- (B) *MPA Petition Non-Regulatory Requests – Scheduled for Action* (seven actions from three petitions)
- Petition 2023-22MPA, actions 1 and 2
 - Petition 2023-25MPA, actions 1 and 3
 - Petition 2023-26MPA, actions 2, 3 and 4

See Exhibit B1 for summaries of non-regulatory requests, Department draft recommendations to MRC for consideration, and MRC recommendations.

- (C) *Comments Received on Referred Petitions (“bin 2”)*

This agenda sub-item is for receiving public comments on MPA petitions previously referred by the Commission to staff, the Marine Resources Committee, and the Department for review and recommendation. See Agenda Item 11(B) MRC, Exhibit B3, for guidance to bin 2 petitioners about how to request an amendment to any MPA petition or part(s) of an MPA petition.

Note: Commission action on the bin 2 referred MPA petitions will be scheduled for consideration once a recommendation is received.

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Significant Public Comments

Three comments were received related to “bin 2” petitions not yet scheduled for action.

1. *Petition 2023-33MPA*: A San Diego-based fishing alliance notes the petition’s inconsistencies with the process outlined for considering new petitions in the 2016 Marine Life Protection Act (MLPA) Plan. Additionally, they note that the petition lacks stakeholder engagement and scientific evidence to support the claim that overfishing contributes to a decrease in kelp abundance. (Exhibit C.2)
2. *Petition 2023-28MPA and 2023-19MPA*: A commercial fishermen’s association expresses that the petitions threaten the livelihood of fisherman, specifically limiting fishing access in Port San Luis/Avila. They echo concerns shared by Morro Bay and Santa Barbara Commercial Fishermen’s Associations that MPA expansions have a negative impact on the fishing community. (Exhibit C.3)
3. *Petition 2023-15MPA and 2023-34MPA*: Two commercial fishermen who operate their harpoon swordfish boat in the Channel Islands requests denial of petition 2023-34MPA, or to allow harpoon of swordfish with a spear. They voice their crew’s support for petition 2023-15MPA. (Exhibit C.4)

Recommendation

Commission staff: Adopt the MRC recommendations for MPA petitions for regulation changes, as specified in Exhibit A3; and adopt the MRC recommendations for MPA petition non-regulatory requests, as specified in Exhibit B1.

MRC: Adopt MRC recommendations for “bin 1” MPA petitions for regulation changes and non-regulatory requests (as specified in exhibits A3 and B1).

Department: Adopt MRC recommendations, informed by Department draft recommendations following evaluation of “bin 1” petition actions, as reflected in exhibits A4 and B1.

Exhibits

- A.1 [Department memo regarding 3-phase approach to MPA petition evaluation and attached evaluation framework, received April 4, 2024 \(for background purposes only\)](#)
- A.2 [Staff summary for Agenda Item 2, MPA Petitions Evaluation Process, from the November 6-7, 2024 MRC meeting \(for background purposes only\)](#)
- A.3 [Proposed regulatory actions in bin 1 MPA petitions with Department draft recommendations and MRC recommendations, dated December 5, 2024](#)
- B.1 [Non-regulatory requests in bin 1 MPA petitions with Department draft recommendations and MRC recommendations, dated December 5, 2024](#)
- C.1 [Commission staff letter to coastal elected officials and agency leadership, sent November 19, 2024](#)
- C.2 [Letter from Mitchell Conniff, Administrative Director, Point Loma Commercial Fishing Alliance, received November 5, 2024](#)
- C.3 [Email from Corie Erskine transmitting letter from Chris Pavone, President, Port San Luis Commercial Fishermen’s Association, received November 5, 2024](#)
- C.4 [Email from Steve Weiser and Don Gillispie, received November 8, 2024](#)

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Motion

Moved by _____ and seconded by _____ that, as recommended by the Marine Resources Committee, the Commission adopts the staff recommendations for marine protected area petition individual regulatory proposals, as reflected in Exhibit A.3, and adopts the staff recommendations for marine protected area petition non-regulatory requests, as reflected in Exhibit B.1.

OR

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations for marine protected area petition individual regulation change proposals and non-regulatory requests as recommended by the Marine Resources Committee and reflected in exhibits A.3 and B.1, except: _____.

Memorandum

Date: April 2, 2024

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: Proposed Marine Protected Area Petition Evaluation Process and Timeline

At their February 14-15, 2024, meeting, the California Fish and Game Commission (CFGF) referred 20 Marine Protected Area (MPA) regulation change petitions to the California Department of Fish and Wildlife (CDFW) for review, evaluation, and recommendation. In addition, the CFGF requested CDFW develop a proposed approach to evaluate the petitions to discuss at the Marine Resources Committee (MRC) meeting on March 19, 2024. After discussion and input from interested stakeholders, the MRC recommended approval of CDFW's proposed 3-phase approach to evaluate MPA petitions. The proposed approach is briefly described below and in the enclosed presentation that was provided to the MRC on March 19, 2024.

Proposed 3-Phase Approach to MPA Petition Evaluation

Phase 1: Petitions will be categorized into two bins using the criteria outlined below to determine which petitions can be evaluated in the near-term and which petitions will require additional policy guidance, information, and/or resources prior to evaluation.

- **Bin 1 petitions:** Petitions that can be evaluated in the *near-term* must meet all the following criteria:
 - Policy direction not needed for next phases.
 - Within CFGF authority.
 - Immediate evaluation possible.
 - Limited clarification needed from petitioner.
 - Limited controversy anticipated.

- **Bin 2 petitions:** Petitions that do not meet all the above criteria will be categorized into Bin 2. The analysis of these petitions will be more complex as they will require additional policy guidance, information, and/or resources before they can be evaluated. Due to the complexity of these petitions, these will be evaluated in the *longer term*.

Melissa Miller-Henson, Executive Director
Fish and Game Commission
April 2, 2024
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Phase 2: Separate all Bin 1 petitions into individual actions and proceed to phase 3. Separate Bin 2 petitions into individual actions and identify additional policy guidance, information, and/or resources that are necessary to advance individual actions to phase 3.

Phase 3: Adaptive management evaluation and recommendations. Apply the evaluation framework approved by the CFGC to each petition action. The process will identify which petitions, and/or actions within each petition, would be recommended to be granted, denied, or considered through an alternative pathway.

Proposed MPA Petition Evaluation Anticipated Timeline

- **March-April 2024: Development of Evaluation Framework**
 - Receive and discuss proposed 3-phase evaluation process at the March 19 MRC and April 17 CFGC meetings.
- **April-August 2024: Phase 1— CDFW Sort Petitions into 2 Bins**
 - Discuss proposed bins at the July 18 MRC and August 14 CFGC meetings.
- **August 2024 and beyond: Phases 2 and 3—Separate petitions into individual actions**
 - Receive guidance on Bin 2 actions as needed.
 - Move forward with evaluation on both Bin 1 and 2 actions. Evaluation timelines for Bin 1 and Bin 2 actions will vary.

If you have any questions or need more information, please contact Dr. Craig Shuman, Marine Regional Manager, at (805) 568-1246.

Attachment 1: Proposed Marine Protected Area Petition Evaluation presentation.

Attachment 2: Evaluation Framework

cc: Jenn Eckerle, Deputy Secretary for Ocean and Coastal Policy
Natural Resources Agency

Craig Shuman, D. Env., Region Manager
Marine Region

Becky Ota, Environmental Program Manager
Marine Region

Stephen Wertz, Senior Environmental Scientist
Marine Region

Sara Worden, Environmental Scientist
Marine Region

Department of Fish and Wildlife: Summary of Marine Protected Area (MPA) Regulation Change Petition Framework Discussion

(07/27/23) Revised 08/10/23; Revised 8/17/23

At the California Fish and Game Commission's (CFGF) July 20, 2023 Marine Resources Committee (MRC) meeting, MRC, CFGF staff, California Department of Fish and Wildlife (CDFW) staff, and stakeholders discussed potential next steps in pursuing the MPA Decadal Management Review (DMR) report recommendations and goals. The discussion included a potential framework to assist in evaluation of petitions the CFGF may receive related to changes to the MPA network and management program. At the request of MRC, staff from CDFW summarized the input received at the July 20, 2023 MRC meeting regarding these MPA petition framework considerations.

Broadly, petitions submitted to the CFGF are evaluated on a case by case by basis. To help guide petition development and subsequent review by CDFW, the MRC received the following input for evaluating petitions related to MPAs:

- Compatible with the goals and guidelines of the Marine Life Protection Act (MLPA);
- Help advance one or more of the [six goals](#) of the MLPA;
- Garner strong community support; and/or
- Advance adaptive management recommendations under the cornerstones of MPA governance, MPA Management Program activities, and MPA Network Performance outlined in [DMR Table 6.1](#) to ensure that petitions meet MPA management priorities.

The MRC also received input organized by cornerstone as follows:

- MPA Governance:
 - Simplifies regulatory language or enhances public understanding
 - Addresses inaccuracies or discrepancies in regulations
 - Accounts for regional stakeholder group intent identified during the regional MLPA planning process (including MPA-specific goals/objectives and design considerations)
 - Accounts for CDFW's [MPA design and management feasibility guidelines](#)
 - Advances tribal stewardship and co-management, consistent with the CFGF [Co-Management Vision Statement and Definition](#)
 - Improves access for traditionally underserved or marginalized communities, consistent with the [CFGF Policy on Justice Equity, Diversity and Inclusion](#)
 - Acknowledges socio-economic implications, such as access for consumptive or non-consumptive users
- MPA Management Program Activities:
 - Clearly addresses or identifies scientific need for MPA Network based on best available science and scientific advancement since Network completion
 - Improves compliance and/or enforceability
- MPA Network Performance:
 - Maintains or enhances the protections and integrity of the MPA Network
 - Maintains or enhances habitat and species connectivity
 - Adheres to science guidelines, such as maintaining minimum size and spacing, and protection of diverse habitats
 - Enhances climate resilience and/or helps mitigate climate impacts

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 (For background purposes only)

2. Marine Protected Area (MPA) Regulation Change Petitions – Evaluation Process

Today's Item	Information <input type="checkbox"/>	Action <input checked="" type="checkbox"/>
(A) Receive and discuss Department evaluation and recommendations for MPA petitions in Bin 1 (petitions ready to be evaluated in the near-term) and develop potential committee recommendation		
(B) Discuss sorting of MPA petitions in Bin 2 (petitions that require additional policy guidance, information and/or resources before evaluation), and next evaluation steps		
(C) Receive general input on MPA petitions (<i>as time allows</i>)		

Summary of Previous/Future Actions

- Received decadal management review (DMR) report and Department presentation February 8-9, 2023
- Marine Resources Committee (MRC) and Commission discussed and prioritized adaptive management recommendations from DMR 2023; various
- Received 20 MPA regulation change petitions December 13-14, 2023
- Referred 20 MPA petitions to Department for review and to MRC for discussion February 14-15, 2024
- MRC received and discussed Department-proposed approach for reviewing and evaluating petitions for MPA regulation changes March 19, 2024; MRC
- Department presented proposed Phase 1 “binning” of MPA petitions into bins 1 and 2, and MRC developed recommendation July 17, 2024; MRC
- Approved MRC recommendation for Bin 1 and Bin 2 petitions; requested updates on process for Bin 2 petitions and proposed timeline August 14-15, 2024
- Department provided update on developing Bin 1 recommendations and proposed next steps for evaluating Bin 2 petitions. October 9-10, 2024
- **Today receive and discuss Department Bin 1 petitions evaluation and draft recommendations; discuss sorting of Bin 2 MPA petition actions and next evaluation steps** **November 6, 2024; MRC**
- Commission considers MRC recommendations; receives Department annual MPA Management Program update December 11-12, 2024; MRC

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(For background purposes only)

Background

Twenty public MPA regulation change petitions, containing over 80 individual petition actions, are currently under review by the Department for evaluation and recommendations following Commission referral in February 2024. The Department is following the three-phase framework for evaluating MPA petition requests, which the Commission approved in April 2024 based on MRC recommendation, including four core petition evaluation considerations (see Exhibit 1, pages 3-4). The petition evaluation framework organizes further evaluation considerations into three MPA cornerstones: Governance, Management Program Activities, and Network Performance (See Exhibit 1, page 5).

Phase 1 Binning of Individual Petitions – July 2024 MRC

The Department presented draft binning of individual petitions into Bin 1 (near-term evaluation) and Bin 2 (longer-term evaluation) at the July MRC meeting. In August, the Commission supported the draft placement of petitions into the bins as proposed, initiating Department evaluation of the petitions in Bin 1. The Commission requested a process update in October.

Department Progress Update in October 2024

In October, the Department presented: (1) the status of Bin 1 petition evaluations under the approved MPA petition evaluation framework; (2) proposed next steps for the petition evaluation framework (for discussion at MRC in November 2024); (3) near-term milestones for MRC and Commission meetings (through early 2025); and (4) the Department's newly-launched [MPA Petitions StoryMap](#). The agenda topic materials are in Exhibit 1. The Commission expressed strong interest in tracking the MPA petitions discussions as the evaluation process unfolds.

Following the October meeting, the Department submitted a report to the Pacific Fishery Management Council for the November Council meeting, to provide a high level overview of the process underway with the Commission (Exhibit 5).

Today's Meeting – November 6, 2024

The Department will give a presentation to serve as a roadmap for today's discussion about the Bin 1 evaluation and draft recommendations, and the next phases of the evaluation framework (Exhibit 2).

(A) Bin 1 Petitions Evaluation and Draft Recommendations

The Department has released its draft recommendations and rationale for all petitioned actions in the five petitions sorted into Bin 1 (exhibits 3 and 4). To clarify terminology used in the draft recommendations, "Support" is exclusively for non-regulatory actions, while "Grant" or "Deny" are formal terms used for regulatory actions, aligning with the Commission's authority under the State's Administrative Procedure Act.

Following its introductory presentation, the Department will then walk through the individual draft recommendations for each Bin 1 MPA petition action, categorized into four groups based on the type of action:

- *Non-regulatory*
- *Allowable uses*

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- *Classification/take*
- *Boundaries*

Today, MRC will discuss the Department's draft recommendations and potentially develop an MRC recommendation for Commission consideration.

(B) *Next Steps for Bin 2 Petitions Sorting and Action Evaluation*

This item is to discuss next steps for sorting and evaluating individual actions within Bin 2 petitions (those requiring additional policy guidance, information, or resources) as well as other process considerations.

The Department has begun separating Bin 2 petitions into the individual actions for review. In October 2024, the Department proposed to further sort Bin 2 actions using the Phase 1 considerations to identify those actions ready for near-term evaluation versus those on a longer-term evaluation time scale (Exhibit 1). Based on the Bin 1 review and discussion, today is an opportunity to consider the potential effectiveness of the evaluation method for more involved or complex actions.

There are several sources of information and context to support discussion and potential MRC guidance on the Bin 2 sorting and evaluations:

- *Evaluation framework*: In addition to evaluation guidelines related to compatibility with MLPA and master plan, advancing MLPA goal(s), garnering community support, and advancing DMR adaptive management recommendations, the MPA petition evaluation framework organizes evaluation considerations into the three cornerstones: governance, management program activities, and network performance (found in Exhibit 1). There are multiple ways the sorted actions could be grouped for evaluation purposes, one of which is to use the framework categories to separate actions aimed at adaptive management of existing MPAs through management program changes versus those focused on expanding or adding MPAs to improve network performance. Such an approach is in contrast to, say, focusing discussions in specific regions, or grouping by action type. Each of the approaches may be reasonable, depending on the proposed actions.
- *Staff-proposed petition revision process*: In October, the Commission confirmed its willingness to receive requests from MPA petitioners to amend their original MPA petition. Staff has developed a proposed petition amendment process for MRC consideration (Exhibit 6).
- *Tools for evaluation* (design and scientific analysis): At the October Commission meeting, the California Ocean Protection Council shared its intent to invest in updating two existing tools with recent data: SeaSketch and the Connectivity Model. During today's meeting, Ocean Protection Council staff will provide an update on the tools, anticipated timing for when data updates will be complete, and clarify what the potential applications of each tool are for petition review and evaluation (Exhibit 7).
- *Design feasibility and science guidelines*: Staff and the Department have noted the potential application of existing design feasibility and science guidelines (found in the master plan for MPAs) in reviewing petitioned actions.

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*(For background purposes only)***(C) General Input on MPA Petitions (as time allows)**

Upon completion of 2(A) and 2(B), this section provides a place for comments related to specific MPA petitions or MPAs more broadly. A number of general comments were received by the public comment deadline.

Next Steps – December 11-12, 2024 Commission Meeting

At its December meeting, the Commission will receive any MRC recommendations related to: (1) actions on MPA petitions in Bin 1; (2) a potential petition revision process for Bin 2 petitions; and (3) potential sorting or evaluation guidance for individual actions in Bin 2 petitions, including the use of design and evaluation tools. Additionally, the Department will present its annual MPA Management Program update under the Department's Marine Region update.

Significant Public Comments**(A) Bin 1 Petitions – Department Evaluation and Recommendations**

- *Petition 2023-26MPA (Swami's State Marine Conservation Area, SMCA)*

Amend: The petitioner requests to withdraw the boundary change proposals, but retain proposed color changes for no-take SMCAs in outreach materials (Exhibit 8).

Oppose: A recreational fishing and hunting organization and two recreational fishermen oppose the proposed boundary changes, citing concerns about scientific basis, fishing access, and enforcement challenges (exhibits 9 through 11).

- *Petition 2023-31MPA (Drakes Estero SMCA) or Petition 2023-30 (Big River SMCA)*

Support 2023-31MPA: The petitioner provides additional support for the petition from various individuals and organizations (National Park Service, Marin County Supervisor Rodoni, scientists, non-governmental and community-based organizations, local individuals, and tribes) (Exhibit 12).

Oppose 2023-31MPA and 2023-30MPA: A recreational fishing and hunting organization opposes both petitions due to potential impacts on recreational harvest and lack of clear scientific rationale (Exhibit 9).

- *Petition 2023-22MPA (several Orange County MPAs)*

Support 2023-22MPA_7: Twenty-two individuals support adding language to Orange County MPAs stating that "Scientific research, monitoring, restoration, and education is allowed pursuant to any required federal, state, or local permits, or as otherwise authorized by the Department."

(B) Bin 2 Petitions – Sorting and Next Steps in Evaluation Process

- *MPA Petition Evaluation Process:* Four fishing organizations and three individual fishermen have raised concerns about the MPA petition evaluation process, especially for advancing large-scale MPA change petitions. They cite issues such as insufficient scientific support, inadequate stakeholder engagement, potential conflicts with the Commission's new Coastal Fishing Communities Policy, and coastal fishing communities facing multiple marine spatial developments (offshore wind, 30x30, quillback-driven area closures). Some commenters recommend prioritizing adaptive

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management adjustments actions, separating evaluations for network expansion, and pausing the process for new MPA proposals to allow for a more thorough and inclusive approach (see examples in exhibits 13-18).

(C) General Comments

- *Disputing MPA Effectiveness*: Two recreational fishing organizations submitted documents as evidence from scientific sources challenging the effectiveness of MPAs in increasing fish abundance (Exhibit 19).
- *Amend: Petition 2023-15MPA (Channel Islands MPAs)*: The petitioner requests to amend the petition with several options offered for take allowance, including full access and restrictions on gear types, and addresses potential impacts on nearshore areas. Also provides rationale to allow fishing for highly migratory species (HMS) in three Channel Islands MPAs (states HMS have minimal impact on MPA ecosystems; current regulations are overly restrictive due to unintentional gear movement and military closures; and the proposal aligns with adaptive management principles). (Exhibit 20)
- *Support, Oppose or Additional Information*: Over a dozen letters and emails in support of or opposition to specific Bin 2 petitions (Exhibit 21).
- *Petition 2023-23MPA*: Petitioner provides additional information about outreach and compromises made, responds to objections to petition, identifies where additional policy guidance is needed, and attaches a table with all MPA petitions with proposed actions and justifications, and other non-MPA related information (Exhibit 22).

Recommendation

Commission staff: (A) Review the Department's draft recommendations for Bin 1 petition actions and provide feedback. Develop an MRC recommendation for each Bin 1 action, considering public input and potential modifications to the Department's proposals, if any. (B) Discuss the categorization of Bin 2 petitions into individual actions. Provide guidance on the evaluation process, including any specific information or criteria that should be displayed.

Department: (A) Support the Department's draft Bin 1 actions recommendations as proposed. (B) Discuss potential next steps for Bin 2 petition evaluations and amendments.

Exhibits

1. [Staff summary and exhibits from October 9-10, 2024 Commission meeting, Agenda Item 10\(C\), Marine Region Report](#), regarding MPA regulation change petitions (*for background purposes only*)
2. [Department presentation](#)
3. [Department memo: MPA Regulations Change Petitions-Evaluation Process](#), received October 25, 2024
4. [Department recommendations for Bin 1 petition actions](#), received October 25, 2024
5. [Department report on the California MPA Petition Process](#), Agenda Item D.2.b Marine Planning, Pacific Fishery Management Council, November 2024
6. [Staff-proposed process for revising MPA petitions](#), dated October 25, 2024
7. [California Ocean Protection Council presentation](#) – evaluation tools

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*(For background purposes only)***(A) Comments on Bin 1 Petitions**

8. [Letter from Katie O'Donnell, U.S. Ocean Conservation Manager, WILDCOAST](#), received October 10, 2024
9. [Letter from Joel Weltzien, California Chapter Coordinator, Backcountry Hunters & Anglers](#), received October 23, 2024
10. [Email from Volker Hoehne](#), received October 16, 2024
11. [Letter from David Clutts](#), member, San Diego Freedivers, Norcal skindivers, and Richmond Pelican Skindivers, received October 21, 2024
12. [Letter from Ashley Eagle-Gibbs, Executive Director, Environmental Action Committee of West Marin](#), received October 24, 2024

(B) Comments on Bin 2 Petition Evaluation Process

13. [Letter from Kim Selkoe, Executive Director, Chris Voss, President, and Ava Schulenberg, Assistant Director, Commercial Fishermen of Santa Barbara](#), received October 24, 2024
14. [Letter from Kim Selkoe, Founder and CEO, and Victoria Voss, COO, Get Hooked Seafood](#), received October 24, 2024
15. [Letter from Miles Wallace, Owner, Open Ocean Seafood, and Board Member, California Lobster and Trap Fishermen's Association](#), received October 24, 2024
16. [Email from Matthew Bond, AllWaters PAC](#), received October 24, 2024
17. [Letter from Ava Schulenberg, Executive Director, California Lobster and Trap Fishermen's Association](#), received October 24, 2024
18. [Letter from Ava Schulenberg](#), commercial fisherman, received October 24, 2024

(C) Comments on Individual Petitions or MPAs Generally

19. [Emails and attachments from Chris Killen, AllWaters PAC, and Bill Shedd, Coastal Conservation Association California](#), received October 9 to October 23, 2024
20. [Letter from Blake Hermann](#), petitioner for Petition 2023-15MPA, received October 15, 2024
21. [Compilation of eleven letters and emails](#), received October 9 to October 24, 2024
22. [Letter and attachments from Keith Rootsart, Founder, Giant Giant Kelp Restoration](#), and petitioner for 2023-23MPA, received October 24, 2024

Committee Direction/Recommendation

The Marine Resources Committee recommends that the Commission support the Department draft recommendations for petitioned actions in Bin 1 MPA regulation change petitions; and schedule those petitions for action at the February 2024 Commission meeting.

OR

The Marine Resources Committee recommends that the Commission support the Department draft recommendations for petitioned actions in Bin 1 MPA regulation change petitions, except

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for: _____ for which the MRC recommends: _____, and
schedule those petitions for action at the February 2024 Commission meeting.

California Fish and Game Commission
Marine Protected Area (MPA) Petitions Regulation Change Proposals — Action
Updated December 5, 2024

CFGC - California Fish and Game Commission CDFW - California Department of Fish and Wildlife MRC - CFGC Marine Resources Committee

MPA - marine protected area SMR - state marine reserve SMCA - state marine conservation area

Grant: CFGC is willing to consider the petitioned action through a process Deny: Not willing to consider the petitioned action Refer: Need more information before the final decision

Petitioner Contact	Petition Tracking No._Action ID	Affected MPA	Action Type	Petition Proposed Action	CDFW Draft Recommendation to MRC	CDFW Brief Justification and Preferred Action	MRC Recommendation
Wendy Berube, Orange County Coastkeeper	2023-22MPA_3	Crystal Cove SMCA	Allowable Uses	Add "non-living, geological or cultural" to marine resource tidepool take prohibition for consistency with 632(a)1(C).	Deny w/ alternative pathway	(1) Redundant with 632(a)1(C) that already prohibits tidepool take. (2) Recommend striking specific language regarding tidepools from the Crystal Cove SMCA regulations for clarity and consistency.	(1) Deny adding language to Crystal Cove SMCA regulations based on CDFW rationale. (2) Retain the specific language regarding tidepools in Dana Point and Crystal Cove SMCAs only, due to original intent for these MPAs. (3) Amend regulatory language (either in subsection (a) or (b) of Section 632) that clarifies the take prohibition in tidepools — and/or SMCAs — includes both living and non-living marine resources; request that CDFW work with the petitioner to develop proposed language.
Wendy Berube, Orange County Coastkeeper	2023-22MPA_4	Crystal Cove SMCA	Allowable Uses	Change description of tidepools to "rocky intertidal zone" with a modified definition, "the rocky intertidal zone includes all hard substrate between the highest high tide and lowest low tide."	Grant w/ alternative pathway	(1) Simplifies regulatory language and could help enhance public understanding. (2) Recommend striking from regulations for this individual MPA and add a definition of rocky intertidal habitat to general provisions in a new subsection 632(a)(16).	(1) Grant in concept based on CDFW rationale, by adding a definition of rocky intertidal habitat to the general provisions in subsection 632(a), in coordination with petitioner. (2) Retain the tidepool language in Crystal Cove and Dana Point SMCAs regulations only, due to original intent for these MPAs, and update terminology, if appropriate, based on the new general provision for rocky intertidal habitat.
Wendy Berube, Orange County Coastkeeper	2023-22MPA_5	Dana Point SMCA	Allowable Uses	Add "non-living, geological or cultural" to marine resource tidepool take prohibition for consistency with 632(a)1(C)	Deny w/ alternative pathway	(1) Redundant with 632(a)1(C) that already prohibits tidepool take. (2) Recommend striking specific language regarding tidepools from the Dana Point SMCA regulations for clarity and consistency.	(1) Deny adding language to Dana Point SMCA regulations based on CDFW rationale; (2) Retain the specific language regarding tidepools in Dana Point and Crystal Cove SMCAs only, due to original intent for these MPAs. (3) Amend regulatory language (either in subsection (a) or (b) of Section 632) that clarifies the take prohibition in tidepools — and/or SMCAs — includes both living and non-living marine resources; request that CDFW work with the petitioner to develop proposed language.
Wendy Berube, Orange County Coastkeeper	2023-22MPA_6	Dana Point SMCA	Allowable Uses	Change description of tidepools to "rocky intertidal zone" with a modified definition, "the rocky intertidal zone includes all hard substrate between the highest high tide and lowest low tide."	Grant w/ alternative pathway	(1) Simplifies regulatory language and could help enhance public understanding. (2) Recommend striking from regulations for this individual MPA and add a definition of rocky intertidal habitat to general provisions in a new subsection 632(a)(16).	(1) Grant in concept based on CDFW rationale, by adding a definition of rocky intertidal habitat to the general provisions in subsection 632(a), in coordination with petitioner. (2) Retain the tidepool language in Crystal Cove and Dana Point SMCAs regulations only due to original intent for these MPAs, and update terminology, if appropriate, based on the new general provision for rocky intertidal habitat.

Petitioner Contact	Petition Tracking No._Action ID	Affected MPA	Action Type	Petition Proposed Action	CDFW Draft Recommendation to MRC	CDFW Brief Justification and Preferred Action	MRC Recommendation
Wendy Berube, Orange County Coastkeeper	2023-22MPA_7	All Orange County MPAs, except Upper Newport Bay	Allowable Uses	Add an amendment that "Scientific research, monitoring, restoration, and education is allowed pursuant to any required federal, state, or local permits, or as otherwise authorized by the department.	Deny	Redundant with what is already allowed in SMCAs pursuant to statute (Public Resources Code sections 36600-36690).	(1) Deny adding language to all Orange County MPA regulations, except Upper Newport Bay, based on CDFW rationale. (2) Amend the general definition for SMCAs in subsection 632(a), for consistency with the recent update to Public Resources Code.
Burton Miller	2023-25MPA_2	Casino Point SMCA	Allowable uses	Remove allowance for feeding fish.	Deny	Fish feeding has been a long-standing practice in this area associated with local tourism that outdates the MLPA planning process. Because of this, and the enhancement of wildlife viewing, and educational opportunities provided by the practice, the MLPA Initiative Blue Ribbon Task Force recommended, and Commission adopted, an exemption for feeding fish in subsection 632(a)(6) if specifically authorized in 632(b) to continue to allow the practice for this MPA.	Deny based on CDFW rationale.
Burton Miller	2023-25MPA_5	Lover's Cove SMCA	Allowable uses	Remove allowance for feeding fish.	Deny	Fish feeding has been a long-standing practice in this area associated with local tourism that outdates the MLPA planning process. Because of this, and the enhancement of wildlife viewing, and educational opportunities provided by the practice, the MLPA Initiative Blue Ribbon Task Force recommended, and Commission adopted, an exemption for feeding fish in subsection 632(a)(6) if specifically authorized in 632(b) to continue to allow the practice for this MPA.	Deny based on CDFW rationale.
Robert Jamgochian	2023-30MPA_1	Big River Estuary SMCA	Take	Make recreational take of Dungeness crab more restrictive by : (A) changing crab gear regulations to only allow Type A hoops and eliminate hoop net Type B option.	Deny	Outside the scope of MPA management. Action more appropriate to be considered through fishery management process.	Deny, as recommended by CDFW.
Robert Jamgochian	2023-30MPA_2	Big River Estuary SMCA	Take	Make recreational take of Dungeness crab more restrictive by: (B) reducing the number of set traps from 10 to 5 for recreational take of Dungeness crab.	Deny	Outside the scope of MPA management. Action more appropriate to be considered through fishery management process.	Deny, as recommended by CDFW.
Robert Jamgochian	2023-30MPA_3	Big River Estuary SMCA	Take	Make recreational take of Dungeness crab more restrictive by: (C) reducing the recreational bag limit from 10 to 5 crabs per person.	Deny	Outside the scope of MPA management. Action more appropriate to be considered through fishery management process.	Deny, as recommended by CDFW.
Ashley Eagle-Gibbs, Environmental Action Committee of West Marin	2023-31MPA_1	Drake's Estero SMCA	Classification /Take	Reclassify Drake's Estero SMCA to an SMR to prohibit take.	Grant	Drake's Estero was designated as an SMCA to allow the existing aquaculture activities to continue operating. The MLPA North Central Coast Regional Stakeholder Group recommended changing the classification from an SMCA to an SMR if it is feasible to do so. Aquaculture activities ceased in 2014. Redesignation to an SMR could help protect biodiversity in the eelgrass beds that have recovered since the removal of the aquaculture infrastructure. There is limited recreational clamming activity that would be displaced by the classification change.	Grant based on CDFW rationale.

Petitioner Contact	Petition Tracking No._Action ID	Affected MPA	Action Type	Petition Proposed Action	CDFW Draft Recommendation to MRC	CDFW Brief Justification and Preferred Action	MRC Recommendation
Ashley Eagle-Gibbs, Environmental Action Committee of West Marin	2023-31MPA_2	Estero de Limantour SMR	Boundaries	Combine SMR with a reclassified Drake's Estero SMR into one single SMR.	Grant	Creating one SMR would eliminate the confusing boundary between the current SMCA and SMR.	(1) Grant based on CDFW rationale. (2) Request that CDFW follow up with tribes, stakeholders, and Commission staff on naming options for the combined SMR.
Burton Miller	2023-25MPA_4	Long Point SMR	Boundaries	Change the type of boundary from a latitude and longitude to a certain, specified distance from shore. To maintain overall size, the northeast corner could be trimmed and fitted to western edge of offshore boundary to create a standard distance from shore (in similar fashion to Arrow Point to Lion Head SMCA).	Deny	Requested change does not align with CDFW's Feasibility Guidelines to align MPA boundaries with whole minutes of latitude and longitude whenever possible to enhance enforceability. Using distance from shore is also inconsistent with this guidance. CDFW Law Enforcement Division is not supportive because it could decrease enforceability and result in reduced protection of marine resources.	Deny based on CDFW rationale.
Katie O'Donnell, WILD Coast	2023-26MPA_1 <i>Withdrawn by Petitioner</i>	Swami's SMCA	Boundaries	Shift the entire MPA boundary shape south (from lifeguard tower to State/Solana Beach line to cover tidepool on south side).	Deny	Northern boundary change was not evaluated at request of petitioner. Requested change at southern boundary does not align with CDFW's Feasibility Guidelines to align MPA boundaries with whole minutes of latitude and longitude whenever possible to enhance enforceability. CDFW Law Enforcement Division is not supportive because it could decrease enforceability and result in reduced protection of marine resources.	<i>N/A: Withdrawn by petitioner</i>

California Fish and Game Commission
Marine Protected Area (MPA) Petitions Non-Regulatory Requests — Action
Updated December 5, 2024

CFGC - California Fish and Game Commission CDFW - California Department of Fish and Wildlife MRC - CFGC Marine Resources Committee

MPA - marine protected area SMR - state marine reserve SMCA - state marine conservation area

Petitioner Contact	Petition Tracking No._Action ID	Affected MPA	Action Type	Petition Proposed Action	CDFW Draft Recommendation to MRC	CDFW Brief Justification and Preferred Action	MRC Recommendation
Wendy Berube, Orange County Coastkeeper	2023-22MPA_1	Bolsa Chica Basin no-take SMCA	Non-regulatory	Change color of no-take SMCA from purple to red on outreach maps.	Support w/ alternative pathway	This proposed action does not require a change to existing regulations. Discuss alternative pathway to identify how best to implement the change.	Support, as recommended by CDFW, with the following specifics: (1) Near-term: Support a CDFW policy change in its outreach guidelines to support displaying no-take SMCAs with red color instead of purple. (2) Longer-term: Support CDFW exploring classification changes of all no-take SMCAs to SMRs, if current allowable uses would be accommodated and compatible with recent rulemaking authorizing permitted maintenance of pre-existing artificial structures.
Wendy Berube, Orange County Coastkeeper	2023-22MPA_2	Laguna Beach no-take SMCA	Non-regulatory	Change color of no-take SMCA from purple to red on outreach maps.	Support w/ alternative pathway	This proposed action does not require a change to existing regulations. Discuss alternative pathway to identify how best to implement the change.	Support as recommended by CDFW, with specifics specified for 2023-22MPA_1.
Burton Miller	2023-25MPA_1	Blue Cavern Onshore no-take SMCA	Non-regulatory	Change color of no-take SMCA from purple to red on outreach maps.	Support w/ alternative pathway	This proposed action does not require a change to existing regulations. Discuss alternative pathway to identify how best to implement the change.	Support as recommended by CDFW, with specifics specified for 2023-22MPA_1.
Burton Miller	2023-25MPA_3	Casino Point SMCA	Non-regulatory	Change color of no-take SMCA from purple to red on outreach maps.	Support w/ alternative pathway	This proposed action does not require a change to existing regulations. Discuss alternative pathway to identify how best to implement the change.	Support as recommended by CDFW, with specifics specified for 2023-22MPA_1.
Katie O'Donnell, WILDCOAST	2023-26MPA_2	Batiquitos Lagoon no-take SMCA	Non-regulatory	Change color of no-take SMCA from purple to red on outreach maps.	Support w/ alternative pathway	This proposed action does not require a change to existing regulations. Discuss alternative pathway to identify how best to implement the change.	Support as recommended by CDFW, with specifics specified for 2023-22MPA_1.
Katie O'Donnell, WILDCOAST	2023-26MPA_3	San Elijo Lagoon no-take SMCA	Non-regulatory	Change color of no-take SMCA from purple to red on outreach maps.	Support w/ alternative pathway	This proposed action does not require a change to existing regulations. Discuss alternative pathway to identify how best to implement the change.	Support, as recommended by CDFW, with the alternative pathway specified in the MRC recommendation for petition 2023-22MPA_1.
Katie O'Donnell, WILDCOAST	2023-26MPA_4	Famosa Slough no-take SMCA	Non-regulatory	Change color of no-take SMCA from purple to red on outreach maps.	Support w/ alternative pathway	This proposed action does not require a change to existing regulations. Discuss alternative pathway to identify how best to implement the change.	Support, as recommended by CDFW, with the alternative pathway specified in the MRC recommendation for petition 2023-22MPA_1.

Commissioners
Samantha Murray, President
La Jolla
Erika Zavaleta, Vice President
Santa Cruz
Jacque Hostler-Carmesin, Member
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Fish and Game Commission



*Wildlife Heritage and Conservation
Since 1870*

November 19, 2024

To: Local elected officials of coastal cities and counties and government agency leadership, from Smith River to Imperial Beach

Re: Marine Protected Area Regulation Change Petitions Submitted to the California Fish and Game Commission

Dear honorable coastal elected officials and agency leadership:

On behalf of the California Fish and Game Commission, I am writing to share with you information about potential changes to California's network of marine protected areas (MPAs) that have been proposed by the public, non-governmental organizations, and other agencies.

Importantly, some agency officials have inquired about the best way to engage in the petition review and evaluation process, especially for proposals that overlap or border areas under local government jurisdiction. This letter provides background information, specific ways to become involved in the petition review and evaluation process, and who to contact for more information.

Background

In early 2023, the first comprehensive [decadal management review](#) of [California's MPA network](#) and [MPA management Program](#) was completed. The review resulted in 28 recommendations for adaptively improving the program over the next decade. One recommendation was to apply the review's findings to support potential changes to the MPA network and management program. Recognizing stakeholder interest in proposing specific changes, the Commission agreed to receive petitions for changes to the MPA network.

In December 2023, the Commission received 20 petitions from the public proposing over 80 individual changes to existing MPAs or proposing new ones. The Commission is still in early stages of reviewing the petitions; in February 2024, all petitions were referred to our sister agency, the California Department of Fish and Wildlife (CDFW), for evaluation and recommendations. The petitions and evaluations are being discussed at meetings of the Commission and its Marine Resources Committee; the most recent discussion occurred at the November 6-7, 2024 Marine Resources Committee meeting ([item 2 of the meeting materials](#)).

How to Get Involved

Your input to and engagement with the review and evaluation process is important; there are multiple pathways for you to engage in the review and evaluation process.

Review Petitions and Contact Petitioners

If you have not already, we encourage you to familiarize yourself with petitions in your area using CDFW's interactive [MPA Petitions StoryMap](#), or via the Commission's online list of [MPA petitions](#). We encourage you to consider reaching out to the petitioner(s) directly. Commission staff can help connect you to petitioners if contact information is redacted (fgc@fgc.ca.gov).

There are multiple pathways for you to engage in the review and evaluation process, including meetings of the Commission, discussions at Marine Resources Committee meetings, submitting written comments, and community engagement through your local [MPA Collaborative](#).

As the Commission begins the evaluation process, you can learn more about the considerations used for [organizing or "binning" petitions](#) (how the petitions were sorted for near-term versus long-term review) and [draft recommendations for the first, near-term, bin of petitioned actions](#) that will be presented to the Commission in December.

Provide Input

During the review and evaluation of petitions, the Commission welcomes your input on feasibility, potential impacts, and other factors related to specific proposed changes important to your communities. You can submit written comments, give verbal comments at Commission meetings, or participate in Marine Resources Committee meetings where a more detailed dialogue takes place among stakeholders and up to two commissioners; ultimately, the committee makes recommendations to the Commission for potential action.

Stay Informed

Visit the Commission website for a schedule of upcoming Commission and committee meetings, and instructions on submitting written or verbal comments (www.fgc.ca.gov/meetings). All meetings take place in a hybrid format, so you may join in person or via Zoom. We invite you to [join our electronic mailing list\(s\)](#) to receive meeting agendas and announcements.

To become more involved in local MPA management and stewardship in your county, you may visit www.mpacollaborative.org to connect with your county or regional MPA collaborative and/or sign up to receive meeting announcements and other information. The collaboratives are also a great resource for questions about your local MPAs.

Moving Forward

In addition to many elected officials and leadership within city and county governments, we have included MPA collaborative co-chairs on the list of recipients so they are aware of this outreach. If you are not the appropriate contact at your organization, or we missed someone, please feel free to forward this letter and information to another representative.

Honorable elected officials and agency leadership
November 19, 2024
Page 3

As always, Commission staff are committed to answering questions, providing resources and information, and engaging with you about the process for reviewing and evaluating MPA petitions. Feel free to contact us at fgc@fgc.ca.gov or (916) 653-4899.

Sincerely,

Melissa A. Miller-Henson
Executive Director

cc: Charlton Bonham, Director, California Department of Fish and Wildlife
Craig Shuman, Regional Manager, Marine Region, California Department of Fish and
Wildlife
Jenn Eckerle, Executive Director, California Ocean Protection Council
Calla Allison, Executive Director, California MPA Collaborative Network

From: Mitchell Conniff <[REDACTED]>

Sent: Tuesday, November 5, 2024 09:39 AM

To: FGC <FGC@fgc.ca.gov>

Subject: MRC November 6-7, 2024 Meeting Comments

Greetings,

Below is a letter from the Point Loma Commercial Fishing Alliance to be included as public comment for the November 6-7, 2024 meeting. The comment is in regards to Petition 23-33MPA. I am aware that the deadline for electronic submission has passed, I will be presenting this letter in person at the meeting, but I am sending an electronic copy as well for the administrative record.

Thank you,

Mitch Conniff

PLCFA

www.ptlomacfa.org

October 28, 2024

Marine Resources Committee

Natural Resources Headquarters Building

Second Floor

715 P Street

Sacramento, CA 95814

Greetings:

I am writing this letter to the council regarding petition (2023-33MPA) submitted by Environment California and Azul in November of 2023. Our organization has grave concerns regarding this petition and many of the assertions contained therein, specifically in regard to the proposed expansion of the Cabrillo MPA. Additionally, we feel the petition does not merit further consideration due to numerous inconsistencies with the 2016 MLPA Master Plan and a failure by the petition to reach the standards outlined by the MLPA Master Plan.

First, allow me to introduce our organization. The PLCFA is an organization of Commercial Fishers and Commercial Fish Businesses based in Point Loma. We were established to address issues that impact our businesses including state and federal regulations, land-use issues and environmental/ marine resource management. Our members are primarily made up of trap and hook & line fishers and they primarily fish the near shore waters around Point Loma, adjacent to the current Cabrillo MPA. As a group we take our environmental and marine stewardship responsibilities seriously and our members engage in zero bycatch fisheries, utilize carbon reducing CARB Tier 2 engines in their vessels as well as engage in various community based environmental events.

Because our group is Point Loma/ San Diego based, our members are specifically concerned with the impact of the proposed expansion of the Cabrillo MPA on their livelihoods. The proposed expansion would add an additional 15+ Square miles of zero-take MPA and represent a 500% increase of the existing MPA. This expansion would eliminate virtually all marine resource take for the historic fishing community of Point Loma and reduce near-shore fisheries available within the city of San Diego by roughly half. When combined with the existing restrictions in La Jolla it eliminates the viability of commercial fishing accessible from San Diego Bay and would eliminate the livelihoods of

dozens of families. The petition blithely infers that these fishers could pursue their livelihoods elsewhere, but that opportunity simply does not exist. This expansion of the current MPA would result in what amounts to a massive closure, impacting a large swath of historic commercial fishing grounds and the evidence used to justify such a drastic move is inadequate at best.

The Petition Is Not Aligned with the Process Laid out in the 2016 MLPA Master Plan

The 2016 MLPA Master Plan laid out a process for new petitions. That process had specific standards that included the following:

- a blue-ribbon scientific panel that looked at all aspects of successful MPA's with "results driven management" and proposed expansion
- "robust" stakeholder outreach including "advice, assistance and involvement of the participants in the various fisheries"
- "Preserve the diversity of recreational, educational, commercial and cultural uses"
- Include diverse types of reserve (no-take, restricted take and unrestricted take in compliance with current fishery management) to evaluate the effectiveness of different protection levels
- Contain an analysis of socio-economic impacts resulting from the proposed MPA

Petition 2023-33MPA fails to meet those standards in many specific ways.

The Petition does not follow the process for new petitions as described in the Master Plan

Petition 2023-33MPA fails to meet the process standards in many specific ways. The MLPA Master plan outlines a process in which the groups included in the Memos of Understanding (MOU), a Blue-Ribbon Scientific Panel, MLPA and CDFW staff and members of the Regional Stakeholder Group would work collaboratively to analyze and make proposals for changes to the MPA network. Nowhere in the Master Plan is there a process in which wide-ranging, narrow interest groups outside the above referenced groups create their own petitions. It is our contention that the petition contains numerous errors in process and did not go through the proper process outlined by the MLPA Master Plan and thus should be exempt from further consideration.

The science used to justify the expansions is overly broad, data is misconstrued

and necessary scientific data is incomplete or absent altogether

The proposition lists seven MPA's, with a combined size of 76.2 square miles and spread over hundreds of miles, yet virtually every study mentioned deals exclusively with a small

number of areas in the Santa Barbara channel and Monterey Bay. To apply limited studies of a relatively small area, hundreds of miles away, broadly to a variety of marine environments with a unique set of issues is irresponsible and flies in the face of the Master Plan's promise to apply a science driven approach to MPA management and new petitions. The Cabrillo MPA, for example, faces a broad and unique set of possible challenges that could be relevant to kelp die off. Explanations and possible causation that deserve investigation are Tijuana River runoff, San Diego River runoff, possible contamination from the three adjacent Naval bases, Naval activities on the water adjacent to the proposed expansion, pesticide use in the creation of the Sunset Cliffs Natural Park, extreme marine wave events that occurred in recent years and corresponded with the kelp forest disappearance, a sewage treatment plant in the proposed MPA and storm runoff that is prevalent in the area. Each one of those factors deserve consideration for their impact on the health of the kelp forest, yet the petitioners completely ignore them. The biggest consideration the petitioners fail to investigate is the health of the kelp forest inside the existing MPA compared with kelp forest health adjacent to the MPA. Anecdotal observation would suggest that the kelp forest disappearance is in fact the same within the MPA and outside the MPA and at minimum a study should be completed to determine whether or not that is the case. All seven of these MPA expansions should be considered on a case-by-case basis, considering the unique factors each one faces and relying on data and analysis pertinent to each one.

The petition mentions several times that "overfishing" is contributing to kelp forest disappearance (despite conceding multiple times that the most generally accepted factor contributing to kelp forest die off is climate change and associated acidification). The petition does nothing to analyze the overall health of the various fisheries and fails to show any evidence that the areas in question are in fact "overfished". There is no analysis of what a healthy baseline stock for the various fisheries is, what the stock looks like currently and what it would look like if it were "overfished". The commercial fishing activity within the proposed Cabrillo MPA expansion are highly regulated, limited entry, zero by-catch fisheries. To imply that these fisheries are "overfished" is to imply that the current analyses of the state and federal government, PSMFC and all the scientists involved are wrong and their management practices, up to and including the present, have been inaccurate and detrimental to the marine ecosystem.

The one factor that virtually every scientist and stakeholder agrees is the driving force behind the declining health of our kelp forests are marine heatwave events, climate change and ocean acidification. Despite that shared belief the petitioners fail to address that in any meaningful way and their petition could in fact contribute to those areas. Any responsible, science-based petition would investigate the most likely cause and prescribe

solutions that would primarily deal with that cause. The only solution this petition realistically prescribes is no take of marine resources and absolutely no prescribed action to deal with the most likely culprit. Further, the petition does no analysis of the likely side-effects of their proposed solution. Closures of this magnitude will undoubtedly result in increased Vehicle Miles Travelled and Vessel Hours Travelled (VMT/VHT) as fishers are forced to travel beyond the closures in order to make a living. Considering the Cabrillo MPA, the only areas left for those fishers would be La Jolla or travelling offshore to San Clemente Island and the offshore banks. Best case scenario is that this expansion would result in a doubling of VHT as fishers travelled north to La Jolla and likely would send a significant number of fishers offshore increasing VHT tenfold. Additionally, the petition does nothing to address the likelihood that this closure would lead to a decrease in locally available seafood products forcing the market to rely on products from further away, increasing VMT to bring products to market. The expansions and resulting closures would undoubtedly lead to an increase in imported resources as well, leading to greater VMT/VHT and an outsourcing of the environmental impacts to places with poorer fisheries management practices than California. Any responsible petition would include an analysis of likely side effects, including a VMT/VHT analysis, and how those factor into the goals of the prescribed solutions.

The Master Plan calls for MPA's to include diverse types of reserve (no-take, restricted take and unrestricted take in compliance with current fishery management) and diverse types of marine environment.

San Diego County has multiple MPA and SMCA. They are all virtually identical in that they are all reef structure and contain a zero-take or highly limited take. There is zero diversity, and the petition proposes to massively expand that without proposing any efforts at diversity of ecosystem or take allowances. There is an opportunity to include areas of different take allowances to explore the differences between the management techniques, yet the petitioners ignore that notion altogether. To increase an MPA to this degree, and eliminate citizen access to Marine resources, without even exploring the results of different management techniques is inconsistent with the MLPA Master Plan.

This petition clearly does not meet the standards outlined in the MPA Master Plan, nor was the process for new petitions followed. The petitioners failed to meet the scientific standards, ignore altogether any notion of a collaborative process and fails to engage, in any meaningful way, to “preserve the diversity of recreational, educational, commercial and cultural uses”. Because of the failure of the petitioners to even attempt to adhere to the process laid in the MLPA Master Plan the petition should be excluded from any further consideration.

The Socio-Economic Impact is ignored altogether, and the necessary impact and study were never completed

The socio-economic impact portion of their petition (which is required for the petition to be accepted) amounts to one small paragraph that includes no real scientific analysis. The petition includes seven expansions from San Diego hundreds of miles north to Santa Cruz yet sums up the economic impact as “minimal” and ridiculously suggests that the economic interests will somehow be enhanced. There are no economic figures included in the proposition, there is no analysis of the cultural, historical or social impacts, no mention of possible impacts on native communities and what little science that is included is irrelevant and misconstrued. Ms. Deehan of EC attended the San Diego MPA Collaborative in October and when pressed on the matter admitted that they didn’t have any economic data and would be “very interested in seeing the numbers”. That is an admission of their neglect to this area, a response removed from reality and an example of how out of touch the petitioners are.

The proposal would have a devastating socio-economic impact on the Point Loma Community

We have attached an Economic Impact Report that analyzes how this expansion would impact the livelihoods of Trap Fishers and the associated land-based businesses in Point Loma. The report indicates that the Trap Fishery contributes 51 jobs and \$4.3 million to the local economy. This analysis does not include the tens of millions of dollars contributed from the sport fishing industry, the recreational spear-fishing industry, the tourism industry and many more. This data can be extrapolated out 6 more times for each expansion and economic impact quickly reaches into the hundreds of millions of dollars and hundreds (possibly thousands) of jobs. The petitioners appear to rely on the notion that all of these stakeholders can simply move a little bit and then enjoy the fruits of the expanded MPA’s. The reality is that there is nowhere to move any longer and these businesses will be left with no choice but to go out of business. The Cabrillo MPA expansion in particular would remove the last available reef structure in southern San Diego County. The only other possible option would be to move north to La Jolla and that is not a realistic option as La Jolla is already impacted by the South La Jolla MPA and the remaining fishable area is too impacted at present; it certainly could not support the addition of the entire Point Loma Fishery. The Cabrillo expansion amounts to a closure of the last fishable area and would result in the loss of income to the members of the fishery. Additionally, it would wipe out the capital investment that each one of these businesses has made in licenses and vessels. It would result in the annual economic loss to the community of \$4.3. All of these businesses are family operated, and many are multi-generational. These businesses are

the last vestiges of a once thriving commercial day boat fishery and are integral to the character of the community. This is a massive socio-economic impact on just one of the seven communities in the petition and that it is addressed in one small paragraph is devoid of reality and sensitivity to the needs of the stakeholders and their communities.

San Diego County and the City of San Diego would suffer an outsized impact from this petition

The San Diego County coastline is long and varied and home to millions of people. Already we are home to multiple MPA's, SCMA's and de-facto closures from military bases (Camp Pendleton and the Coronado Navy bases). The amount of coastline shut off to the take of marine resources far exceeds the 30% goal and the proposed expansion of the Cabrillo MPA would take away a significant piece of what is left. Furthermore, virtually all of the marine ecosystem deemed no-take under the MLPA is reef structure. If the Cabrillo expansion occurred a significant portion of the remaining reef structure would be removed and what is left is difficult to access due to the relative distance from available marinas, not to mention the increased impact on those areas due to greater use. If this expansion were approved the citizen and economic impact on access to marine resources in San Diego County would be outsized and place an undue burden on the citizenry.

The petitioner's dismissal of the required socio-economic impact analysis, and their disregard for the various commercial and economic interests should preclude this petition from further consideration.

Stakeholder outreach plainly and simply was not even attempted by the writers of this petition.

The MLPA Master Plan envisions a process for petitions in which the petitioners engage in robust stakeholder outreach and a collaborative effort in which the economic and cultural interests of various parties were considered. These petitioners have attempted nothing remotely close to that. Each one of the seven MPA expansions has a unique group of stakeholders with a variety of perspectives on what management of these ecosystems would look like. The MLPA Master Plan takes these varying perspectives into account and prescribes a process in which petitions would be written in collaboration with those varying interests and outreach would be made to address the concerns. The petitioners did none of that.

There are any number of stakeholders, notably commercial fishing interests. Most of these groups, like ours, maintain websites and social media accounts. Many of us are in regular contact with fisheries scientists and staff at institutions like Scripps and Cal Sea Grant and maintain contact with CDFW wardens and staff on a regular basis. We operate businesses

and hold public events on a regular basis. In essence, we are easy to find, yet no effort was made to find us in the process of crafting this petition. Before the petition was submitted there was no effort to reach out for feedback. After the petition was submitted, there was no outreach to get feedback on the submission. No effort was made whatsoever at collaboration or outside feedback.

In reference to the Cabrillo MPA expansion, the one attempt at outreach and public feedback occurred in October of this year at an MPA collaborative meeting, eleven months after the submission was made. Notably, the meeting was scheduled at 10 a.m. on the first Wednesday in October which just so happened to be the opening day of Lobster season. At the meeting Ms. Deehan of EC was present, and stakeholders were allowed an opportunity to address concerns. Following the meeting we presented our concerns in writing as well as presented economic analysis. To date no acknowledgement or response has been received, nor has there been any further attempt to address our concerns or collaborate. Quite clearly this was an attempt to check the stakeholder outreach box and that is the extent of any attempt at collaboration.

It is quite evident that this petition was written and submitted without any intention of engaging with stakeholders, addressing the varied economic and social interests and working collaboratively. The meager attempts that have been made were all after the fact and concerns have not been meaningfully addressed. Considering that this effort is not in alignment with the spirit, or the letter, of the MLPA Master plan this petition should be exempt from further consideration.

The process by which the commission accepted this petition is not in-line with the process laid out in the MLPA Master Plan.

The MLPA Master Plan speaks extensively of what the process for petitions of changes to the MPA network should look like. It provides for a process for that includes “blue-ribbon” scientific analysis, socio-economic analyses, stakeholder and community outreach and collaboration. Most importantly it describes a process that is to be addresses by the various state committee’s and their staffs, the groups under the MOU banner and the Regional Stakeholder Groups. What we got instead is a process that allowed any group to submit any petition, self-assess whether it met the criteria for consideration and allow it to be accepted at face value for consideration regardless of its merits or whether it met the criteria set out in the MLPA Master Plan. As a result, various stakeholder groups are left in the impossible position of defending and advocating against the wish list of any special interest group that has the resources to submit a petition. This is not what good regulation and good governance looks like. The citizens of the State of California, and the stakeholders beholden to regulation, were promised many things in the MLPA and decadal

reviews. We were promised science driven management of fisheries and resources. We were promised a review of the effectiveness and costs of MPA's, and application of the findings be considered in any proposed expansion of the network. We were promised a science driven appraisal of the various restrictions on MPA's and various applications of types of restrictions to analyze effectiveness. We were promised a collaborative effort, considering all of the needs of citizens. What we have instead is special interest groups taking over the writing of regulations and submitting a wish list of their narrow interests. Environment California and Azul have no business writing new regulations for all the citizens of California any more than the NRA does writing gun regulations. Their petition is a well written letter in support of an MPA expansion, but it is just that- one stakeholder's opinion of what the MPA network should look like. To elevate it to the level of consideration, without any barrier to entry beyond a one-page self-assessment, flies in the face of any notion of good governance or citizen regulation. The commission is abdicating its responsibilities under the MLPA, the MLPA Master Plan and any notion of good governance. Considering that the petition fails to meet the process standards outlined by the MLPA and MLPA Master Plan it should be exempt from further consideration.

In closing, it is the opinion of the Point Loma Commercial Fishing Alliance that petition 2023-33MPA should be exempt from any further consideration. We have come to this conclusion considering the following:

- The petition fails to meet the criteria outlined in the MLPA master plan.
- The science used to justify the petition is overly broad, misapplied and incomplete
- The required socio-economic impact analysis was ignored
- The process by which the petition was submitted in the first place violates the principles outlined in the MLPA and the MLPA Master Plan

Combining the procedural errors and incomplete or erroneous analysis included in the petition, we feel that the CDFG and MRC have no choice but to exclude the petition from any further consideration.

Respectfully,

Mitchell Conniff



PLCFA Cabrillo MPA Expansion Annual Economic Impact Analysis

The purpose of this document is to illustrate the economic impact of the proposed Cabrillo MPA Expansion and the resultant closure of the commercial trap fishery. The analysis looks at economic impact specific to the Point Loma based commercial fishery, the land based commercial fish businesses and associated economic activity from secondary sources (restaurants, fish markets, etc.) for the period from 7/1/2023 to 6/30/2024. The analysis only includes activity from commercial trap fisheries (Spiny Lobster, Crab, Sheephead) and does not consider the other socio-economic impacts this expansion would have on the area (recreational fishing, tourism, other forms of commercial fishing which) which numbers into the tens of millions. The methodology used to determine these figures was gathered through census (direct communication and gathering of economic data from stakeholders), direct analysis of reporting to CDFW and PSMFC and business record analysis for land-based businesses.

The table below illustrates the direct dollar value impact of commercial trap fishery activity:

	<u>Dollar Value</u>
<u>Direct sales from Commercial Trap Fishers*</u>	
Lobster	\$3,861,323.00
Crab	\$101,563.00
Sheephead	\$40,130.00
<u>Commercial Fish Business Sales**</u>	
Lobster	\$186,579.00
Crab	\$6,512.00
Sheephead	\$7,693.00
Secondary Sales***	\$140,884.00
Total	\$4,344,684.00

**Sales made directly from fishers to wholesale buyers*

***Sales made by land-based commercial fish businesses to end users (retail sales and wholesale)*

The table below illustrates jobs directly derived for the fishery:

	<u>Job Value</u>
<u>Jobs Supported by the Point Loma Commercial Trap Fishery</u>	
Fishers	22
Deck hands	26
Land Based Jobs*	3
Total	51

**Jobs in businesses that are supported by the commercial trap fishery (restaurant employees, fish market employees, etc.) This figure was derived from analyzing the amount of sales these businesses did of the fishery products and applying industry standard hours of employment required for those sales. The resulting figure is the number of employees required.*

Other economic impacts:

Each fisher builds traps specific to the fishery they are involved in. The number of traps depends on the fishery, but spiny lobster for example, utilizes 300 traps per fisher. These traps are built utilizing local labor and products from local purveyors. While it is difficult to pinpoint the exact annual impact of this activity it conservatively reaches above 100K annually.

Commercial trap fishing is a limited entry fishery with set numbers of permits for each species. The permits are sold on the secondary market, fetching well in excess of 100K per permit. Additionally, each fisher uses a highly specialized vessel equipped specifically for trap fishing. There is a wide variation in the value of these vessels. Conservatively, each fisher has 150K invested in permits and vessel and many in excess of 500K. This expansion (particularly when coupled with the Santa Barbara region expansions) would render many of these permits and vessels value-less. There is no reasonable expectation that these businesses could simply fish elsewhere and the loss in value of these investments would be catastrophic to most.

There is a broader socio-economic impact associated with this MPA expansion. This expansion would effectively end consumptive take of marine resources for the Point Loma geographical area. This area has been the sight of consumptive, commercial and recreational take for centuries, beginning with reliance of first people's on the area for sustenance, immigration to the area for the sole purpose of commercial fish activities and modern day activities that include tourism and recreation industries that rely on the ability to utilize marine resources.



www.ptlomagfa.org

October 28, 2024

Marine Resources Committee
Natural Resources Headquarters Building
Second Floor
715 P Street
Sacramento, CA 95814

Greetings:

I am writing this letter to the council regarding petition (2023-33MPA) submitted by Environment California and Azul in November of 2023. Our organization has grave concerns regarding this petition and many of the assertions contained therein, specifically in regard to the proposed expansion of the Cabrillo MPA. Additionally, we feel the petition does not merit further consideration due to numerous inconsistencies with the 2016 MLPA Master Plan and a failure by the petition to reach the standards outlined by the MLPA Master Plan.

First, allow me to introduce our organization. The PLCFA is an organization of Commercial Fishers and Commercial Fish Businesses based in Point Loma. We were established to address issues that impact our businesses including state and federal regulations, land-use issues and environmental/marine resource management. Our members are primarily made up of trap and hook & line fishers and they primarily fish the near shore waters around Point Loma, adjacent to the current Cabrillo MPA. As a group we take our environmental and marine stewardship responsibilities seriously and our members engage in zero bycatch fisheries, utilize carbon reducing CARB Tier 2 engines in their vessels as well as engage in various community based environmental events.

Because our group is Point Loma/ San Diego based, our members are specifically concerned with the impact of the proposed expansion of the Cabrillo MPA on their livelihoods. The proposed expansion would add an additional 15+ Square miles of zero-take MPA and represent a 500% increase of the existing MPA. This expansion would eliminate virtually all marine resource take for the historic fishing community of Point Loma and reduce near-shore fisheries available within the city of San Diego by roughly half. When combined with the existing restrictions in La Jolla it eliminates the viability of commercial fishing accessible from San Diego Bay and would eliminate the livelihoods of dozens of families. The petition blithely infers that these fishers could pursue their livelihoods elsewhere, but that opportunity simply does not exist. This expansion of the current MPA would result in what amounts to a massive closure, impacting a large swath of historic commercial fishing grounds and the evidence used to justify such a drastic move is inadequate at best.

The Petition Is Not Aligned with the Process Laid out in the 2016 MLPA Master Plan

The 2016 MLPA Master Plan laid out a process for new petitions. That process had specific standards that included the following:

- a blue-ribbon scientific panel that looked at all aspects of successful MPA's with "results driven management" and proposed expansion
- "robust" stakeholder outreach including "advice, assistance and involvement of the participants in the various fisheries"
- "Preserve the diversity of recreational, educational, commercial and cultural uses"
- Include diverse types of reserve (no-take, restricted take and unrestricted take in compliance with current fishery management) to evaluate the effectiveness of different protection levels
- Contain an analysis of socio-economic impacts resulting from the proposed MPA

Petition 2023-33MPA fails to meet those standards in many specific ways.

The Petition does not follow the process for new petitions as described in the Master Plan

Petition 2023-33MPA fails to meet the process standards in many specific ways. The MLPA Master plan outlines a process in which the groups included in the Memos of Understanding (MOU), a Blue-Ribbon Scientific Panel, MLPA and CDFW staff and members of the Regional Stakeholder Group would work collaboratively to analyze and make proposals for changes to the MPA network. Nowhere in the Master Plan is there a process in which wide-ranging, narrow interest groups outside the above referenced groups create their own petitions. It is our contention that the petition contains numerous errors in process and did not go through the proper process outlined by the MLPA Master Plan and thus should be exempt from further consideration.

The science used to justify the expansions is overly broad, data is misconstrued and necessary scientific data is incomplete or absent altogether

The proposition lists seven MPA's, with a combined size of 76.2 square miles and spread over hundreds of miles, yet virtually every study mentioned deals exclusively with a small number of areas in the Santa Barbara channel and Monterey Bay. To apply limited studies of a relatively small area, hundreds of miles away, broadly to a variety of marine environments with a unique set of issues is irresponsible and flies in the face of the Master Plan's promise to apply a science driven approach to MPA management and new petitions. The Cabrillo MPA, for example, faces a broad and unique set of possible challenges that could be relevant to kelp die off. Explanations and possible causation that deserve investigation are Tijuana River runoff, San Diego River runoff, possible contamination from the three adjacent Naval bases, Naval activities on the water adjacent to the proposed expansion, pesticide use in the creation of the Sunset Cliffs Natural Park, extreme marine wave events that occurred in recent years and corresponded with the kelp forest disappearance, a sewage treatment plant in the proposed MPA and storm runoff that is prevalent in the area. Each one of those factors deserve consideration for their impact on the health of the kelp forest, yet the petitioners completely ignore them. The biggest consideration the petitioners fail to investigate is the health of the kelp forest inside the existing MPA compared with kelp forest health

adjacent to the MPA. Anecdotal observation would suggest that the kelp forest disappearance is in fact the same within the MPA and outside the MPA and at minimum a study should be completed to determine whether or not that is the case. All seven of these MPA expansions should be considered on a case-by-case basis, considering the unique factors each one faces and relying on data and analysis pertinent to each one.

The petition mentions several times that “overfishing” is contributing to kelp forest disappearance (despite conceding multiple times that the most generally accepted factor contributing to kelp forest die off is climate change and associated acidification). The petition does nothing to analyze the overall health of the various fisheries and fails to show any evidence that the areas in question are in fact “overfished”. There is no analysis of what a healthy baseline stock for the various fisheries is, what the stock looks like currently and what it would look like if it were “overfished”. The commercial fishing activity within the proposed Cabrillo MPA expansion are highly regulated, limited entry, zero by-catch fisheries. To imply that these fisheries are “overfished” is to imply that the current analyses of the state and federal government, PSMFC and all the scientists involved are wrong and their management practices, up to and including the present, have been inaccurate and detrimental to the marine ecosystem.

The one factor that virtually every scientist and stakeholder agrees is the driving force behind the declining health of our kelp forests are marine heatwave events, climate change and ocean acidification. Despite that shared belief the petitioners fail to address that in any meaningful way and their petition could in fact contribute to those areas. Any responsible, science-based petition would investigate the most likely cause and prescribe solutions that would primarily deal with that cause. The only solution this petition realistically prescribes is no take of marine resources and absolutely no prescribed action to deal with the most likely culprit. Further, the petition does no analysis of the likely side-effects of their proposed solution. Closures of this magnitude will undoubtedly result in increased Vehicle Miles Travelled and Vessel Hours Travelled (VMT/VHT) as fishers are forced to travel beyond the closures in order to make a living. Considering the Cabrillo MPA, the only areas left for those fishers would be La Jolla or travelling offshore to San Clemente Island and the offshore banks. Best case scenario is that this expansion would result in a doubling of VHT as fishers travelled north to La Jolla and likely would send a significant number of fishers offshore increasing VHT tenfold. Additionally, the petition does nothing to address the likelihood that this closure would lead to a decrease in locally available seafood products forcing the market to rely on products from further away, increasing VMT to bring products to market. The expansions and resulting closures would undoubtedly lead to an increase in imported resources as well, leading to greater VMT/VHT and an outsourcing of the environmental impacts to places with poorer fisheries management practices than California. Any responsible petition would include an analysis of likely side effects, including a VMT/VHT analysis, and how those factor into the goals of the prescribed solutions.

The Master Plan calls for MPA’s to include diverse types of reserve (no-take, restricted take and unrestricted take in compliance with current fishery management) and diverse types of marine environment.

San Diego County has multiple MPA and SMCA. They are all virtually identical in that they are all reef structure and contain a zero-take or highly limited take. There is zero diversity, and the petition proposes to massively expand that without proposing any efforts at diversity of ecosystem or take allowances. There is an opportunity to include areas of different take allowances to explore the

differences between the management techniques, yet the petitioners ignore that notion altogether. To increase an MPA to this degree, and eliminate citizen access to Marine resources, without even exploring the results of different management techniques is inconsistent with the MLPA Master Plan.

This petition clearly does not meet the standards outlined in the MPA Master Plan, nor was the process for new petitions followed. The petitioners failed to meet the scientific standards, ignore altogether any notion of a collaborative process and fails to engage, in any meaningful way, to “preserve the diversity of recreational, educational, commercial and cultural uses”. Because of the failure of the petitioners to even attempt to adhere to the process laid in the MLPA Master Plan the petition should be excluded from any further consideration.

The Socio-Economic Impact is ignored altogether, and the necessary impact and study were never completed

The socio-economic impact portion of their petition (which is required for the petition to be accepted) amounts to one small paragraph that includes no real scientific analysis. The petition includes seven expansions from San Diego hundreds of miles north to Santa Cruz yet sums up the economic impact as “minimal” and ridiculously suggests that the economic interests will somehow be enhanced. There are no economic figures included in the proposition, there is no analysis of the cultural, historical or social impacts, no mention of possible impacts on native communities and what little science that is included is irrelevant and misconstrued. Ms. Deehan of EC attended the San Diego MPA Collaborative in October and when pressed on the matter admitted that they didn’t have any economic data and would be “very interested in seeing the numbers”. That is an admission of their neglect to this area, a response removed from reality and an example of how out of touch the petitioners are.

The proposal would have a devastating socio-economic impact on the Point Loma Community

We have attached an Economic Impact Report that analyzes how this expansion would impact the livelihoods of Trap Fishers and the associated land-based businesses in Point Loma. The report indicates that the Trap Fishery contributes 51 jobs and \$4.3 million to the local economy. This analysis does not include the tens of millions of dollars contributed from the sport fishing industry, the recreational spear-fishing industry, the tourism industry and many more. This data can be extrapolated out 6 more times for each expansion and economic impact quickly reaches into the hundreds of millions of dollars and hundreds (possibly thousands) of jobs. The petitioners appear to rely on the notion that all of these stakeholders can simply move a little bit and then enjoy the fruits of the expanded MPA’s. The reality is that there is nowhere to move any longer and these businesses will be left with no choice but to go out of business. The Cabrillo MPA expansion in particular would remove the last available reef structure in southern San Diego County. The only other possible option would be to move north to La Jolla and that is not a realistic option as La Jolla is already impacted by the South La Jolla MPA and the remaining fishable area is too impacted at present; it certainly could not support the addition of the entire Point Loma Fishery. The Cabrillo expansion amounts to a closure of the last fishable area and would result in the loss of income to the members of the fishery. Additionally, it would wipe out the capital investment that each one of these businesses has made in licenses and vessels. It would result in the annual economic loss to the community of \$4.3. All of these businesses are family operated, and many are multi-generational. These businesses are the last vestiges of a once thriving commercial day boat fishery

and are integral to the character of the community. This is a massive socio-economic impact on just one of the seven communities in the petition and that it is addressed in one small paragraph is devoid of reality and sensitivity to the needs of the stakeholders and their communities.

San Diego County and the City of San Diego would suffer an outsized impact from this petition

The San Diego County coastline is long and varied and home to millions of people. Already we are home to multiple MPA's, SCMA's and de-facto closures from military bases (Camp Pendleton and the Coronado Navy bases). The amount of coastline shut off to the take of marine resources far exceeds the 30% goal and the proposed expansion of the Cabrillo MPA would take away a significant piece of what is left. Furthermore, virtually all of the marine ecosystem deemed no-take under the MLPA is reef structure. If the Cabrillo expansion occurred a significant portion of the remaining reef structure would be removed and what is left is difficult to access due to the relative distance from available marinas, not to mention the increased impact on those areas due to greater use. If this expansion were approved the citizen and economic impact on access to marine resources in San Diego County would be outsized and place an undue burden on the citizenry.

The petitioner's dismissal of the required socio-economic impact analysis, and their disregard for the various commercial and economic interests should preclude this petition from further consideration.

Stakeholder outreach plainly and simply was not even attempted by the writers of this petition.

The MLPA Master Plan envisions a process for petitions in which the petitioners engage in robust stakeholder outreach and a collaborative effort in which the economic and cultural interests of various parties were considered. These petitioners have attempted nothing remotely close to that. Each one of the seven MPA expansions has a unique group of stakeholders with a variety of perspectives on what management of these ecosystems would look like. The MLPA Master Plan takes these varying perspectives into account and prescribes a process in which petitions would be written in collaboration with those varying interests and outreach would be made to address the concerns. The petitioners did none of that.

There are any number of stakeholders, notably commercial fishing interests. Most of these groups, like ours, maintain websites and social media accounts. Many of us are in regular contact with fisheries scientists and staff at institutions like Scripps and Cal Sea Grant and maintain contact with CDFW wardens and staff on a regular basis. We operate businesses and hold public events on a regular basis. In essence, we are easy to find, yet no effort was made to find us in the process of crafting this petition. Before the petition was submitted there was no effort to reach out for feedback. After the petition was submitted, there was no outreach to get feedback on the submission. No effort was made whatsoever at collaboration or outside feedback.

In reference to the Cabrillo MPA expansion, the one attempt at outreach and public feedback occurred in October of this year at an MPA collaborative meeting, eleven months after the submission was made. Notably, the meeting was scheduled at 10 a.m. on the first Wednesday in October which just so happened to be the opening day of Lobster season. At the meeting Ms. Deehan of EC was present, and stakeholders were allowed an opportunity to address concerns. Following the meeting we presented our concerns in writing as well as presented economic

analysis. To date no acknowledgement or response has been received, nor has there been any further attempt to address our concerns or collaborate. Quite clearly this was an attempt to check the stakeholder outreach box and that is the extent of any attempt at collaboration.

It is quite evident that this petition was written and submitted without any intention of engaging with stakeholders, addressing the varied economic and social interests and working collaboratively. The meager attempts that have been made were all after the fact and concerns have not been meaningfully addressed. Considering that this effort is not in alignment with the spirit, or the letter, of the MLPA Master plan this petition should be exempt from further consideration.

The process by which the commission accepted this petition is not in-line with the process laid out in the MLPA Master Plan.

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In closing, it is the opinion of the Point Loma Commercial Fishing Alliance that petition 2023-33MPA should be exempt from any further consideration. We have come to this conclusion considering the following:

- The petition fails to meet the criteria outlined in the MLPA master plan.
- The science used to justify the petition is overly broad, misapplied and incomplete
- The required socio-economic impact analysis was ignored

- The process by which the petition was submitted in the first place violates the principles outlined in the MLPA and the MLPA Master Plan

Combining the procedural errors and incomplete or erroneous analysis included in the petition, we feel that the CDFG and MRC have no choice but to exclude the petition from any further consideration.

Respectfully,

Mitchell Conniff

[Redacted signature block]

PLCFA Cabrillo MPA Expansion Annual Economic Impact Analysis

The purpose of this document is to illustrate the economic impact of the proposed Cabrillo MPA Expansion and the resultant closure of the commercial trap fishery. The analysis looks at economic impact specific to the Point Loma based commercial fishery, the land based commercial fish businesses and associated economic activity from secondary sources (restaurants, fish markets, etc.) for the period from 7/1/2023 to 6/30/2024. The analysis only includes activity from commercial trap fisheries (Spiny Lobster, Crab, Sheephead) and does not consider the other socio-economic impacts this expansion would have on the area (recreational fishing, tourism, other forms of commercial fishing which) which numbers into the tens of millions. The methodology used to determine these figures was gathered through census (direct communication and gathering of economic data from stakeholders), direct analysis of reporting to CDFW and PSMFC and business record analysis for land-based businesses.

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The table below illustrates jobs directly derived for the fishery:

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<u>Jobs Supported by the Point Loma Commercial Trap Fishery</u>	
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**Jobs in businesses that are supported by the commercial trap fishery (restaurant employees, fish market employees, etc.) This figure was derived from analyzing the amount of sales these businesses did of the fishery products and applying industry standard hours of employment required for those sales. The resulting figure is the number of employees required.*

Other economic impacts:

- Each fisher builds traps specific to the fishery they are involved in. The number of traps depends on the fishery, but spiny lobster for example, utilizes 300 traps per fisher. These traps are built utilizing local labor and products from local purveyors. While it is difficult to pinpoint the exact annual impact of this activity it conservatively reaches above 100K annually.
- Commercial trap fishing is a limited entry fishery with set numbers of permits for each species. The permits are sold on the secondary market, fetching well in excess of 100K per permit. Additionally, each fisher uses a highly specialized vessel equipped specifically for trap fishing. There is a wide variation in the value of these vessels. Conservatively, each fisher has 150K invested in permits and vessel and many in excess of 500K. This expansion (particularly when coupled with the Santa Barbara region expansions) would render many of these permits and vessels value-less. There is no reasonable expectation that these businesses could simply fish elsewhere and the loss in value of these investments would be catastrophic to most.
- There is a broader socio-economic impact associated with this MPA expansion. This expansion would effectively end consumptive take of marine resources for the Point Loma geographical area. This area has been the sight of consumptive, commercial and recreational take for centuries, beginning with reliance of first people's on the area for sustenance, immigration to the area for the sole purpose of commercial fish activities and modern day activities that include tourism and recreation industries that rely on the ability to utilize marine resources.

From: Corie Erskine <[REDACTED]>

Sent: Tuesday, November 5, 2024 10:32 PM

To: FGC <FGC@fgc.ca.gov>

Subject: Point Sal SMR 2023-28MPA & MPA 2023-19MPA Public Comment PSLCFA

Hello,

Please see the attached comment from the Port San Luis Commercial Fishermen's Association in Avila Beach, CA concerning the agenda items below.

Point Sal SMR 2023-28MPA

MPA 2023-19MPA

Thank you,

Corie Erskine

Board Member, PSLCFA



PORT SAN LUIS COMMERCIAL FISHERMEN'S ASSOCIATION
P.O. BOX 513
AVILA, CA 93424

Board of Directors:

CHRIS PAVONE
MICHAEL COHEN
YERN PAVONE
CORIE ERSKINE
ROSS RICKARD
HENRY LARA
JUSTIN FRANKLIN

President
Vice President
Secretary/Treasurer

Attn: California Fish & Game Commission's Marine Resources Committee (MRC)
RE: Point Sal SMR 2023-28MPA (termed SMCA)
SUBJECT: PSLCFA's Opposition to Proposed SMR
Oct. 26, 2024

The Port San Luis Commercial Fishermen's Association (PSLCFA) was established in 1964 as a 501(c)6 nonprofit organization. PSLCFA members generate millions of dollars in local community revenue each year. We currently have 75 registered members. However, our unregistered numbers greatly exceed 100 as fishing in our community continues to be a family affair, passing along this time-honored tradition to future generations. Our PSLCFA members participate in groundfish, coastal pelagic species, halibut, crab, highly migratory species such as albacore, salmon, and/or hagfish fisheries, both commercially and recreationally (outside our association). The PSLCFA represents a significantly vested interest in fishery activities on the California coast. Our central coast fishermen land the most live fish on the West Coast. At least 65% of fishermen in our area rely on the live fish market for their main income source, fishing mostly through nearshore groundfish permits inside 3 miles with the primary take method being hook and line.

Contrary to the petitioner claims, the proposed SMR around Point Sal in central California poses a threat to the livelihood of California fishermen specifically the members of the PSLCFA. The area identified for proposal encompasses fruitful fishing grounds where our members' harvest activities occur.

The PSLCFA urges the California Fish and Game Commission's Marine Resources Committee to consider the dire consequences to our local commercial fishermen from enacting a Point Sal SMR. While the petition states the data from the overlapping commercial fishing blocks contributes to 1.1% of the central coast's landings by value, it fails to look at the local effects that 1.1% actually has. In the same dataset timeframe on the MFDE, 2012-2022, the local port to the MPA, Port San Luis/Avila had 28.12% of its commercial revenue alone come from the overlapping blocks, 631 and 632. More specifically 25.92% of the port's groundfish revenue



PORT SAN LUIS COMMERCIAL FISHERMEN'S ASSOCIATION
P.O. BOX 513
AVILA, CA 93424

and 57.79% of the port's crab revenue based on the dataset referenced. Further, upon speaking with our members, we have identified that many members have inadvertently misclassified their reported catch block which should have fallen under 631 and 632. Therefore, due to this, we anticipate the catch rate and revenue accumulated from this area to be significantly larger than shown in the dataset used for justification of this SMR proposal. Our members are making adjustments for future landings, but this will not be reflected in historical data and should be considered in this SMR's determination.

Further, disproportionate management such as enacting the proposed Point Sal SMR will undoubtedly result in the systemic dismantling of fishery culture on the California Coast and the economic ramifications will be felt far beyond.

The west coast fishing industry and coastal community businesses who normally benefit from derived demand are already facing economic decline directly related to the regulatory restrictions limiting the Dungeness crab season by 3 months and the inadvertent creation of a uniform west coast season opener date. The PFMC's decision for salmon season closures the last two years exacerbated this downward trend. The fishermen who would normally depend on one or both of those fishers for their livelihood have now expanded into the sablefish, groundfish, and albacore fisheries or the recreational sector in order to compensate for their lack of income. A preexisting high level of market competition from unregulated seafood importers and aquaculture production already presents downward pressure on the price of fish. This shift in the dedicated labor harvesting local wild fish has led to an influx of fish supply and market saturation wherein the price of fish sold off the boat has plummeted creating instability in other fisheries. Once again, in order to compensate for their income deficiency at this lowered price of goods, fishermen have been forced to increase catch volumes in these alternative fisheries. The government possess the power to waive permit fees, temporarily suspend fishery related taxes, issue financial relief, subsidize marine fuel, and/ or limit imported seafood from countries known for practicing unsustainable fishing but there has been zero regulatory reprieve to assist fishermen through this hardship. Closure of nearshore fruitful fishing grounds imposed by this SMR will place further unnecessary pressure on our local industry. By limiting This unfairly confines the potential income of fishermen involved in the commercial and recreational fisheries on the coast of California. The proposed SMR will especially harm the PSLCFA as many of our members are relatively new fishermen who have over \$100k invested in assets and depend on this location to support their sole income.

Due to the already negatively impacted state of fisheries our fishermen frequently venture along the California Coast specifically North to the Morro Bay area and just South to Santa Barbara. Therefore, we stand in solidarity and brotherhood with the Morro Bay Commercial



PORT SAN LUIS COMMERCIAL FISHERMEN'S ASSOCIATION
P.O. BOX 513
AVILA, CA 93424

Fisherman's Association and the Santa Barbara Commercial Fisherman's Association against further MPA creation in this coastal region especial, MPA 2023-19MPA. The commercial blocks overlapping the proposed SMCA account for 6.2% of Morro Bay's landing revenue alone. More specifically, these blocks represent 25% of the area's squid landings, 8.8% of the groundfish landings, and 15% of the area's salmon landings per the MFDE. Closing this area to exclusively commercial fishermen would only continue to reduce fishable area for a shrinking industry and offer no benefits of the so-called "spillover effect" to restricted fisheries due to the still-allowed recreational take. There is zero public benefit which would come from MPA closures and restrictions but the impact to the livelihood of fishermen families would be devastating.

We urge you to question the policy methodology of MPA's along our coast- are these protective measures truly addressing a threat worth sacrificing the livelihood of us hardworking Americans?

Thank you for your time and consideration!

Sincerely,

Chris Pavone
President, PSLCFA

From: Steve Weiser <[REDACTED]>

Sent: Friday, November 8, 2024 07:48 AM

To: FGC <FGC@fgc.ca.gov>

Subject: Mpa closure

My name is Steve Weiser, I run the FV Diva out of the Channel Islands as a harpoon swordfish boat with over 20 years of experience in the fishery. I am emailing today to voice my and my Crew's support of Petition2023-15MPA and lack of support for petition2023-34MPA concerning the possible allowance of harpoon swordfish in a few of the Channel Islands MPAs and closing of the Farnsworth SMCA to everything but recreational spearguns.

We currently have to avoid even open areas surrounding the closures because we worry risking that we hit a fish with a dart in legal water that then swims on the gear into the closure where it becomes illegal to retrieve. This problem is made worse because the Channel Islands MPAs go to 6 miles instead of 3, overlapping more of our offshore fishery. Unlike hook fisheries, a harpoon fish cannot be let go, it is a waste to not be able to retrieve a legally hit fish, so I and the rest of the fleet intentionally go further around the borders when I am fishing to give my hit fish room before possibly moving into the closure. I see the petition asks for other allowances besides harpoon swordfish but at the bare minimum harpoon should be allowed for this gear drift reason, it is a unique case.

Harpoon swordfish is the cleanest method we have for swordfish in the state and after nets are gone, will be only one of the two remaining ways these fish can be commercially targeted along with DSBG. These closures around the islands do little to nothing for swordfish nor does the swordfish have a massive impact on the small ecosystems these MPAs are trying to conserve. Allowing take with harpoon will not affect any of your stated goals for MPAs being meant for more abundance or biodiversity as the fishery takes so little compared to others fished internationally on the same stock of fish as they travel the eastern Pacific Ocean. Additionally, your Master Plan for MPAs specially asks for areas that allow pelagic or highly migratory species to be targeted like swordfish. We do not see any of these areas around the Channel Islands in any place pelagic fish even are. Over 90% of these islands is outright no-take and the two pelagic areas are on the northern side of the islands above Anacapa and Santa Cruz islands, opposite of the warm water southern side where pelagic species actually are.

These areas on the south or the islands are not any better than anywhere else for swordfish or other HMS on the southern side of the islands, the fish follow the current and the breaks, plain and simple. Some days they will be in there, some days they will not be, but having the option to look in there should be considered as these areas are doing nothing for the

fishery as “spillover” is not a thing for species that travel many time the distance of an MPA per day.

In regard to petition2023-34MPA, I personally believe that the petition should just be rejected because pelagic species, which hare the only species you can take in the Farnsworth besides seabass, are not affecting that area or its local ecosystems like a fish that lives in there protected forever. Any argument that it is an enforcement problem can just be seen in the other half of the MPAs that are limited take zones and have perfect enforcement. What makes Farnsworth different from these other areas? Nothing. Now, if there really was an enforcement problem, which I do not believe there is, enforcing recreational spear is probably more difficult that enforcing commercial harpoon swordfish which is currently allowed in the Farnsworth and should still be allowed regardless of any modification made to the area. Petition 34’s final result should be its dismissal or, at the at the very least, still allowing harpoon swordfish with spear as that is simply the commercial equivalent and just as enforceable.

Thank you,

Steve Weiser and Don Gillispie
F/V Diva

Woodland Construction

[Redacted]
[Redacted]
[Redacted]
[Redacted]