Staff Summary for February 12-13, 2025

26. Regulation Change Petitions (Marine)

Today's Item **Information ☒** **Action ☐**

This is a standing agenda item for the Commission to receive new regulation change petitions and act on regulation change petitions received from the public at previous meetings. For this meeting:

(A) Act on previously received regulation change petitions

(B) Receive new petitions for regulation change

(C) Receive comments on petitions previously referred for review and recommendation but not yet scheduled for action, including an update on received amended petitions for modifications to marine protected areas (MPAs).

Summary of Previous/Future Actions

(A) **Petitions for Regulation Change - Scheduled for Action (N/A)**

(B) ***New Petitions for Regulation Change - Receipt***

- **Today receive new petitions** **February 12-13, 2025**
- Potentially act on new petitions April 16-17, 2025

(C) ***Comments Received on Referred Petitions (N/A)***

Background

(A) **Action on Previously-Received Regulation Change Petitions**

Petitions received at the previous meeting are scheduled for Commission action at its next regular Commission meeting, to (1) deny, (2) grant, or (3) refer to a Commission committee, staff, or the Department for further evaluation or information-gathering. Referred petitions are scheduled for action once a recommendation is received.

Today, no regulation change petitions are scheduled for action.

(B) ***Receive New Petitions for Regulation Change***

Pursuant to Section 662, any person requesting that the Commission adopt, amend, or repeal a regulation must complete and submit form FGC 1. Regulation change petition forms submitted by the public are "received" at this Commission meeting if they are delivered by the public comment or supplemental comment deadlines or delivered in person to the Commission meeting.

Under the Bagley-Keene Open Meeting Act, the Commission cannot discuss or act on any matter not included on the agenda, other than determine whether to schedule issues raised by the public for consideration at future meetings. Thus, petitions for regulation change generally follow a two-meeting cycle of receipt and decision. The Commission will act on petitions received at today's meeting at the next regularly

scheduled Commission meeting (currently April 16-17, 2025), following staff evaluation, unless the petition is rejected under the 10-day staff review as prescribed in subsection 662(b).

For today, one new marine petition(s) for regulation change was received by the comment deadline; the petition is summarized in Exhibit B1 and provided as Exhibit B2.

(C) ***Referred Petitions***

Comments on Referred Petitions

This item is for receiving public comments for any petition previously referred for review and recommendation but not yet ready for Commission action. Action on any referred petition will be scheduled once the Commission receives a recommendation.

Staff Update on Amendments to Marine Protected Area (MPA) Petitions Currently Under Review

In December 2024, the Commission committed to accepting amendments to any of the 15 pending MPA petitions (bin 2) from petitioners, with a January 10, 2025 deadline for either amendments or statements of intent to amend, and a March 14 deadline for final amendments. Amended petitions maintain the original tracking number with an “AM 1” added to the end of the number. The Commission also proactively referred amended petitions to the Department and directed staff to forward amendments to the Department as they are received.

Received by the January 10 deadline were three amended petitions and four statements of intent.

- *Final Amendments: 3 petitions (3 petitioners)*

  Three amended MPA petitions were received and forwarded to the Department for evaluation.

  - Petition 2023-15MPA AM1 (Exhibit C1)
  - Petition 2023-23MPA AM1 (Exhibit C2)
  - Petition 2023-27MPA AM1 (Exhibit C3)

- *Statements of Intent: 6 petitions (4 petitioners)*

  Four petitioners submitted statements of intent to amend six MPA petitions by March 14; when received, the amended petitions will be forwarded to the Department for evaluation.

  - Petition 2023-16MPA (Exhibit C4)
  - Petition 2023-24MPA (Exhibit C5)
  - Petitions 2023-28MPA and 2023-29MPA (Exhibit C6)
  - Petitions 2023-33MPA and 2023-34MPA (Exhibit C7)

For the April 2025 Commission meeting, staff will create a table summarizing the amended MPA petitions received by March 14, separately listing and summarizing each

distinct action item and identifying those that were amended. Individual MPA petition details, including locations, maps, and proposed actions, can be viewed *(in their original and* unamended *form)* on the Department's MPA Petition Process StoryMap.

Significant Public Comments

Referred Petitions

- 2023-24MPA: The mayor of the City of Laguna Beach expresses gratitude for local agency inclusion in the MPA petition evaluation process, is committed to engagement by the city, and looks forward to reviewing the State's assessment of the petition (Exhibit C8). A non-governmental organization (NGO) supports the petition, noting benefits of expanding the no-take area for simplified regulations across Laguna Beach (Exhibit C9).
- 2023-27MPA: A Santa Barbara resident supports reclassifying Anacapa Island State Conservation Area (SMCA) to a state marine reserve (SMR) to better protect eelgrass as proposed, and is in general support of adding and improving MPAs, suggesting a review of, and possibly retiring some, commercial fishing licenses to support sustainable fisheries (Exhibit C10).
- 2023-25MPA (*acted on in December 2024*): Catalina Adventure Tours recommended denial of the petition, emphasizing the value of the fish feeding activity for the public and its business (Exhibit C11). *Commission staff notes that this comment was received after the supplemental comment deadline in December.*
- 2023-21MPA: The Power in Nature Coalition supports Tolowa Dee-ni' Nation's proposal for no take at Pyramid Point SMCA other than a tribal exemption, citing the importance of smelt (or *lhvmsr,* to Tolowa Dee-ni' Nation) and alignment with the California Ocean Protection Council's 30x30 framework (Exhibit C12).
- 2023-23MPA: The petitioner expresses frustration in delays with kelp restoration authorization and the wait for the anticipated 2027 kelp restoration and management plan, citing contradictory state and federal agency kelp restoration policies, an urgency to respond more quickly to kelp forest decline, and urging quick petition review. The petitioner's organization is monitoring the kelp forest at Tanker Reef following the sunset of urchin culling. (Exhibit C13)

MPA Adaptive Management Process

- In a joint letter, 17 NGOs (1) encourage retaining the MRC venue for MPA adaptive management discussions; and (2) urge reliance on guidance in the Marine Life Protection Act Master Plan, which states the ten-year adaptive management process should account for current and future ocean threats and conditions. They suggest that the current adaptive management process should not be limited to minor tweaks as it is a key opportunity to identify and address gaps in network protection. (Exhibit C14)

  Note this letter is also an exhibit for Agenda Item 27(A), MRC report, where the Commission is being asked to consider changes to the MRC work plan and to approve agenda items for the March 2025 MRC meeting.

Recommendation (N/A)

Exhibits

B1. Summary of new petitions for regulation change received through January 30, 2025
B2. Petition 2025-01, recreational take of limpets, received January 15, 2025

Amendments to MPA Petitions

C1. Amended petition 2023-15MPA AM1, received January 9, 2025
C2. Amended petition 2023-23MPA AM 1, received December 28, 2024; revised January 13, 2025
C3. Amended petition 2023-27MPA AM1, received January 7, 2025
C4. Statement of intent to amend Petition 2023-16MPA, via email from Richard Ogg, petitioner, received January 9, 2025
C5. Statement of intent to amend Petition 2023-24MPA, via email from Mike Beanan, Laguna Bluebelt Coalition, petitioner, January 10, 2025
C6. Statement of intent to amend petitions 2023-28MPA and 2023-29MPA, via email from Isabella Sullivan, National Resources Defense Council (NRDC), petitioner, received January 10, 2025
C7. Statement of intent to amend petitions 2023-33MPA and 2023-34MPA, via email from Mio Senzaki for Environment California and Azul, petitioners, received January 9, 2025

Comments on Referred MPA Petitions

C8. Letter from Alex Rounaghi, Mayor, City of Laguna Beach, received December 10, 2024
C9. Letter from Gayle Waite, President, Laguna Canyon Conservancy, received January 23, 2025
C10. Email from David Rowler, received December 9, 2024
C11. Email from Heather Milburn, President of Operations, Catalina Adventure Tours, received December 12, 2024
C12. A co-signed letter from the Power in Nature Coalition, received January 14, 2025
C13. Letter from Keith Rootsaert, Founder, Giant Giant Kelp Restoration (G2KR), January 30, 2025
C14. A co-signed letter from 17 NGOs, received January 30, 2025

Motion (N/A)

California Fish and Game Commission

New Petitions for Regulation Change: Received by 5:00 PM on January 30, 2025

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

Tracking No.	Date Received	Name of Petitioner	Short Description	FGC Receipt Scheduled	FGC Action Scheduled
2025-01	1/16/2025	Cheryl Wilen	Modify language to allow flexible blades or knife, e.g. putty knife" for take of limpets	2/12-13/2025	4/16-17/2025

Tracking Number: (2025-01)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

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

SECTION I: Required Information.

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

1. **Person or organization requesting the change (Required)**
   Name of primary contact person: Cheryl Wilen
   Address: [redacted]
   Telephone number: [redacted]
   Email address: [redacted]

2. **Rulemaking Authority (Required) -** Reference to the statutory or constitutional authority of the Commission to take the action requested: **Authority cited: Sections 200, 205, 219, 265 and 275, Fish and Game Code. Reference: Sections 200, 205, 255, 265, 270 and 275, Fish and Game Code.**

3. **Overview (Required) -** Summarize the proposed changes to regulations: Replace "hook-and-line" with "**flexible blades or knife, e.g. putty knife"**. This is requested specifically for limpets.

4. **Rationale (Required) -** Describe the problem and the reason for the proposed change: Mollusks Abalone, clams, scallops, mussels, etc. 14 CCR § 29.10. General. (a) Except as otherwise provided in this article, saltwater mollusks, including octopus, may be taken only on hook-and-line or with the hands." be modified to allow the use of flexible blades, e.g. putty knife, to collect limpets.
   As you know, there is no way to collect them using a hook and line and collecting by hand is quite dangerous as one must hit them with their hand in a very specific way to get them to disengage with the rocks. One wrong hit and the collector can fall into the ocean or hard onto slippery rocks. Use of flexible knives is safer and less likely to damage the substrate. Keeping the collection limit at 35/day will ensure that the area is not overfished.

SECTION II: Optional Information

5. Date of Petition: January 15, 2025

6. Category of Proposed Change

☐ Sport Fishing
☐ Commercial Fishing
☐ Hunting
X Other, please specify: **California Recreational Ocean Fishing Regulations**
General Ocean Invertebrate Fishing Regulations

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

X Amend Title 14 CCR § 29.10 Section(s) Mollusks Abalone, clams, scallops, mussels, etc. General. (a) Except as otherwise provided in this article, saltwater mollusks, including octopus, may be taken only on hook-and-line or with the hands
☐ Add New Title 14 Section(s): Click here to enter text.
☐ Repeal Title 14 Section(s): Click here to enter text.

8. If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition Click here to enter text.
Or X Not applicable.

9. Effective date: If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: Click here to enter text.

10. Supporting documentation: Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Click here to enter text.

11. Economic or Fiscal Impacts: Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: None

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

Click here to enter text.

SECTION 3: FGC Staff Only

Date received: 01/16/2025

FGC staff action:
☒ Accept - complete
☐ Reject - incomplete
☐ Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: _____

Meeting date for FGC consideration: _____

FGC action:

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

From: Blake Hermann <[redacted]>
Sent: Thursday, January 9, 2025 2:10 PM
To: FGC <FGC@fgc.ca.gov>
Cc: Rossi, Devon-Contractor[redacted]>; Ashcraft, Susan[redacted] Shuman, Craig[redacted]
Subject: Amendments and Revisions to Petition2023-15MPA (Now Petition2023-15MPA-R)

Hello,

Attached is the revised FGC Form 1 of Petition2023-15MPA I submitted in November of 2023.

Thank you,

Blake Hermann

Petition2025-15MPA Amendment Cover Message

The revisions to this petition involve two sets of informational changes: amendments to the original petition actions and additional stakeholder feedback/rationale that has been gathered over the last year.

Petition actions being revised:

- Modification of options 3 and 4 in the original petition to align with federal feedback and existing regulations in Groundfish Exclusion Areas (GEAs). Rather than only allowing "surface-fishing-methods" the options now restrict "bottom-contact-gears," like the GEAs. This change was made so that entirely new language and definitions do not need to be drafted in a case options 3 or 4 are selected. (Located on page 3, 11, and 18)

- Addition of a 5th and 6th option consisting of only non-hook-and-line gear methods for consideration, this is not an additional action, just a different combination of allowable methods from the original petition. The new options 5 and 6 would only allow recreational spearfishing of pelagic finfish (option 5) or highly migratory species (option 6) and would allow the commercial take of swordfish by harpoon (options 5 and 6). These options were added to be the least invasive as possible in terms of take, be possibly easier to enforce than the other hook-and-line options and would solve the commercial swordfish gear drift problems for harpoon gears (but not for DSBG). (Located on page 3 and 18)

- Modification of the optional nearshore/offshore MPA boarder at the Santa Barbara Island MPA to a straight line between two points of latitude and longitude versus the original boarder being the 1 nautical mile line from the island. The reason for this change is to align to the MPA design criteria set in the MLPA which states to not use odd shapes or curves, only straight lines between tenth or whole minute latitudes and longitudes. (Located on page 3, 19, and 20)

- Modification of how deep-set-buoy-gear (DSBG) will be considered in the petition. Currently DSBG is only a federal fishery and still in its EFP stage at the State level, consideration of its allowance inside the state waters of MPAs will remain pending with the FGC and CDFW until DSBG is a state fishery. Until then, only a federal process may allow DSBG in the federal portions of the MPAs. Therefore, DSBG has been isolated from all of the options, now having its own action section due to the unique case of that process. (Located on page 4, 16, and 17)

Additional stakeholder feedback/rationale being added:

- Commercial swordfish gear(s) uncontrollable movement into primarily these MPAs, per MDFE effort data, poses problems that must be resolved. (Located on pages 11-13)

- Naval closures local to the Channel Islands restricting most offshore fishing opportunity except near two of the petition MPAs. (Located on page 13)

- Additional information pertaining to adaptive management, the MPA Master Plans (2008 and 2016), the MLPA, and climate resiliency in the scope of this specific petition. (Located on pages 14-15)

Tracking Number: (2023-15MPA AM1)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

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

SECTION I: Required Information.

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

1. **Person or organization requesting the change (Required)**
   Name of primary contact person: Blake Hermann
   Address:
   Telephone number:
   Email address:

2. **Rulemaking Authority (Required) -** Reference to the statutory or constitutional authority of the Commission to take the action requested:
   -Fish and Game Code (FGC) Division 1, Chapter 2, Sections 200, 205c, 265, and 399
   -Fish and Game Code (FGC) Division 2, Chapter 5, Sections 1590 and 1591
   -Fish and Game Code (FGC) Division 3, Chapter 10.5, Sections 2860 and 2861
   -Fish and Game Code (FGC) Division 6, Chapter 6, Section 6750
   -Public Resource Code (PRC) Division 27, Chapter 7, Sections 36725(a) and 36725(e)

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

This petition requests a modification to three Marine Protected Areas (MPAs) off Southern Santa Cruz Island and Santa Barbara Island, known as the Footprint Marine Reserve (The Footprint), Gull Island Marine Reserve (Gull Island), and The Santa Barbara Island Marine Reserve (SBI). The Footprint and Gull Island Reserves are located on the southeast and southwest sides of Santa Cruz Island respectively, and the SBI Reserve is located on the south-east corner of Santa Barbara Island.

This petition requests, for the reasons stated in the accompanying sections, that The Footprint, Gull Island, and SBI Reserves be modified and partially opened and converted into limited take conservation areas with implementation of one the following options (listed from the most to least allowances):

Option 1: The least restrictive option, with some existing precedent SCMAs (2nd preferred option):
- The recreational take of pelagic finfish* is allowed.
- The commercial take of pelagic finfish* by hook-and-line, and swordfish by harpoon are allowed.
- ~~Deep-Set-Buoy-Gear (DSBG) is allowed in the federal portions of the proposed MPAs. **~~

Option 2: Elevated protections in species selectivity (1st preferred option):
- The recreational take of Highly Migratory Species (HMS)* is allowed.
- The commercial take of Highly Migratory Species (HMS)* by hook-and-line, and swordfish by harpoon is allowed.
- The possession of Coastal Pelagic Species (CPS) is allowed.
- ~~Deep-Set-Buoy-Gear (DSBG) is allowed in the federal portions of the proposed MPAs. **~~

~~Option 3: Option 1 with only allowance of "surface fishing methods:" ***~~
- ~~The recreational take of pelagic finfish* is allowed via surface fishing methods.~~
- ~~The commercial take of pelagic finfish* by hook-and-line via surface fishing methods, and swordfish by harpoon are allowed.~~

~~Option 4: Option 2 with only allowance of "surface fishing methods:"~~
- ~~The recreational take of Highly Migratory Species (HMS)* is allowed via surface fishing methods.~~
- ~~The commercial take of Highly Migratory Species (HMS)* by hook-and-line via surface fishing methods, and swordfish by harpoon are allowed.~~
- ~~The possession of Coastal Pelagic Species (CPS) is allowed.~~

Option 3: Option 1 with restriction of "bottom-contact-gears." (4th preferred option)
- The recreational take of pelagic finfish is allowed, except through the use of bottom-contact-hook-and-line and bottom contact gears, which is restricted.
- The commercial take of pelagic finfish by hook-and-line is allowed, except through the use of bottom-contact-hook-and-line and bottom contact gears, which is restricted.
- The commercial take of swordfish by harpoon is allowed.

Option 4: Option 2 with restriction of "bottom-contact-gears." (3rd preferred option)
- The recreational take of highly migratory species is allowed, except through the use of bottom contact hook-and-line and bottom contact gears, which is restricted.
- The commercial take of highly migratory species by hook-and-line is allowed, except through the use of bottom-contact-hook-and-line and bottom contact gears, which is restricted.
- The commercial take of swordfish by harpoon is allowed.
- The possession of coastal pelagic species is allowed.

Option 5: non-hook-and-line of pelagic finfish (6th preferred option):
- The recreational take of pelagic finfish by spearfishing is allowed.
- The commercial take of swordfish by harpoon is allowed.

Option 6: non-hook-and-line of highly migratory species (5th preferred option):
- The recreational take of highly migratory special by spearfishing is allowed.
- The commercial take of swordfish by harpoon is allowed.

Deep-Set-Buoy-Gear (DSBG):
DSBG, currently being a federal exclusive fishery, would need to be considered inside of these areas through a federal stakeholder process and would ultimately only allow DSBG in the federal water portions of these MPAs. Analysis of allowing DSBG inside of the state water portions of these MPAs will remain pending with the FGC and CDFW until it passes the EFP stage, becoming an official state gear type, and if one of the above options is grated entirely or in-part.

Each of the above options **may** also include a reduced in size, more selective, limited-take or no-take zone within the Gull Island and SBI zones. However, as discussed later, these areas are only needed if Options 1 or 3 are selected (See Attached: Full Analysis Document 1).

*List of State HMS, *CPS, and Pelagic finfish* per Title 14 CA § 1.49, *1.39, and 632(3)*:
-Highly migratory species means any of the following: albacore, bluefin, bigeye, and yellowfin tuna (Thunnus spp.); skipjack tuna (Katsuwonus pelamis); dorado (dolphinfish) (Coryphaena hippurus); striped marlin (Tetrapturus audax); thresher sharks (common, pelagic, and bigeye) (Alopias spp); shortfin mako shark (Isurus oxyrinchus); blue shark (Prionace glauca); and Pacific swordfish (Xiphias gladius).
-Coastal pelagic species means any of the following: northern anchovy (Engraulis mordax), Pacific sardine (Sardinops sagax), Pacific mackerel (Scomber japonicus), jack mackerel (Trachurus symmetricus), and market squid (Loligo opalescens).
-Pelagic finfish, are a subset of finfish defined as: northern anchovy (Engraulis mordax), barracudas (Sphyraena spp.), billfishes (family Istiophoridae), dolphinfish (Coryphaena hippurus), Pacific herring (Clupea pallasi), jack mackerel (Trachurus symmetricus), Pacific mackerel (Scomber japonicus), salmon (Oncorhynchus spp.), Pacific sardine (Sardinops sagax), blue shark (Prionace glauca), salmon shark (Lamna ditropis), shortfin mako shark (Isurus oxyrinchus), thresher sharks (Alopias spp.), swordfish (Xiphias gladius), tunas (family Scombridae) including Pacific bonito (Sarda chiliensis), and yellowtail (Seriola lalandi).

~~**Deep-Set-Buoy-Gear (DSBG), if allowed, would **only** be allowed beyond the 3nm line, outside of state waters, as is currently fished. Barring any future changes or exempted fishing permits (EFPs).~~

***See Full Analysis Document attachment (Document 1) for detailed description.

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

The Problem:

Initially established in 2003 and federally expanded in 2006, the Channel Islands MPA network containing The Footprint, Gull Island, and SBI Reserves was the first network of its kind in California history. This island network later expanded into the statewide MPA network during coastal implementation phases from 2007-2012. The problem created by these first MPAs was the unintentional protection of seasonal pelagic and highly migratory species that migrate into Southern California during the summer months.

The allowance of limited pelagic or highly migratory take in these areas falls in line with the adaptive management measures set forth in the Decadal Management Review (DMR) and reinforced by the Marine Resource Council's (MRC) near-term recommendations. The proposed changes also fall in line with the MPA Master Plan and align with FGC comments on previous change request petitions.

While maintaining the original intentions for the creation of the MPAs, the proposed changes will have minimal impacts on the ecosystem due to the selective nature of the gear being recommended and highly mobile species it would allow for.

Summary of the reasons for change:
This petition aims to prove this proposal is justified by showing the following*:

- Limited take of pelagic finfish or HMS does not significantly affect or interfere with the species and features the MPAs aim to protect
- The proposed changes provide better equality of MPA policy across the state
- The 20 years of data from these and other MPAs support the proposed changes
- The proposed changes are in line with MPA decadal management review (DMR) comprehensive recommendations and the near-term priority recommendations of the marine resource committee (MRC)
- The proposed changes follow precedent set by the FGC's comments on previously submitted petitions, the current MPA overviews, the 2016 MPA master plan for the southern section, and the original 2002 MPA CEQA for the Channel Islands Network
- The proposed changes exclusively allow for sustainable fishing methods on no at risk populations/species
- The proposed changes support sustainable commercial fisheries the state and NOAA have expressed desire to further expand
- The proposed changes are reasonably enforceable (per discussions with F&G officers)
- The proposed changes have mass public support from the public, fishery groups, non-fishery groups, and conservation organizations

If implemented the resulting changes may have the following effects:

- The Channel Islands MPA network would be updated to allow for a more equitable 60/40 no-take to limited take closure ratio, which would be in line with the state's ratio
- Would provide new fishing opportunities to sustainable recreational and commercial fisheries while producing minimal impacts to the intended protected structures and species
- Provide new research opportunities for observing previous no-take zones under new allowance of pelagic or HMS limited-take
- Help grow local business and further develop the local and state economy

*Further detailed explanations, analysis, and figures are included in Document 1, and the remaining documentation in the "Supporting Documentation" section.

SECTION II: Optional Information

5. **Date of Petition:** Submitted-11/22/2023

6. **Category of Proposed Change**
   - ☒ Sport Fishing
   - ☒ Commercial Fishing
   - ☐ Hunting
   - ☐ Other, please specify: Click here to enter text.

7. **The proposal is to:** (*To determine section number(s), see current year regulation booklet or https://govt.westlaw.com/calregs*)
   ☒ Amend Title 14 Section(s): Division 1, Subdivision 2, Chapter 11, § 632
   ☐ Add New Title 14 Section(s):.
   ☐ Repeal Title 14 Section(s):
   *See Document 20 for State and Federal Code modifications example

8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** Click here to enter text.
   Or ☒ Not applicable.

9. **Effective date**: If applicable, identify the desired effective date of the regulation.
   If the proposed change requires immediate implementation, explain the nature of the emergency: Due to the change regarding modifying existing MPAs that cover both State and Federal waters, the federal bodies (NOAA, NMS, and PFMC) must mirror the above changes in their portions of the MPAs to allow for reasonable enforcement of these areas. Due to the lack of precedent, this being the first time the FGC is allowing petitions for individual or groups of MPAs to be modified, new channels need to be opened in order to facilitate such changes. A reasonable amount of time for all parties (state, federal, and public) to review and confirm the reasonings and data provided is required. This petition simply requests this change be made as soon as is practical.

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

Document 1: Complete, in-depth analysis of the prescribed changes and key points including weighing out the aforementioned change options, scientific basis, and stock assessment analysis.

Why Change These MPAs?

California's MPA network has provided valuable data for researchers allowing for observations of small-scale ecosystems in their raw form with no human intervention. That being said, all research focuses on the local non-pelagic species in these areas. The reasonings for this will be discussed later in depth but is a result of the massive area pelagic populations cover making their net presence the same everywhere. It is for this reason that if changes are made, the local non-pelagic species will remain unaffected, and still be protected under the proposed changes.

This petition aims to prove that specific limited-take allowances will not significantly interfere with the populations the MPAs aim to protect. This petition requests 3 current MPAs be modified to limited take in order to allow for sufficient numbers of no-take zones to still remain in the Channel Islands Network for research and public non-consumptive use (approximately 60% of the island network will remain no-take zones).

With the proposed change, there lies immense research opportunity in filling gaps in our knowledge. Never has a no-take MPA been converted into a limited-take zone. If there are factors that limited-take of pelagic or HMS does have on the local, non-pelagic populations (currently none are known), this change would allow for a whole new branch of research to take place; observing converted no-take zones after 20 years of historical data.

This petition acknowledges the need for no-take MPAs around the Channel Islands to act as a baseline to research as well as areas for the public to view undisturbed waters, and if implemented approximately 60% of the island network would remain no-take. This would mirror the state average

for no-take zones. This petition also acknowledges there is no reason to request for a limited take zone in an area far offshore or often locked by foul weather that would theoretically only be fished a handful of times a year. These areas were selected for the reason that they offer sufficient new opportunities to the fishing community and researchers if the no-take areas are converted into limited-take areas.

A unique fact of these three MPAs, and other MPAs in the Channel Islands network is their expansion beyond state waters, something we see nowhere else in the state. All three of these MPAs are part of this subset of state/federal MPAs, extending 6nm from the islands compared to the traditional 3nm a normal MPA would cover. This means for this specific petition, if changes are made, both State and Federal changes should be mirrored to allow for reasonable enforcement and streamlining of regulations. The Commission and CDFW would likely need to partner with NOAA and the Channel Islands National Marine Sanctuary (CINMS) to make these dual zone changes within each MPA. Therefore, this petition will also be addressing NOAA/CINMS and federal fisheries in addition to the Commission and state, so all agencies are aware of the changes being requested and the supporting factors for this change.

The First California MPAs:

The Channel Islands MPA network was the first set of MPAs in California history. Established in 2003, the state closures were expanded in 2006 into federal waters, completing the Channel Islands MPA network. The first state MPAs off the central coast were then implemented one year later, in 2007, beginning the statewide network. The Channel Islands MPAs had no accompanying southern section coastal MPAs until the southern section's implementation in 2012, which also marked the completion year of the state MPA network and nearly a decade of existence for the Channel Islands MPAs.

Being the first, the Channel Islands Network acted as a baseline, moving the state into previously unexplored territory, that today has grown into the current network. That being said, these first MPA implementations were not perfect. We have learned a lot since their creation, from better understandings of both non-pelagic and pelagic species to new closures ideas that followed in the four coastal MPA regions. Now that we have had more than 20 years to observe how this island network acts, it is time to make fine-tuned adjustments in order to modernize the Channel Island network to better mirror the remaining state network and the latest research.

MPA Intentions - Focus on Local Non-Pelagic Species:

Being the first set of MPAs and covering both state and federal waters, the state partnered with the Channel Islands National Marine Sanctuary (CINMS) and NOAA to develop a plan in order to determine how the Channel Islands MPA network would look. In the end, a two-part CEQA was developed that laid out the MPA plan for the Channel Islands network, in which the broad and specific reasonings for The Footprint, Gull Island, and SBI reserves were discussed *(Docs. 3-5).*

Broadly speaking all three of these Channel Islands MPAs were put into effect either around common invertebrate/fishing grounds or were built off of an existing invertebrate closure (SBI). The CEQA acknowledges that placing MPAs around these zones may have congested fishing efforts elsewhere and may slow fisheries short-term. However long-term, it was the belief that these protected areas would act as a sort of oasis, growing mass populations inside that would expand out as they grow to capacity inside reserves. These populations would then radiate from these areas and would in turn help fisheries over time.

We can see the idea of protecting the local, nearshore species of the Channel Islands very evident in each of the three MPA justifications in the CEQA *(Docs. 3-5)*, the 2016 MPA master plan goals *(Doc. 10)*, and the published MPA overviews *(Docs. 7-9)*.

According to the CEQA, The Footprint was originally established with the primary intention to protect the unique rocky reefs and rebuild the rockfish populations *(Doc. 7)*, The CEQA discussed the depleted groundfish stocks at the time and mentioned how they would benefit the most from the MPA's implementation. The Gull Island and SBI reserves also discuss deep water reefs and rockfish, but focus more on endangered bird nesting grounds, abalone populations, and the more diverse, nearshore species along the islands they border *(Docs. 8 and 9).* The broad implication of the MPAs in the CEQA was the intention that local populations of fish, birds, and mammals inside the MPAs would, "respond to protection within the reserve through increased density, individual size, and reproductive potential," *(Docs. 3 and 4)*.

This logic is something we see echoed today in the modern MPA overviews of the three MPAs and the goals of the MPA Master Plan *(Doc. 10)*. In the MPA overviews under, "Why was this location chosen for a state marine reserve?" we still see reasons such as the protection of canyons, rocky reefs, pinnacles, kelp forests, and rocky nearshore habitats for local non-pelagic species including copper rockfish, sheepshead, cowcod, and bocaccio. However, there is zero mention of any pelagic or HMS in these overviews. This point is further reinforced by the southern section MPA master plan, where under its goals, states its intentions revolve around protecting the ecosystems within the MPAs and help rebuild rare or depleted populations of species that are, "more likely to benefit from MPAs," and, "Protect selected species and the habitats on which they depend while allowing some commercial and/or recreational harvest of migratory, highly mobile, or other species; and other activities," *(Doc. 10)*. All of these protective goals are catered to the local species of non-pelagic fish, while the pelagic goals clearly state that pelagic and HMS should have limited take areas, something that the Channel Island network severely lacks compared to the rest of the state.

Proposed Changes Effect on the Original MPA Intentions:

As mentioned, the original and current goals of these three MPAs revolve around protecting the local, non-pelagic, and nearshore species within them. The idea of a radiating effect helping fisheries around MPAs does indeed hold merit for local populations of non-pelagic species. Species like groundfish that could in theory live, feed, and spawn all within one MPA are a prime example of this working as intended today. A groundfish that may have lived its entire lifecycle inside of a protected area, will only affect that local protected area if that individual was taken. This is why if implemented, the changes would still protect all invertebrates and non-pelagic species, such as rockfish, leaving the original science backed protections, and MPA intentions, in effect.

In regard to these intentions for pelagic or HMS, limited pelagic or HMS take would not noticeably affect any of the pelagic or HMS populations within our waters. This is the case since pelagic and HMS are either highly mobile or seasonal migrators, moving with currents rather than remaining on structure or in a small MPA zone. It is one thing if an entire or significant population of a species live inside a protected area, but for species that live and move over a vast area, these MPAs are negligible in helping their population. Species that live and feed over massive areas of ocean, and spawn hundreds of miles away from the network are intrinsically less affected by a small area they may or may not pass through each year. Unlike the non-pelagic species covered in the CEQA, Master Plan, and modern overviews, pelagic species' population densities, individual sizes, and reproductive potentials are not meaningfully affected by these MPAs. Populations would essentially remain as affected by human impacts whether this proposal goes into effect or not due to the protected areas covering so little of the area they live in. This is something that was actually touched on in the CEQA, where it is stated, "No-take areas, so long as their size is large relative to the **movement** of the species, will lead to increased (species) abundance," *(Doc. 6)*. Essentially, due to pelagics and HMS covering so much area throughout their travels, the impact on a pelagic or highly

migratory species being protected inside the existing MPAs is near zero. Therefore, there is no scientific basis to leave protections for these species in effect within these three MPAs.

A prime example is the swordfish, one of the three primary species that would be reasonably targeted inside the MPAs if partially opened. Satellite tag data from the Pfleger Institute of Environmental Research (PIER) *(Doc. 15)* shows tagged swordfish off southern California traveling from the tag location to as far south as Cabo (900 nm), or nearly as far west as Hawaii (1900 nm) to spawn in the winter/spring. They then migrate back to Southern California one year later in the summer to feed. Like the swordfish, other HMS such as marlin or tuna are also examples of species that travel massive distances every year during their migrations. These species cover so much water that the net environmental impact from small areas like these MPAs is near zero. It is for this reason the petition requests that pelagic or highly migratory species are able to be targeted inside of these three areas.

Following MPA Reports, The Need for Adaptive Management:

In January 2023 the DMR of the State's MPA network was published and contained comprehensive recommendations including the following considerations:

- "Allow take of migratory and pelagic species in MPAs that currently do not allow it" and
- "Return MPA fishing opportunities, especially in legacy fishing areas that were previously open to fishing." (*Doc. 12*)

The Footprint, Gull Island, and SBI Reserves fall under legacy pelagic fishing areas, being once completely open. In alignment with the DMR, these legacy areas can be justifiably re-opened to the limited take of pelagic or HMS per the recommendations.

This change is also supported by the recommendation of the Marine Resource Committee (MRC), as outlined in the networks near-term priorities from the DMR. Stating we must, "Apply what is learned from the first Decadal Management Review to support proposed changes to the MPA Network and Management Program." We have had ample time to observe these MPAs over their two-decade existence, now that we better understand the low impacts pelagic and HMS have on the network, we can justifiably adaptively manage these MPAs, opening them to limited take. In addition to the DMR and MRC recommendations the 2016 MPA master plan directly called for limited take areas of pelagic or HMS. Due to these three MPAs being the among the oldest modern MPAs, existing since 2003, it is possible the Master Plan considerations from 2016 were not as refined in 2003. This is something we can now remedy, by modifying these MPAs to modern network outlooks.

In addition to adaptive management measures there also exists a pre-DMR precedent from the FGC stating that the MPA network is not designed for pelagic or HMS. In 2020 the FGC denied a petition calling for creating a sanctuary/MPA for Great White Sharks near Carpentaria on the grounds that MPAs are intended, "[…] not (to protect) individual species, **especially highly mobile, pelagic species**," *(Doc. 11)*. Following the FGC's reason for rejection, this argument can be applied to support the case for the allowance of pelagic or HMS take within the listed reserves, because these species, per their pelagic/highly migratory designation, fall into this category.

Pursuing Equitable Policy Through Modernized SMCAs:

The MPA Network was founded on four key pillars with the innovative idea that these pillars would allow for the adaptive management of the system. One of these pillars is policy and permitting which calls for consistent policy across the network to allow for fair network governance.

After the Channel Islands MPAs were established, the remaining network followed. Comparing the Channel Islands network to the remaining state network we see large shifts toward the partial-take state marine conservation areas (SMCAs) and less overall water coverage.

The Channel Islands network of MPAs covers 21% (318 mi^2) of the total sanctuary waters. Compared to the 16% of state waters currently protected under the network, this means there is a 31% increase in protected areas around the Channel Islands than the rest of the state.

Not only is there an increased area of closures (by percentage) within the Channel Islands network, but also, significantly less relative area open to limited-take. Of the 13 various closures around the island network all but 2 are no-take sections. This only accounts for only 11.43 square miles of water of the 318 square mile closure area, or 3.59% of the sanctuary's closures. By comparison, the state network contains about 40% limited take areas. This is a wide discrepancy between the Channel Islands network and the state network (Over 10 times the relative area around the Channel Islands is no take compared to the rest of the state). If implemented, the percent area of limited take in the Channel Islands Network would roughly mirror the State's 40% limited take figure, bringing more equity to the local region. The raw figures are shown in the table below.

Table 1: Comparison of MPA (no-take) and SMCA (limited take) of the Channel Islands MPAs vs the Entire State MPA Network

	Channel Islands MPA Network (State and Federal Waters)	State MPA Network
% of Waters Protected (no-take and limited take)	21% (~318 mi^2)	16%
% of network that is No-Take	96.41% (~306.58 mi^2)	60%
% of network that is limited take	3.59% (~11.41 mi^2)	40%
% of network that would be limited take if changes implemented*	41.17% (~130.93 mi^2)	<40%

*This assumes the optional "nearshore" closures are not implemented and includes the Channel Islands network in the state network figures.

The goal of these changes is to allow for enough reasonable take of pelagic or HMS at comparable levels of opportunity zones to the rest of the MPA network (~40% partial take allowance). If implemented, the Channel Islands network would still have elevated protected area rates, 21% compared to the state average of 16%, but would provide a better ratio of limited take areas.

Current examples of limited take areas outside of the island network in Southern California include SMCAs such as the Pt. Dume, Abalone Cove, Blue Cavern, and Farnsworth SMCAs *(Doc. 17)*, which allow for some form of pelagic finfish take. Other statewide examples of limited take SMCAs outside Southern California cater to pelagic finfish and salmon, technically not a pelagic finfish by biological definition, but a species that still covers mass distances every year. This petition simply requests that we adapt too and update the Channel Islands network to the same standards we see in the rest of California.

Enforcement Analysis:

On the surface, the opening of limited take for pelagic or HMS in these current no-take MPAs could create additional enforcement issues for F&G Wardens covering these areas. However, upon talking to the warden office and local wildlife officers it was determined this was not the case. It is the intention of this petition that the changes made would be enforced similarly to how current pelagic allowed SMCA's are enforced. For the local Ventura agency, enforcement would be identical to how officers enforce the Anacapa Island SMCA.

Discussions with the enforcement agency have indicated that there are currently no issues with enforcement in the current pelagic allowed SMCAs. It is their standpoint that the current enforcement regulations are clear and allow officers to make decisions swiftly and appropriately. The current regulation that outlines enforcement of the SMCAs is under California Code of Regulations Title 14 Section 632(a)(1)(C) *(Doc. 18)*. To summarize the code, take or possession of species except specific individuals or groups listed is prohibited. Meaning, under the proposed regulations, the take and possession of pelagic or HMS would be allowed within the conservation area, but the take and possession of non-pelagic or non-HMS species, like groundfish, would be not allowed. There is an added exception that only possession of coastal pelagic species (CPS) would be allowed if an HMS specific option is selected (it is preferred one is). The reasoning for this addition is the allowance for such HMS targeting vessels to possess baitfish that is commonly used to target such species. Due to the clear-cut boundaries of enforcement regulations, and the input from F&G wardens, it was determined that the additional enforcement required by these changes is both minimal and overlaps with current pelagic allowed SMCAs they currently patrol and enforce. In addition, since petition submittal the new GEAs follow a very similar structure to the goals of this petition, and if offshore reefs can be designated GEAs and enforced there is little to no reason why limited take allowances to these MPAs could not be.

Mass Public Support:

The origins of the pelagic allowed zones go back to the original implementation of the Channel Islands MPA network which includes 2 areas for pelagic take. However, the waters these two zones cover are located on the northern side of Anacapa and Santa Cruz islands, areas where very little pelagic/HMS fishing takes place. HMS fishing method trial maps for DSBG and deep drop show a clear picture of the primary pelagic/HMS grounds in southern California *(Doc. 16)*. The maps clearly display most pelagic and HMS fishing occurs on the southern sides of the four northern islands. Almost no fishing efforts are made in the two northern zones. Primarily, most pelagic and HMS targeting fishing around the Channel Islands occurs 2-12 miles south of the northern islands, down the entire 4 island chain. All three of the requested MPA lie in these areas.

Fisheries that actively target or have targeted pelagic or HMS off the northern Channel Islands have wanted these types of changes since the implementation of the network and have commented both in the past and present about the desire to allow for more pelagic or HMS limited take. Comments from 2002 in the CEQA and from 2023 DMR show this desire. However, back in 2002, we did not know nearly as much about the pelagic or HMS migrations and what impacts allowing a small fishery inside these areas could be. Today this is simply not the case. We now know that this change, if implemented, will further streamline current regulations concerning pelagic or HMS, while having a net minimal impact on the local ecosystems inside these MPAs. This petition has the official backing and support of several fishery businesses, groups, and individuals, *Doc. 2 for list and letter*, and also includes a publicly signable petition containing over ~~880~~ 1000 signatures at the time of submittal.

Included Stakeholder feedback and additional information (added January 2025)

Commercial Swordfish:

A large conflict that comes up with the three mentioned Channel Islands MPAs and the commercial swordfish fishery is the 3 MPA's current no-take allowance, which includes the retrieval of legally taken fish.

The harpoon swordfish fishery takes a swordfish by locating a basking fish on the surface and attempting to hit it with a hand thrust harpoon. Once hit, fish are left to tire on a set of gear marked

with a flag, if not immediately retrievable. This soak time varies greatly, from 1-8 hours, but it is typically no longer than 2 or 3 hours. In that time, fish could pull gear several miles, 1-5 on average in my experience participating in the fishery. This movement occasionally brings gear into an MPA before being retrievable. Even if fish are taken miles away, there is still a random chance the legally taken fish on harpoon gear ends up inside the closure come retrieval time. There is nothing we can do to stop a swordfish from swimming where it wants to go while on gear.

Similarly, DSBG sets 10 flags with 10 hooks at 1000ft in open waters for swordfish. Swordfish hooked with this method can move gear similarly to harpoon fish in terms of distance. This is because if a hooked fish does not come to the boat immediately, the gear is placed back in the water to let the fish tire and to monitor the remaining set, leaving legally hooked fish the possibility to move into a closure as well.

Both of these problems are more prevalent around the Channel Islands and the three MPAs mentioned in 2023-15MPA because these MPAs extend an additional 3nm offshore into federal waters, overlapping more with the more offshore swordfish-fishery grounds. Today, retrieving a dead harpoon fish or fighting/retrieving a hooked fish inside these no-take closures is illegal, something that should be resolved some way. This is especially the case for harpoon fish, as unlike DSBG fish that could be cutoff or released with a tag, harpoon fish cannot be let go once hit.

This problem is compounded in the commercial swordfish fishery due to the fishery's reliance on calm waters to eyeball or locate a basking swordfish. Of the northern Channel Islands one MPAs in particular, The Footprint, sits in the lee of the islands, the place where the islands act as a physical weather barrier from the normal westerly wind and swell. This calm section was historically important and remains an essential area to the swordfish fishery more than other fisheries because of its reliance on spotting vs hooking a fish. These weather pockets force the fishery to operate in the lee area regardless of the MPA's presence. The result is a higher effort around the MPA, not because there is any more swordfish there than other places, but because that is the only zone that has fishable conditions most days at the Northern Channel Islands. This closer proximity to the MPA due to weather leads to higher chances of interactions where legally taken fish tow gear into the closures as mentioned above. We can see this higher landing rate and therefore higher chance of interactions by observing commercial block catch data showing the blocks containing and surrounding the Footprint, blocks 707 and 708 are especially productive due to the calmer waters. These two blocks alone captured 2.82% of state swordfish landings, locally comprising 15.63% of the swordfish produced by the Santa Barbara Port Area over the last 18 years (MFDE[1]), particularly high values for an HMS.

It is understandable that opening these MPAs simply on the idea that the weather is better than other zones is not a valid reason on its own, but that is not the point. The point is that this calm zone, and the higher effort inside of it, results in higher chances of gear unintentionally moving into the closure. This unique combination of factors gives even more reason to resolve this problem now during this adaptive management process.

As a result, the FGC, CDFW, PFMC, and CINMS should take this interaction into account in order to better consider the individual actions for allowing the harpoon and DSBG fishery access to operate in or, at the very least retrieve, legally taken swordfish within the 3 requested MPAs because of this gear movement problem.

1. MFDE under only swordfish landings from 1/1/2008 to 12/31/2023. The Santa Barbara Port Area was used for the local filters to include Ports around the Channel Islands (petition's area of concern).

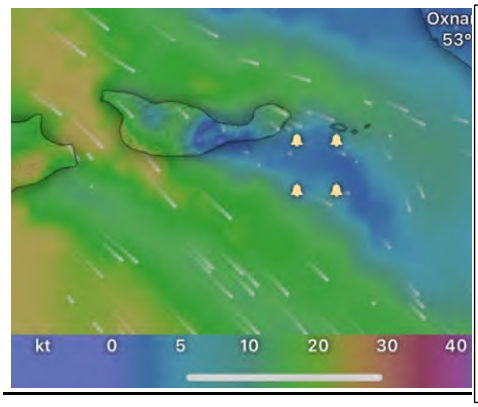


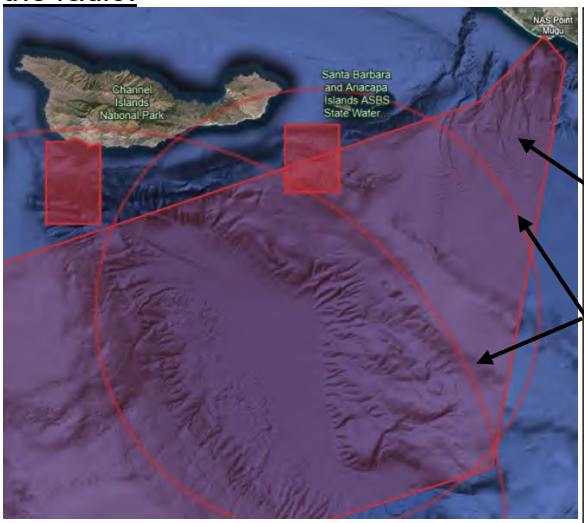
Image depicting average day in the Northern Channel Islands with The Footprint MPA outlined. Displayed wind "lee" for commercial swordfish is predominately around the closure forcing effort and gear interactions with the MPA to be higher (conditions are "fishable" under 10kts, blue color). Wind model used in the NOAA HRRR model mid-day (12:00) during peak effort time.

Local Naval Closures:

From my talks with general HMS fishermen at as many talks as I could attend locally, the issue of military operations off the southern side of the 4 northern Channel Islands was brought up enough time to look into and warrant discussion. The primary argument brought up is, while HMS cover large areas and are fishable outside of the MPAs, military operations close off most and sometimes all fishable area for HMS around the Channel Islands around the northern Channel Islands for local fleets except small areas largely taken up by the two existing MPAs, The Footprint and Gull Island.

While on the water targeting HMS, I have removed from and forced into a different area where no or less HMS are realistically present (more inshore, into foul weather, or into an MPA). There are two types of naval closures on the southern side of the Channel Islands, total range closures and radius closures. Some days one or the other is active and some days both are active depending on the exercise. The location of closure radiuses from operations does vary, but the missile range closure is constant polygon. This zone covers a large area of offshore waters on the southern side of the islands, where HMS effort locally occurs. Included is an image of the points provided to me by the Naval Warfare Center Pt. Mugu depicting the range closure when they are in a live fire event, shaded in light red. The hollow circles depict radius closures from boat coordinates and restricted distances from said positions are enforced by aircraft. Note, a 1.5 nm corridor from land was still permitted for basic transit, so closures did not go all the way to the island shore. The Footprint and Gull Island MPAs have also been included depicting which areas fall inside and outside the missile range.

Event frequency does vary from 0 to 6 days a week, and closure radiuses from boats change based on the activity and number of vessels participating. Currently the only way of acquiring event data is with direct talks with Naval officers <24hr before an event, and in some cases the day of on the radio.



Naval closures at the Northern Channel Islands overlaid with The Footprint and Gull Island MPAs.

The Point Mugu Naval Missile Range closure is the entire light red shaded area.

The two circles are closed radii from vessels operating in the same area, radii closures did leave a 1.5 nm corridor open from the island.

Adaptive Management, the MLPA, and the Master Plans (addition):

Adaptive Management: It should be noted that the adaptive management of the MPA Network is not a one-way street. Adaptive management is defined by Fish and Game Code section 2852(a)[2] as, "a management policy that seeks to improve management of biological resources, particularly in areas of scientific uncertainty, by viewing program actions as tools for learning…" It is a practice where, as conditions change or we learn more about something, in this case the MPA network, we actively amend management regulations to reflect what currently is known to be a reasonable management method. That being said, consistently increasing protected areas or the level of protection for all species in an area every management cycle is not the only direction this process is allowed to go in order to manage the network. If sufficient evidence is provided and goals can still be met, adaptive management can certainly be used to decrease restrictions in cases where we still accomplish the same goals, something Petition2023-15MPA claims is possible due to the lack of or how little pelagic/HMS interactions are with MPA goals, as supported by the Master Plans. If we can still accomplish the stated goals of the network in these specific MPAs while allowing some take of HMS or pelagic species, the network can certainly still be considered improved as a result. The latest example of adaptive management lowering regulation was the repealing of the Cowcod Conservation Areas (CCAs) and implementation of the smaller Groundfish Exclusion Areas (GEAs) after the cowcod population was considered rebuilt and healthy.

The MLPA: The goals of the MLPA and accompanying plans are clear. The largest goal being to preserve local ecosystems, allowing them to grow undisturbed as much as possible by people, resulting in higher levels in local species' abundance and biodiversity for future generations to observe. From the onset of this petition, it has been a foundational idea that allowing take of pelagic or HMS inside these areas will both, not significantly affect local species abundance or populations, as they would still be protected, and that the HMS populations would not be significantly affected by such a change. The argument of lowering protections in a petition like this is understood at face value, but the goal of the petition is to examine if we can accomplish the same or a satisfactory level of the stated goals under these "lower protections."

MPA Master Plans: Appendix G of the 2008 Master Plan[3] discusses the idea of species affected by MPAs, mentioning pelagic and HMS groups are overall less affected. Additionally, as the original petition mentions, the current 2016 MPA Master Plan for the southern section outlines within its goals[4] that areas of protection providing limited pelagic take or HMS take be provided. This is something we do not see around the Channel Islands in nearly comparable amounts to the rest of the state network, this effect is worsened by the federal expansions at the Channel Islands encroaching more into offshore waters where more pelagic fishing occurs. Previous FGC MPA discussions provided additional input on MPAs and HMS interactions where the commission stated that MPAs are intended to protect (local) ecosystems, not individual species, especially those that are highly mobile or pelagic[5]. Both FGC comments, and statements from the 2008 and 2016 Master Plans support the idea that pelagic finfish and HMS are both not as affected by these MPAs and that areas allowing take of just pelagic finfish or HMS be included in the network.

2. https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=FGC&sectionNum=2852.
3. https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=113013&inline#:~:text=Species%20with%20a%20strong%20tendency,their%20entire%20range%20of%20movement.
4. http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=112492&inline (pg. F-5 (Goal 2, specifically point 4))
5. https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=207757&inline (pg. 9)

All of the above evidence and precedent came to light after the establishment of the Channel Islands network in 2002, so it is somewhat understandable why the decisions were made back then to leave these areas as no-take zones, we simply did not know as much then as we do now. However, 20 years later with all of this modern evidence and precedent elsewhere along the coast in the 40% of the more-modern coastal network that is limited take, I believe it is more than justifiable to re-evaluate the Channel Islands Network to our current scientific understanding for pelagic/HMS allowed areas in MPAs.

Kelp Restoration and Climate Resiliency:

A final comment of concerns mentions granting limited take access to these areas for Pelagic finfish or HMS will negatively impact local species such as groundfish or those important to kelp restoration and therefore climate resiliency, including but not limited to sheepshead and spiny lobster.

The preferred option of only allowing take of HMS was preferred with species interactions specifically in mind. The more selective list of HMS avoids pelagic finfish species, like yellowtail, that could be targeted with methods that are more likely to interfere with non-pelagic species (weighted, bottom contact dropper loops). HMS effort for tuna or billfish consists primarily of surface casting a jig/bait, trolling baits on the surface, or fishing in the middle of the water column. It is very unlikely those targeting HMS species this way will have many interactions with non-pelagic species such as groundfish. Additionally, pelagic or HMS fishing is done primarily offshore, away from nearshore kelp ecosystems, and away from nearshore areas spiny lobster and sheepshead frequent.

~~The four~~ Options Breakdown including Stock and Fishery Analysis:

This section will discuss the impact the allowed fisheries may have on the species that would primarily be targeted, the pros and cons of the ~~four~~ options, and the possible nearshore closure(s). The discussions on the ~~four~~ options and optional no take zones are meant to provide the thoughts and opinions of pelagic and HMS fishery groups and individuals for the Commission to better understand their viewpoints.

-Pelagic and HMS Stock and Fishery Analysis: Out of all of the HMS, Bluefin tuna migrate the furthest in terms of net geographical distance traveled in their lifetime, with individuals who reach maturity traveling from the coast of California across the pacific to Japan, moving up to 70 miles per day during said migration. Billfish (Swordfish or Marlin) travel in two more distinct groups, rotating from California either toward the mid-pacific and Hawaii or off the coast of Mexico, moving up to 35 miles per day according to tag data. All these species and the other pelagic and HMS affected by this change follow migrations similar these, coming into waters off of California in the early summer (June-July), and mostly departing by early winter (November-December). This migration timeline and fishing attempts toward HMS in California are directly related, meaning most, if not all, fishing will be during these 5-7 months, leaving waters relatively untouched the remaining months of each year.

The fishery impact from these changes would be minimal to the overall take of HMS and their stocks. It is the primary intention of this petition that the species primarily targeted inside of these areas (if HMS or pelagic fishing is allowed), would be swordfish, bluefin tuna, and striped marlin. While some other attempts toward more exotic species such as yellowfin or dorado may occur, it would be rarely available.

Fishery efforts in these MPAs also needs to be considered. Pelagic and HMS do not remain in small areas, rather moving with the water and currents. HMS fishery efforts would not be concentrated inside of these proposed limited-take areas, but rather flow through them as the water these species follow flows through these areas. The fishery would cover the same grounds it does

today, with the changes allowing targeting though these areas compared to having to work around them as these species move through them. The two most targeted species in these areas that would be retained are bluefin tuna and swordfish. Striped marlin would likely be targeted the most in terms of fishing effort, but almost all marlin captures are recreational and result in a release.

According to NOAA the bluefin tuna population is not subject to overfishing and stock assessments show the population has "significantly increased," *(Doc. 13)*. If any of the listed options is accepted, all recreational methods of take would be available for bluefin tuna. A majority of this would be hook-and-line, with spearfishing taking up the remaining numbers. Commercially, only hook-and-line bluefin would be permitted as spearfishing is not a commercial option. A concern that was raised was the allowance of commercial hook-and-line bluefin take within these areas. Some groups believed allowing commercial take would prove to have too much of an impact on the stock. However, observing NOAA commercial landing data we see that California's commercial fishermen only account for 2% of the yearly pacific bluefin that is commercially harvested, meaning the local commercial fishery has a minimal impact on the stock *(Doc. 13)*.

The stock numbers and movements are similar for swordfish as well. NOAA lists the pacific swordfish stock is at safe levels and not subject to overfishing *(Doc. 14)*. The total local impact by California vessels is listed as minimal with a "significant majority" of swordfish landed by Hawaii based longline vessels. Commercially, with the phasing out of the drift gillnet (DGN), both the state and federal agencies have made it readily apparent they are trying to find new ways to better target and expand commercial swordfish in California. All three of these current MPAs lie in the middle of some of the only reliably fishable swordfish grounds in the Channel Islands. All sit downwind of islands that block the wind and provide fair weather for fishing to occur on days fishing elsewhere is not possible under current allowed commercial methods (Harpoon and DSBG). This is especially the case for harpoon swordfish, a fishery that requires flat-calm water. The allowance for partial take of swordfish inside these regions would allow for a larger calm area to be covered and fished for migrating swordfish.

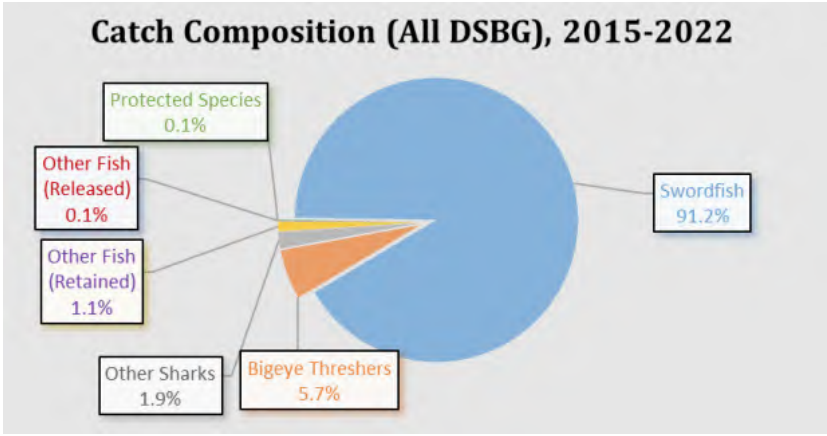
Unlike bluefin, depending on the accepted option, certain allowances for swordfish take would be made, but some may still be restricted. Options 1 and 2, if either are accepted, would allow all recreational methods for take of swordfish. Historically, this has almost exclusively been surface baiting basking swordfish, a fishery with zero deep water impacts, and has near zero impacts on anything in that area except for the swordfish it targets. Recently however, anglers have begun to mirror commercial methods, and have begun placing baited hooks at deeper depths (~900-1000 ft) for swordfish. Under current regulation, this method of "deep dropping" has no difference/distinction between hook-and-line fishing and would therefore be allowed.

For commercial methods of take, harpoon swordfish would be allowed under any accepted option. This globally recognized sustainable fishery with zero bycatch, is a fishery perfectly suited to have as little impact as possible on the local, non-pelagic ecosystems when a fish is taken. However, like the recreational hook-and-line case, the allowance of commercial hook-and-line for pelagic or HMS inside these regions would allow commercial deep drop of swordfish.

Along with deep drop methods, and in the spirit of fairness to the commercial fleets, ~~Options 1 and 2 would also allow~~ the use of standard-deep-set-buoy-gear (DSBG) ~~in the federal waters only of the proposed limited-take areas (as it is currently primarily fished)~~ is proposed in this petition as an isolated action item (see amendment cover letter and revised options). DSBG is currently a federally exclusive fishery, with the exception of one exempted fishing permit (EFP). DSBG is a method consisting of ten separate flags and buoys with one line and one hook on each flag/buoy and is a modern sustainable fishery for swordfish. Due to the nature of these areas overlapping federal waters containing a harpoon allowance (state and federal), the argument for federal authorization of DSBG in these areas is being requested if hook-and-line deep drop is allowed. As previously mentioned, this

change, along with other federal water changes would assumably be made by NOAA and the CINMS working with the state.

These methods of targeting swordfish at depth do have more impact than recreational surface baiting or commercial harpooning. However, the impact of these methods and their bycatch is minimal on non-HMS or pelagic species. This type of fishing has been praised by conservation organizations like Oceana and PEW for its high selectivity and extremely low bycatch (*Links 5/6*). There is also over 10 years of historical catch data for DSBG, the method that hook-and-line deep drop branched from, and 7 years of data from NOAA detailed in the chart below.



Looking at the data we can see that from 2015-2022, DSBG captured 91.2% swordfish, and a 96.9% mix of swordfish and thresher shark (another HMS). Of the "other sharks" and "other fish" most of these species were a mix of other pelagics (i.e., mako sharks, opah, and escolar). This means that nearly 99.8% of all species caught with DSBG are HMS. Almost no non-pelagic or non-HMS species have been landed under this type of fishery, due to its extreme selectivity. In the small number of cases where non-HMS species were hooked, the active tending of this gear allows for most bycatch to be released alive and well. Since deep drop methods mirror DSBG it is reasonable to assume their catch rates would mirror DSBG rates as well. It is for this reason that deep drop and federal authorization of DSBG for swordfish were listed allowances under Options 1 and 2, since they produce the lowest bycatch numbers, but produce the higher success rates for swordfish catch compared to harpoon or surface baiting.

~~If Options 1 and 2 are rejected but Option 3 or 4 are accepted, all HMS or pelagic targeting methods would still be allowed except those going deep to primarily target swordfish. These options call for the use of only "surface fishing methods," a term used to describe all non-deep drop methods. This includes methods such as trolling, live bait casting, lure casting, live bait drifting (on the surface), and all other methods anglers or commercial fishermen use besides deep dropping or DSBG.~~

-The ~~four~~ Options and Their Reasonings: Each of the ~~four~~ options is designed to have a minimal impact on the protected area's local ecosystem but vary in both allowed species and allowed gear types. There are ~~really two~~ several sets of choices, when we break down the ~~four~~ options. The first choice allows either pelagic finfish take and possession, or HMS take and possession with possession of coastal pelagic species (CPS). The logic behind allowing pelagic finfish is primarily the precedent already set on other SMCAs. Pelagic finfish cover the 3 species that would primarily be targeted (swordfish, bluefin tuna, and striped marlin), cover other pelagic species that would occasionally be targeted, and have existing SMCAs elsewhere that already allow for this subset of species. However, this list also covers more species than the HMS list, and as will be discussed, these extra species may pose undesirable issues if limited-take implementations are not made properly. The logic behind allowing HMS take and possession, and CPS possession is that the three targeted species also fall under this more selective classification of species. Meaning there would be a more selective list of species allowed to be taken, thus less overall impact on what could be done inside these areas. Allowing only HMS limited take would also avoid the possible pelagic finfish issues discussed below. The reasoning for the CPS allowance is it would allow common baitfish used to fish HMS to still be retained inside of these areas.

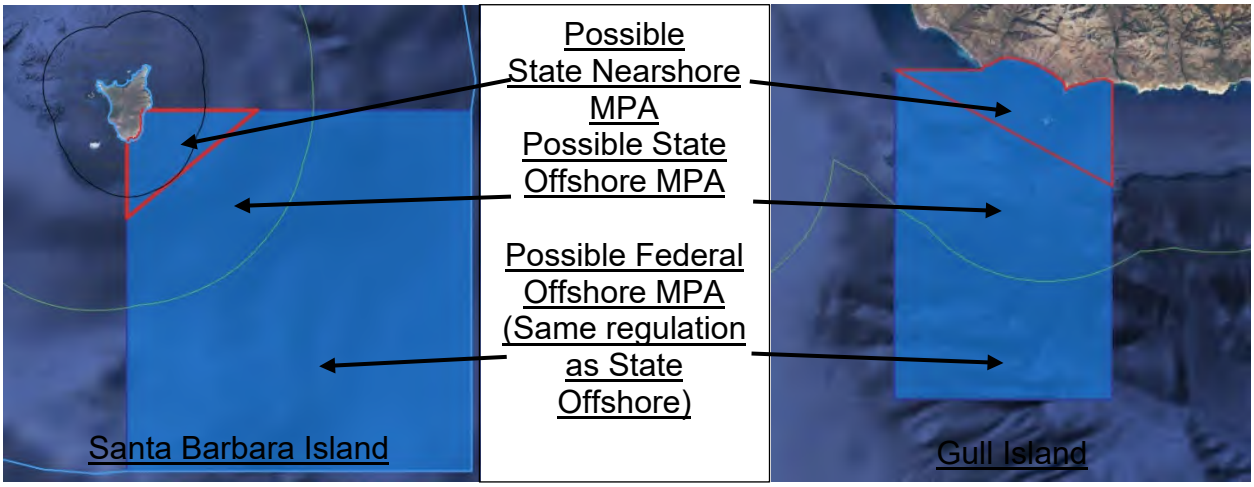
The second choice is the allowance of all hook-and-line methods, restricting "bottom-contact-gears" for better groundfish/bycatch avoidance, or not allowing any hook-and-line gears, just allowing spearfishing and harpoon methods. This is a tiered choice increases in selectivity of gears. Non-restricted hook-and-line of pelagic finfish or HMS of course would give the most access, restricting of bottom-contact-gears is the middle ground which mirrors federal GEAs, and the most selective is the removal of all hook-and-line for just spear and harpoon fishing. Any of these selections can be paired to a pelagic finfish or HMS allowance, making up the 6 total options. ~~including deep drop, and DSBG, or only allowing "surface fishing methods." The logic with allowing deep drop and federal DSBG allowance is the data shows that these methods are extremely selective and prove effective in targeting primarily swordfish at depth. This choice would allow for more area of opportunity to selectively target swordfish, something the State, NOAA, and PFMC has made very apparent they want to help accomplish, especially commercially with the end of the gillnet dropping landings of California swordfish. The logic with allowing "surface fishing methods" is an attempt at regulating out the deep dropping methods inside of these zones if the State deems them too impactful to allow. If this choice is made, it would make the limited-take areas more selective to swordfish methods only, leaving surface baiting recreationally and harpooning commercially as the only allowed methods to target swordfish. If this option is selected, the state would have to clearly define "deep dropping" (to not allow it) or define "surface fishing methods" (to only allow those).~~

In addition to the ~~four~~ main options, there exists the isolated action for DSBG and a final choice of adding a nearshore closure to the Gull Island and SBI zones with more selective or no fishing methods being allowed. The selected limited take option would then be implemented outside of this boundary throughout the remaining "offshore" area. The logic behind this choice has several factors, some of which are the existence of a nearshore/offshore pair in the Farnsworth and Point Buchon SMCAs, and the desire to continue having stricter limited-take or no-take regions closer to the more diverse shorelines. These nearshore regions rarely contain any species this petition intends on anglers targeting, meaning whether or not a nearshore zone is implemented, areas this close to the respective islands would have such a low fishery presence that they would effectively remain untouched, with one key exception.

If an option allowing the hook-and-line take of pelagic finfish is made it is recommended that the nearshore region be implemented. This is due to the fact that limited-take of pelagic finfish by hook-and-line would allow certain game fish species to be targeted in the local, nearshore ecosystems on fishing beds. The intent of this petition is to protect from this type of fishing allowance, intending limited take allowance for these regions to be open water fishing of pelagic or highly migratory species during their movements. This possibility of nearshore bed fishing is only the case for two species on the pelagic finfish list, yellowtail and barracudas. These are species that if pelagic finfish were allowed with no nearshore zone implemented, would definitely be targeted within the nearshore areas of the SBI and Gull Island closures. Again, it is the intention of this petition to only allow for offshore take of pelagic or highly migratory species, primarily billfish and tuna. Allowing pelagic finfish with no nearshore region that accounts for bed fishing of pelagic species such as yellowtail may interfere with the local ecosystem we still aim to protect. If the below listed coordinates are the border for the nearshore regions (table 2), the water outside of these areas at Gull Island and SBI is reasonably deep enough to ensure little to no effort would be made to target these species and would yield almost zero results.

~~Table 2: Proposed Coordinates and options for the Nearshore limited or no take areas for Gull Island and Santa Barbara Island~~	
~~Gull Island Nearshore MPA~~	~~Santa Barbara Island Nearshore MPA~~
~~33° 58.000' N. lat. 119° 53.000' W. long, and 33° 55.800' N. lat. 119° 48.000' W. long~~ ~~Regulation within nearshore area:~~ ~~Recreational and commercial take of (pelagic finfish or HMS, depending on the state's choice) is allowed via surface casting, kite fishing, and surface trolling. The commercial take of swordfish by harpoon is allowed. (preferred)~~ ~~Or~~ ~~A no-take region (not preferred)~~	~~The 1nm boundary of SBI within the current MPA~~ ~~Regulation within nearshore area:~~ ~~Recreational and commercial take of (pelagic finfish or HMS, depending on the state's choice) is allowed via surface casting, kite fishing, and surface trolling. The commercial take of swordfish by harpoon is allowed. (preferred)~~ ~~Or~~ ~~A no-take region (not preferred)~~

Table 2: Proposed Coordinates and options for the Nearshore limited or no take areas for Gull Island and Santa Barbara Island (Amended)	
Gull Island Nearshore MPA	Santa Barbara Island Nearshore MPA
The nearshore-offshore boarder would be bound by a straight line running from 33° 58.000' N. lat. 119° 53.000' W. long, to 33° 55.800' N. lat. 119° 48.000' W. long. within the existing MPA. Regulation within nearshore area: The recreational take of (either Pelagic Finfish or Highly Migratory Species (option dependent)) by spearfishing is allowed. The commercial take of swordfish by harpoon is allowed. The possession of Coastal Pelagic Species is allowed*. (*Only needed if HMS option is selected) (Preferred Choice) Or A no-take region (not preferred)	The nearshore-offshore boarder would be bound by a straight line running from 33° 28.500' N. -118° 59.300' W. to 33° 26.500' N. -119° 02.200' W within the existing MPA. Regulation within nearshore area: The recreational take of (either Pelagic Finfish or Highly Migratory Species (option dependent)) by spearfishing is allowed. The commercial take of swordfish by harpoon is allowed. The possession of Coastal Pelagic Species is allowed*. (*Only needed if HMS option is selected) (Preferred Choice) Or A no-take region (not preferred)



The listed coordinates for the nearshore closures are only the listed coordinates for the dividing line between the proposed nearshore area and the offshore limited take SMCA and FMCA. The collective closure borders of the nearshore and offshore areas would be the same area as the current MPAs. If these are placed in effect along with the selected option applied outside, these nearshore regions would cover sufficient area to prevent nearshore bed-fishing efforts. While possible changes to these borders may be made, it is the fisheries' belief they are sufficient in preventing what would otherwise be a problem if an unrestricted pelagic finfish option is accepted. Further consultations with active fishery members should be made if these borders are desired to be modified. The preference for stricter limited-take rather than no-take is simply that these areas would contain so little presence of these species, that they would effectively be fully protected, but have rare opportunity for the selective allowed methods in them. In addition, as the preferred nearshore allowed methods mirror those in options 5 and 6, these nearshore areas are only needed if a hook-and-line option (1-4) is granted.

The Most Requested Option and Closing Remarks:

It is this petition's preference that in order to avoid the nearshore pelagic finfish risk all together, one of the ~~two~~ three HMS allowance options be selected (Options 2, 4, or 6) with the nearshore zone not selected. Option 2 is the preferred selection since this option allows for the most HMS opportunity, recreationally and commercially, while still remaining extremely selective, and leaving a minimal impact on the local, non-pelagic ecosystems. Option 2, with no accompanying nearshore zones would allow for HMS targeting within the entire area. In the unlikely case HMS are present nearshore, they may still be targeted with minimal local impact as they move through an area under the same selective fishing methods allowed elsewhere. The lack of nearshore zones in this case would also allow for easier enforcement of the area by wardens not having to worry about different zones within an area. If a nearshore region is desired, the more selective limited-take option is preferred. This change would still allow for selective enough take of HMS and prevent any bottom fishing activity nearshore.

In terms of the three MPAs, all three MPAs would preferably be converted to limited take areas. Discussions with those involved in the possible affected fisheries revealed a strong preference for The Footprint to be converted to limited take, with Gull Island and SBI having equal amounts of preference to be opened to limited take.

In closing this analysis, special thanks to all the individuals who provided the input and data to make this petition possible. I would especially like to thank the FGC and its staff for their assistance with and the creation of this adaptive management process.

Remaining Supporting Documents and Sources:

Document 2: Supporters letter for the petition. Summarizes the petition, its reasonings, and its intentions. Was sent out to business and individuals that could be impacted by this change or provide scientific input asking for their support of the petition and its rationale (signature list on the letter).

Dear FGC,

On behalf of the hundreds of thousands of anglers that frequent Southern California, and all of the businesses they support, the following organizations and individuals extend their special support and ask for your approval of this petition. This petition would allow for the limited recreational and commercial take of Pelagic Finfish or Highly Migratory Species (HMS) via select, sustainable fishing methods. The changes would apply to the following Marine Protected Areas (MPAs):

- The Footprint Marine Reserve
- Gull Island Marine Reserve
- The Santa Barbara Island Marine Reserve

This proposed regulation modification aims to return extremely selective take opportunities that the original MPA network implementation unintentionally removed. These regions would become state and federal marine conservation areas (SMCAs/MCAs) but would still provide the original protections to the species and ecosystems each of the MPAs intends to preserve.
The allowance of pelagic or HMS in these areas would provide more equal opportunities to anglers around Southern California targeting fast moving species, like billfish or tuna. Currently, these species cannot be followed into these zones as they move through them, traveling with the currents rather than remain on the structure or in the local ecosystems the MPAs are intended to protect. If accepted, anglers would have the opportunity to follow these species as they constantly flow in and out of these areas.
The push for this change is backed by the California State 2022 MPA Decadal Review, the MRC's near-term objectives, the 2016 MPA Master Plan, and several other state and federal reports/comments. We the fisherman, groups, clubs, and business owners, of California kindly ask for your approval of this petition.

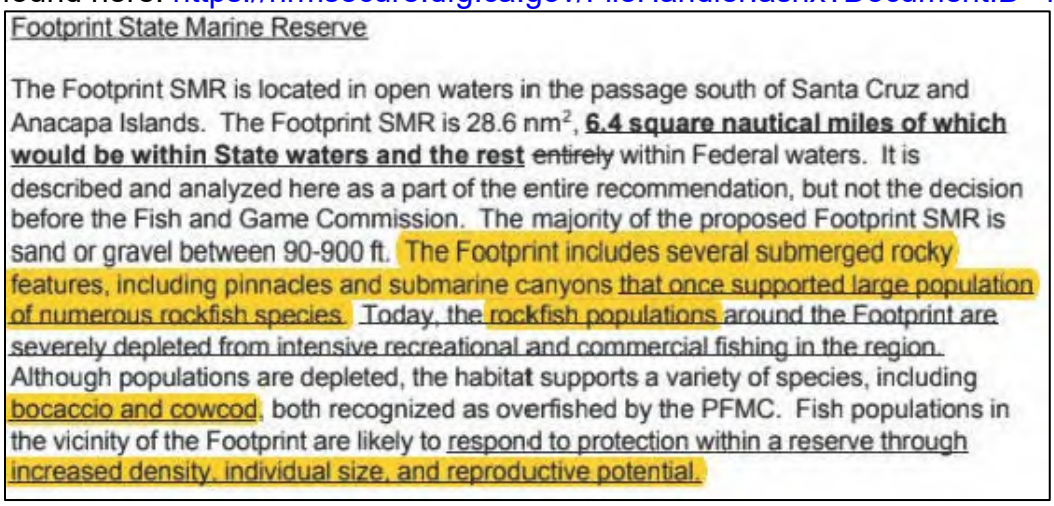
Sincerely,

AFTCO
CCA California
Pfleger Institute of Environmental Research (P.I.E.R.)
Wild Oceans
BD Outdoors
Bear Flag Fish Co.
Bluewater Seafood
Chula Seafood
The Tuna Club
Balboa Angling Club
CISCOS Sportfishing
Hooks Sportfishing
Legit Sportfishing
Erics Tackle Shop
Channel Coast Marine
Executive Yachts
Bight Sportfishing
Bad Company Fishing Adventures
Seal Beach Fish Co.
Wild Local Caught Seafood
Santa Monica Seafood
Ocean Pride Seafood
Santa Barbara Fish Market

Special Individuals: Chugey S, Theresa L, Casey S, Nathen P, Ron H, Sean B, Morgan L, Bill S, Donald K, Christian H, Andrew W, Carl S, Michael M, Thomas C, Wes L, Marc H, Eric H, Bryce H, Ethan H, Steve W, Don G, Ryder D, Fisher D, Jonnah G, Jake K, Brandon H, Patrick O, John J, Bill W, Steve M, Eric H, Sean S, Ryder A, Evan K

And the over 880 members of the public that have signed the public support petition as of submittal (11/22), visible here: https://chng.it/2wy2dHSS6r

Documents 3, 4, and 5: Original founding reasoning for the Footprint, Gull Island, and Santa Barbara Island MPAs respectively, to be created and expanded into federal waters of the marine sanctuary from the Channel Islands CEQA in 2002. There is little to no mention of pelagic or HMS species, with primary objectives for the Footprint MPA being groundfish replenishment, and for Gull Island and SBI MPAs, being either or a mix of abalone, rockfish, or endangered bird populations. Original paper found here: https://nrmsecure.dfg.ca.gov/FileHandler.ashx?DocumentID=151023



Footprint State Marine Reserve

The Footprint SMR is located in open waters in the passage south of Santa Cruz and Anacapa Islands. The Footprint SMR is 28.6 nm^2, **6.4 square nautical miles of which would be within State waters and the rest** ~~entirely~~ within Federal waters. It is described and analyzed here as a part of the entire recommendation, but not the decision before the Fish and Game Commission. The majority of the proposed Footprint SMR is sand or gravel between 90-900 ft. The Footprint includes several submerged rocky features, including pinnacles and submarine canyons that once supported large population of numerous rockfish species. Today, the rockfish populations around the Footprint are severely depleted from intensive recreational and commercial fishing in the region. Although populations are depleted, the habitat supports a variety of species, including bocaccio and cowcod, both recognized as overfished by the PFMC. Fish populations in the vicinity of the Footprint are likely to respond to protection within a reserve through increased density, individual size, and reproductive potential.

Gull Island, Santa Cruz Island State Marine Reserve

The Gull Island SMR is located on the southwest side of Santa Cruz Island. The reserve includes 2.9 nautical miles of shoreline from Morse Point to the point along the shore at 33° 58' N, 119° 48' W. The reserve extends south approximately three nautical miles to the State waters boundary. The Gull Island SMR contains 16.2 square nautical miles. A subsequent Federal waters phase would add 22.1 square nautical miles for a cumulative total of 38.3 square nautical miles.

Historically, Gull Island supported a diverse and abundant marine fauna. Although these populations are reduced, the habitat supports a variety of species. Fish populations in the vicinity of Gull Island are likely to respond to protection within a reserve through increased density, individual size, and reproductive potential. The Gull Island SMR would protect a variety of different habitat types from the nearshore to the continental slope. Sand beach is the predominant shoreline habitat at the border of the Gull Island SMR. Endangered snowy plovers may occur there and the beach supports one of the few populations of pismo clams at the islands. The remaining shoreline is covered with cobble beaches.

Subtidal habitats in the Gull Island SMR are mixed sand and rocky reefs. Red and green algae dominate inshore areas. Gull Island supports an intermittent population of giant kelp, but the kelp populations are reduced. Subtidal habitats support patchy populations of surfgrass. Rocky intertidal and subtidal habitats once supported populations of red, pink, white, and black abalone, but only a small population of red abalone, and very few black abalone have been observed recently. The Gull Island area supports large populations of purple urchins. Rocky subtidal habitats from Gull Island to Laguna Point support populations of spiny lobster. Purple hydrocoral (*Allopora*) is found in deeper rocky reefs around Gull Island.

Shallow rocky habitat extends offshore to Gull Island. Nearshore reefs support populations of various rockfish species. However, rockfish are not as diverse in this region because of physical changes associated with the mixing of warmer waters from the California Counter Current with cooler waters from the California Current. Southern species such as

5-27

California sheephead and wrasses are relatively common in the Gull Island region. The region also supports spawning populations of white seabass and halibut. Thresher and mako sharks are fished in the deeper waters near stronger currents.

Santa Barbara Island State Marine Reserve

Santa Barbara Island SMR is located at the southeast side of Santa Barbara Island. The reserve includes one nautical mile of shoreline from South Point to the eastern point of the

5-22

island. The reserve boundaries extend east and south to the State waters boundary. The Santa Barbara Island SMR contains 13.2 square nautical miles. A subsequent Federal waters addition would add 46.3 square nautical miles for a cumulative total of 59.5 square nautical miles.

Santa Barbara Island, Sutil Island, and Shag Rock support major seabird and marine mammal colonies. Santa Barbara Island supports breeding colonies of numerous seabirds, including the endangered California brown pelican, western gull, black oystercatcher, black storm-petrel, Leach's storm-petrel, Brandt's cormorant, pelagic cormorant, Cassin's auklet, pigeon guillemot and Xantus's murrelet. California sea lions haul out on sandy beaches on the southeastern side of Santa Barbara Island. Harbor seals and northern elephant seals occasionally haul out in the same place.

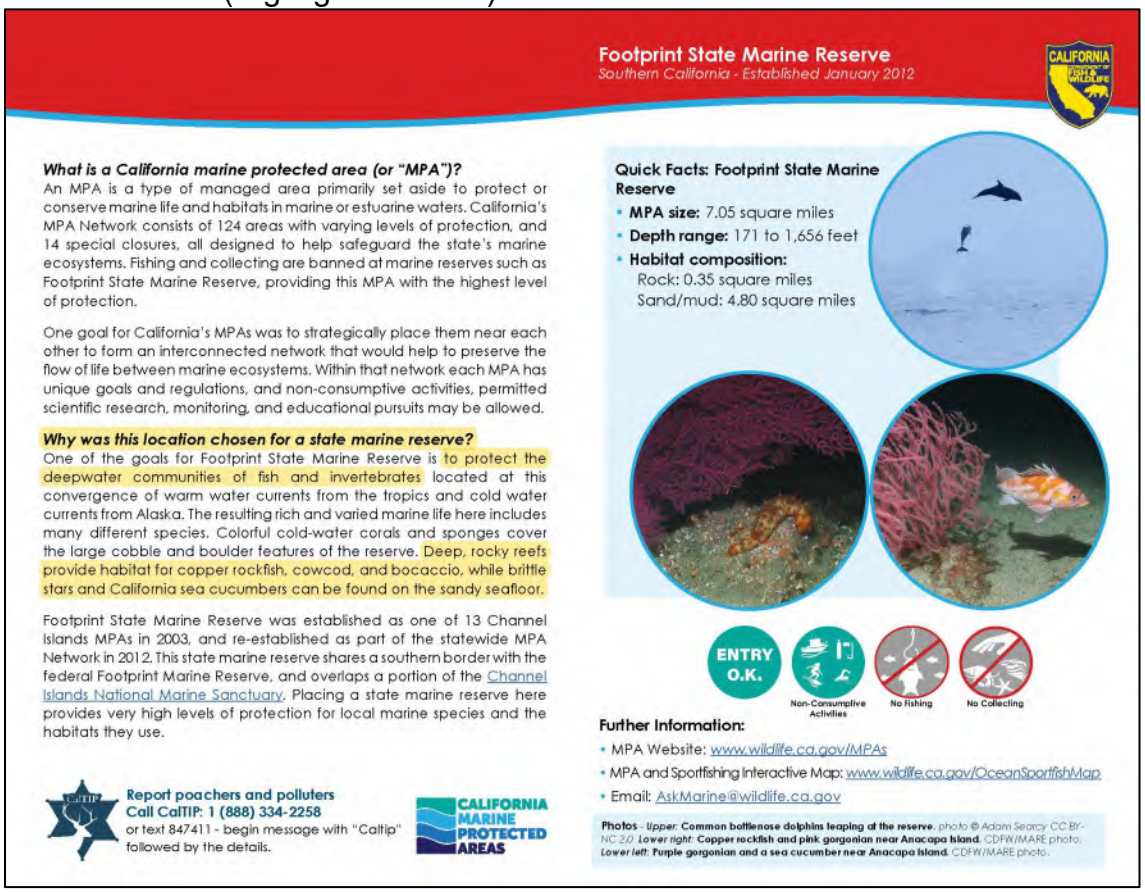
The exposed rocky shoreline along Santa Barbara Island is interspersed with occasional cobble beaches (10-12 m wide) in protected coves. The rocky intertidal habitat descends steeply to patchy reefs in large areas of sand. Patchy populations of surfgrass grow on subtidal rocks (15-20 m). Populations of giant kelp on reefs around Santa Barbara Island have declined relative to historical data. Red and purple sea urchins and brittle stars (*Ophiothrix*) dominate the rocky subtidal habitats around Santa Barbara Island. Spiny lobsters are abundant in rocky subtidal habitats in the vicinity of South Point and large mussel beds can be found in the rocky intertidal habitats on the southeastern side of Santa Barbara Island.

The continental shelf drops to approximately 200 m less than ½ mile from shore, and continues to drop to 400 m within 3 miles of Santa Barbara Island. In the past, populations of white, green, pink, and black abalone inhabited intertidal and subtidal rocky habitats. The reserve includes rocky subtidal habitats, from approximately 25-66 m, that may contribute to the recovery of the endangered white abalone. Sandy subtidal habitats support halibut populations near the northern border of the Santa Barbara Island SMR. California sheephead have been observed near South Point.

Document 6: Original 2002 CEQA: Dr. Ray Hilborn stating the size of an MPA must be large relative to a species' total movement to be actually impactful on their population abundance.

has reached population levels which increase natural mortality rates...@ Likewise, Dr. Ray Hilborn of the University of Washington=s College of Ocean and Fishery Sciences noted in comments on proposals for marine reserves in the Sanctuary that, A...it is almost universally accepted that exploitation reduces population sizes.... No-take areas, so long as their size is large relative to the movement of the species, will lead to increased abundance within the reserve.@

Documents 7, 8, and 9: Current Footprint, Gull Island, and SBI MPA descriptions in "Why the location was chosen…" (Highlighted below)



Footprint State Marine Reserve
Southern California - Established January 2012

What is a California marine protected area (or "MPA")?
An MPA is a type of managed area primarily set aside to protect or conserve marine life and habitats in marine or estuarine waters. California's MPA Network consists of 124 areas with varying levels of protection, and 14 special closures, all designed to help safeguard the state's marine ecosystems. Fishing and collecting are banned at marine reserves such as Footprint State Marine Reserve, providing this MPA with the highest level of protection.

One goal for California's MPAs was to strategically place them near each other to form an interconnected network that would help to preserve the flow of life between marine ecosystems. Within that network each MPA has unique goals and regulations, and non-consumptive activities, permitted scientific research, monitoring, and educational pursuits may be allowed.

Why was this location chosen for a state marine reserve?
One of the goals for Footprint State Marine Reserve is to protect the deepwater communities of fish and invertebrates located at this convergence of warm water currents from the tropics and cold water currents from Alaska. The resulting rich and varied marine life here includes many different species. Colorful cold-water corals and sponges cover the large cobble and boulder features of the reserve. Deep, rocky reefs provide habitat for copper rockfish, cowcod, and bocaccio, while brittle stars and California sea cucumbers can be found on the sandy seafloor.

Footprint State Marine Reserve was established as one of 13 Channel Islands MPAs in 2003, and re-established as part of the statewide MPA Network in 2012. This state marine reserve shares a southern border with the federal Footprint Marine Reserve, and overlaps a portion of the Channel Islands National Marine Sanctuary. Placing a state marine reserve here provides very high levels of protection for local marine species and the habitats they use.

Report poachers and polluters
Call CalTIP: 1 (888) 334-2258
or text 847411 - begin message with "Caltip" followed by the details.

CALIFORNIA MARINE PROTECTED AREAS

Quick Facts: Footprint State Marine Reserve
- **MPA size:** 7.05 square miles
- **Depth range:** 171 to 1,656 feet
- **Habitat composition:**
  Rock: 0.35 square miles
  Sand/mud: 4.80 square miles

ENTRY O.K. | Non-Consumptive Activities | No Fishing | No Collecting

Further Information:
- MPA Website: www.wildlife.ca.gov/MPAs
- MPA and Sportfishing Interactive Map: www.wildlife.ca.gov/OceanSportfishMap
- Email: AskMarine@wildlife.ca.gov

Photos - *Upper:* **Common bottlenose dolphins leaping at the reserve.** photo © Adam Searcy CC BY-NC 2.0 *Lower right:* **Copper rockfish and pink gorgonian near Anacapa Island.** CDFW/MARE photo. *Lower left:* **Purple gorgonian and a sea cucumber near Anacapa Island.** CDFW/MARE photo.

Gull Island State Marine Reserve

Southern California - Established January 2012

What is a California marine protected area (or "MPA")?

An MPA is a type of managed area primarily set aside to protect or conserve marine life and habitats in marine or estuarine waters. California's MPA Network consists of 124 areas with varying levels of protection, and 14 special closures, all designed to help safeguard the state's marine ecosystems. Fishing and collecting are banned at marine reserves such as Gull Island State Marine Reserve, providing this MPA with the highest level of protection.

One goal for California's MPAs was to strategically place them near each other to form an interconnected network that would help to preserve the flow of life between marine ecosystems. Within that network each MPA has unique goals and regulations, and non-consumptive activities, permitted scientific research, monitoring, and educational pursuits may be allowed.

Why was this location chosen for a state marine reserve?

One of the goals for Gull Island State Marine Reserve is to protect the diverse submarine canyon, rocky reef and pinnacle, kelp forest, and sandy plain habitat found at this location, where warm water currents from the tropics and cold water currents from Alaska converge. These habitats are used by a rich and varied selection of marine fish and invertebrates such as purple hydrocoral, a species not often seen in the Northern Channel Islands. Kelp forests and reefs provide shelter for opaleye, California spiny lobster, and cabezon, while schools of California barracuda and bonito may be seen in deeper, offshore waters.

Gull Island State Marine Reserve was established as one of 13 Channel Islands MPAs in 2003, and re-established as part of the statewide MPA Network in 2012. The reserve shares a southern border with the federal Gull Island Marine Reserve, and overlaps a portion of the Channel Islands National Marine Sanctuary and Channel Islands National Park. Placing a state marine reserve here provides very high levels of protection for local marine species and the habitats they use.

Report poachers and polluters
Call CalTIP: 1 (888) 334-2258
or text 847411 - begin message with "Caltip" followed by the details.

CALIFORNIA MARINE PROTECTED AREAS

Quick Facts: Gull Island State Marine Reserve

- **MPA size:** 19.93 square miles
- **Shoreline span:** 3.2 miles
- **Depth range:** 0 to 2,205 feet
- **Habitat composition:**
  Rock: 4.03 square miles
  Sand/mud: 16.55 square miles

ENTRY O.K. | Non-Consumptive Activities | No Fishing | No Collecting

Further Information:

- MPA Website: www.wildlife.ca.gov/MPAs
- MPA and Sportfishing Interactive Map: www.wildlife.ca.gov/OceanSportfishMap
- Email: AskMarine@wildlife.ca.gov

Photos - *Upper:* **Gull Island**, *photo by R.Schwemmer, NOAA/CINMS.* ***Lower right:*** **Purple hydrocoral and sea urchin at Gull Island State Marine Reserve**, *CDFW photo by D. Stein.* ***Lower left:*** **Opaleye in the kelp forest at Gull Island State Marine Reserve**, *CDFW photo by D. Stein*

Santa Barbara Island State Marine Reserve

Southern California - Established January 2012

What is a California marine protected area (or "MPA")?

An MPA is a type of managed area primarily set aside to protect or conserve marine life and habitats in marine or estuarine waters. California's MPA Network consists of 124 areas with varying levels of protection, and 14 special closures, all designed to help safeguard the state's marine ecosystems. Fishing and collecting are banned at marine reserves such as Santa Barbara Island State Marine Reserve, providing this MPA with the highest level of protection.

One goal for California's MPAs was to strategically place them near each other to form an interconnected network that would help to preserve the flow of life between marine ecosystems. Within that network each MPA has unique goals and regulations, and non-consumptive activities, permitted scientific research, monitoring, and educational pursuits may be allowed.

Why was this location chosen for a state marine reserve?

One of the goals for Santa Barbara Island State Marine Reserve is to protect the sandy seafloor, surfgrass, kelp forest, and rocky nearshore habitat found there. Sea urchins, California mussels, and acorn barnacles thrive along the island's rocky coastline. Giant sea bass, California sheephead, and Pacific angel sharks hunt and seek shelter in the island's kelp forests and eelgrass beds, while California halibut and other flatfish rest in the sandy sediments. Santa Barbara Island is also home to a large breeding colony of Scripps's murrelet, a seabird on California's threatened species list, and fourteen other species of bird.

Santa Barbara Island State Marine Reserve was established as one of 13 Channel Islands MPAs in 2003, and re-established as part of the statewide MPA Network in 2012. This state marine reserve shares a southeastern border with the federal Santa Barbara Island Marine Reserve. The reserve overlaps part of the Channel Islands National Park and Channel Islands National Marine Sanctuary. Placing a state marine reserve here provides very high levels of protection for local marine species and the habitats they use.

Report poachers and polluters
Call CalTIP: 1 (888) 334-2258
or text 847411 - begin message with "Caltip" followed by the details.

CALIFORNIA MARINE PROTECTED AREAS

Quick Facts: Santa Barbara Island State Marine Reserve

- **MPA size:** 12.77 square miles
- **Shoreline span:** 0.8 miles
- **Depth range:** 0 to 1,655 feet
- **Habitat composition:**
  Rock: 0.74 square miles
  Sand/mud: 2.43 square miles

ENTRY O.K. | Non-Consumptive Activities | No Fishing | No Collecting

Further Information:

- MPA Website: www.wildlife.ca.gov/MPAs
- MPA and Sportfishing Interactive Map: www.wildlife.ca.gov/OceanSportfishMap
- Email: AskMarine@wildlife.ca.gov

Photos - *Upper:* **Aerial view of Santa Barbara Island**, *photo © Jesse Hodge CC BY-NC-ND 2.0.* ***Lower right:*** **Pacific angel shark at Santa Barbara Island State Marine Reserve**, *CDFW/MARE photo.* ***Lower left:*** **Pink gorgonian at Santa Barbara Island State Marine Reserve**, *CDFW/MARE photo.*

Document 10: MPA Master plan goal for the southern section, that calls for the protections of at-risk local species while allowing for limited take of pelagic or HMS.

Goal 2. To help sustain, conserve, and protect marine life populations, including those of economic value, and rebuild those that are depleted.

1. Help protect or rebuild populations of rare, threatened, endangered, depressed, depleted, or overfished species, and the habitats and ecosystem functions upon which they rely.[14]
2. Sustain or increase reproduction by species likely to benefit from MPAs, with emphasis on those species identified as more likely to benefit from MPAs, and promote retention of large, mature individuals.[15]
3. Sustain or increase reproduction by species likely to benefit from MPAs with emphasis on those species identified as more likely to benefit from MPAs through protection of breeding, spawning, foraging, rearing or nursery areas or other areas where species congregate.
4. Protect selected species and the habitats on which they depend while allowing some commercial and/or recreational harvest of migratory, highly mobile, or other species; and other activities.

Document 11: Denied petition for White Shark MPA on grounds MPAs are **especially not focused** on pelagic or HMS (Highlighted below)

Appendix G: Decadal Management Review Supplemental Tables

CALIFORNIA MARINE PROTECTED AREAS

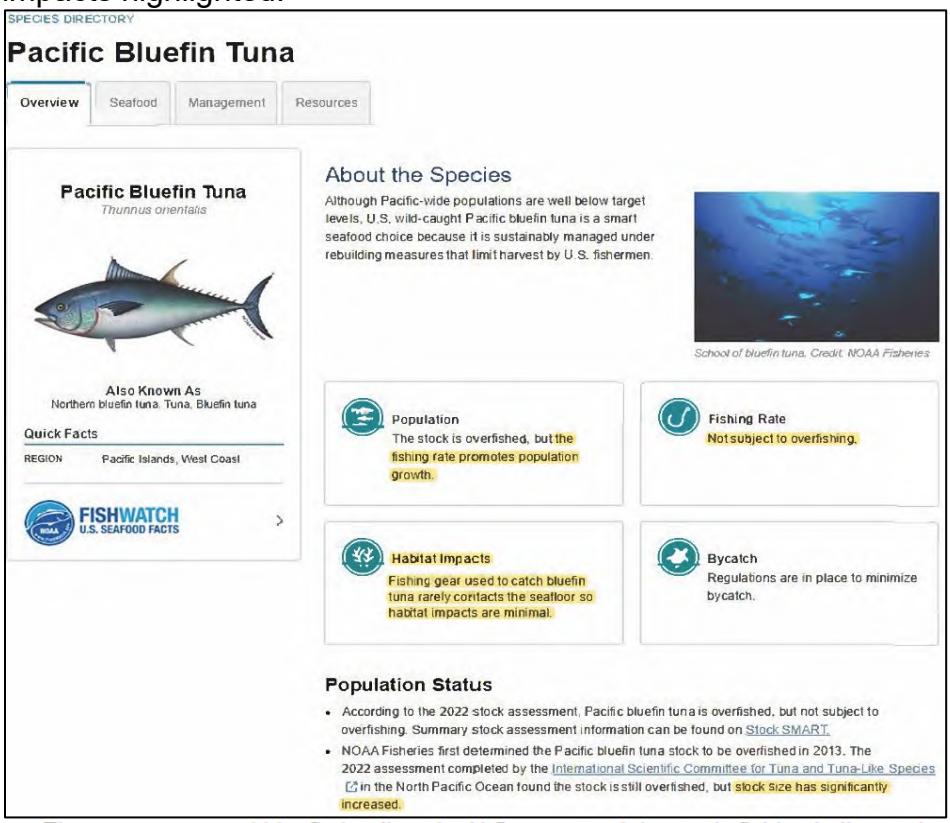
ACTION TYPE	YEAR	REQUEST	RATIONALE	ADAPTIVE MANAGEMENT ACTION TAKEN
Petition denied	2020	Petition submitted to amend MPA regulations to allow surfboard fishing at the South La Jolla SMR.	California Constitution, Article 1 Section 25, recreational take from a surfboard, even catch-and-release is not a fishery	No fishing is allowed in SMR per design criteria
Petition denied	2020	Petition submitted to establish MPA at Padaro Beach, Carpinteria, to protect great white shark nursery grounds.	An MPA with boating and fishing restrictions at Padaro Beach, Carpinteria, will help protect white shark nursery grounds.	MPAs are intended to protect ecosystems, not individual species, especially highly mobile, pelagic species
Petition denied	2020	Petition submitted to add unlimited recreational take of invasive species *Sargasum horneri* in Crystal Cove SMCA	CDFW failed to respond and stop the spread of the invasive species *Sargassum horneri,* plus *Sargassum horneri* is not a marine resource.	No recreational culling permitted within MPAs.

Document 12: MPA Decadal Review-Appendix A: Comprehensive Recommendations for the Review-Recommends to open legacy grounds and allow pelagic/HMS take in MPAs (Highlighted below)

Regulatory and Review Framework

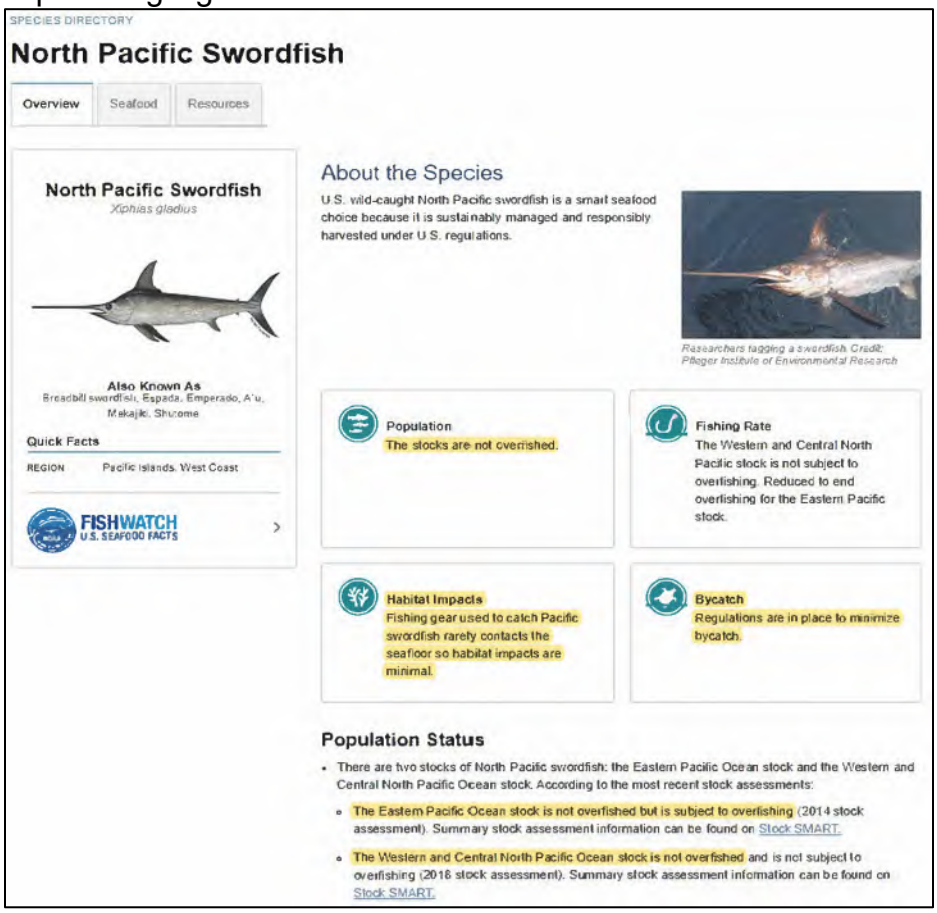
- Conduct annual engagement meetings with stakeholders to inform them about MPA Management Program activities that inform decadal reviews.
- Define clear management reporting goals, including the scale of reporting at the statewide, regional, or local scale.
- Ensure that adaptive management changes to individual MPAs and the MPA Network are evidence based.
- Simplify designations by changing no-take SMCAs to SMRs after maintenance of existing infrastructure is permitted.
- Return MPA fishing opportunities, especially in legacy fishing areas that were previously open to fishing.
- Allow take of migratory and pelagic species in MPAs that currently do not allow it.
- Allow commercial urchin take in MPAs that allow commercial lobster take.
- Do not allow boat operations within 100 yards of a remnant kelp forest within MPAs.
- Requests to change specific MPAs (not including formal petitions; see Appendix G):
  - Relocate Piedras Blancas MPA north, just south of Cape San Martin to protect nursery grounds.
  - Increase the size of Matlahuayl State Marine Reserve to include Point La Jolla and the Boomer Beach area where the sea lion colony is located.

Document 13: NOAA Stock and Fishery Analysis for Bluefin Tuna, stock status, and minimal habitat impacts highlighted.



- The average annual bluefin landings by U.S. commercial vessels fishing in the eastern Pacific Ocean represent only 2 percent of the average annual landings from all fleets fishing there.

Document 14: NOAA Stock and Fishery Analysis for Swordfish, stock status and minimal habitat impacts highlighted.



SPECIES DIRECTORY

North Pacific Swordfish

Overview | Seafood | Resources

North Pacific Swordfish
Xiphias gladius

Also Known As
Broadbill swordfish, Espada, Emperado, A'u, Makajiki, Shutome

Quick Facts
REGION Pacific Islands, West Coast

FISHWATCH U.S. SEAFOOD FACTS

About the Species

U.S. wild-caught North Pacific swordfish is a smart seafood choice because it is sustainably managed and responsibly harvested under U.S. regulations.

Researchers tagging a swordfish Credit: Pfleger Institute of Environmental Research

Population
The stocks are not overfished.

Fishing Rate
The Western and Central North Pacific stock is not subject to overfishing. Reduced to end overfishing for the Eastern Pacific stock.

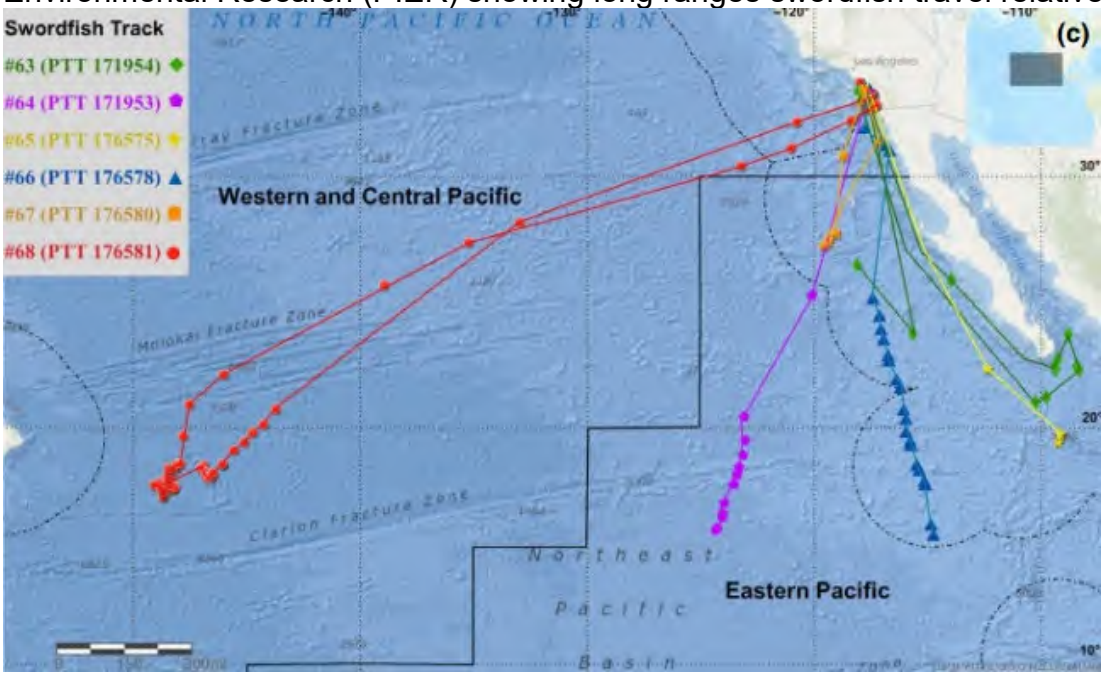
Habitat Impacts
Fishing gear used to catch Pacific swordfish rarely contacts the seafloor so habitat impacts are minimal.

Bycatch
Regulations are in place to minimize bycatch.

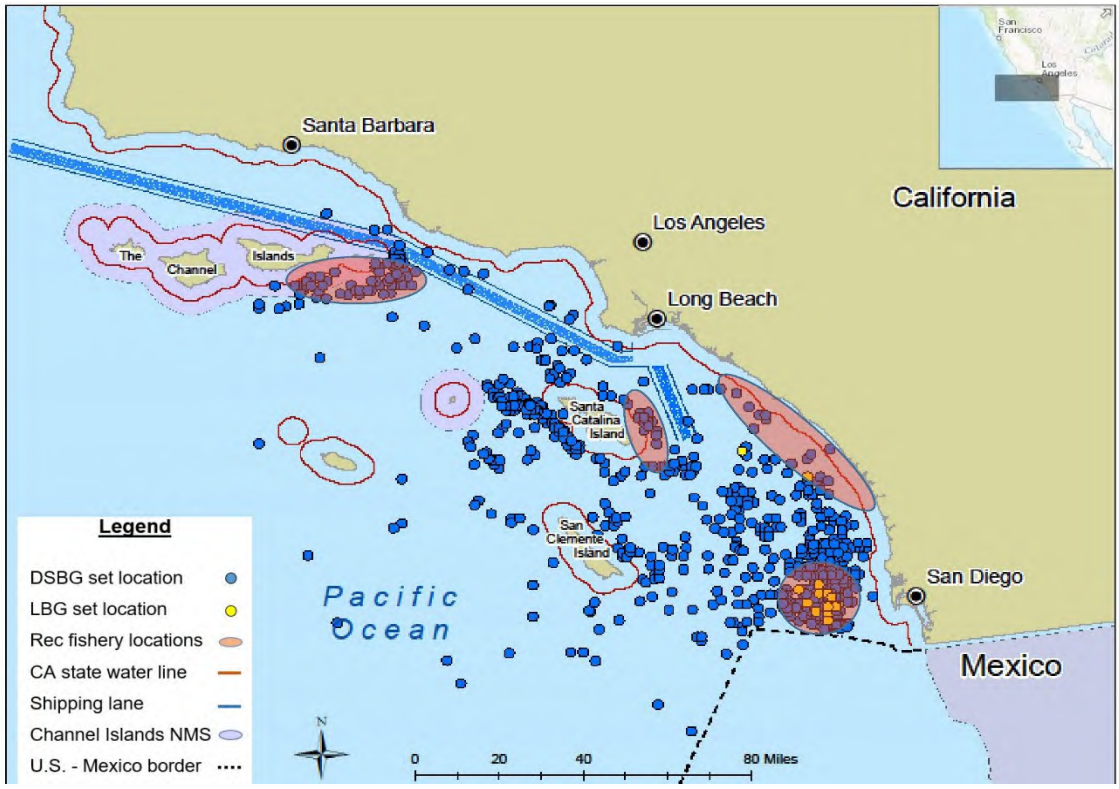
Population Status

- There are two stocks of North Pacific swordfish: the Eastern Pacific Ocean stock and the Western and Central North Pacific Ocean stock. According to the most recent stock assessments:
  - The Eastern Pacific Ocean stock is not overfished but is subject to overfishing (2014 stock assessment). Summary stock assessment information can be found on Stock SMART.
  - The Western and Central North Pacific Ocean stock is not overfished and is not subject to overfishing (2018 stock assessment). Summary stock assessment information can be found on Stock SMART.

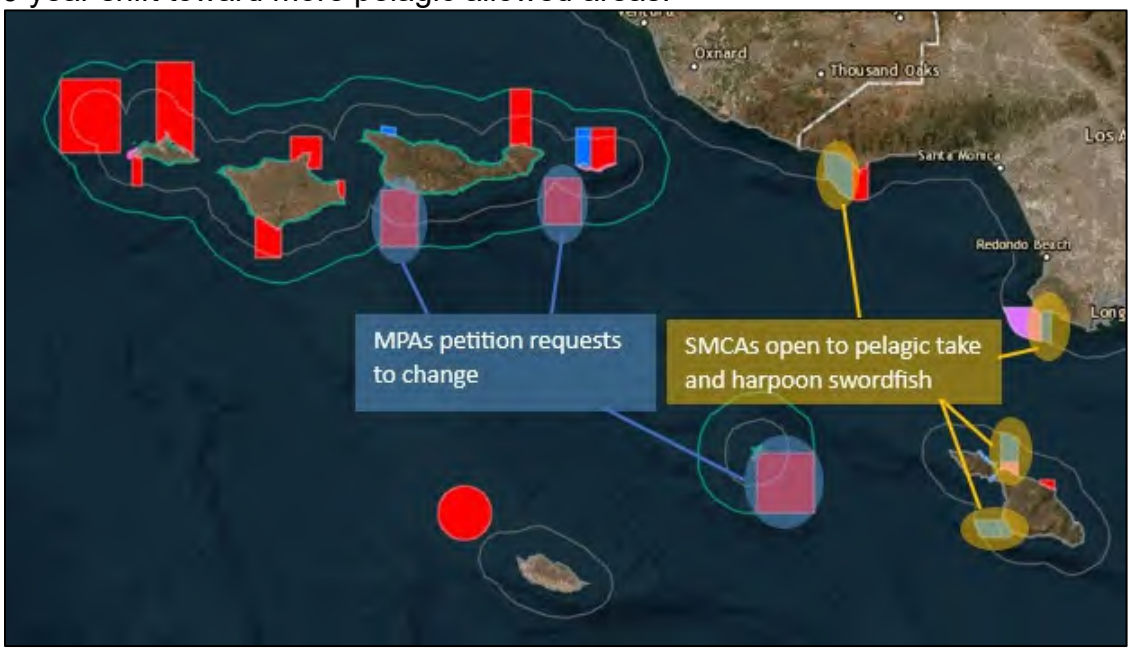
Document 15: Swordfish migration data collected via satellite tags deployed by the Pfleger Institute of Environmental Research (PIER) showing long ranges swordfish travel relative to the MPAs.



Document 16: DSBG and deep drop fishery efforts map displaying the wide area HMS fishing activity covers, and lack of northern Santa Cruz and Anacapa island efforts, where the only 2 SMCAs are located.



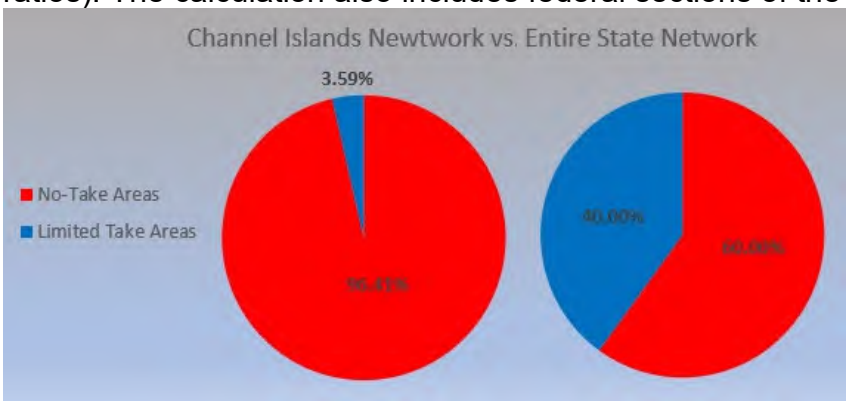
Document 17: Current pelagic finfish limited take SMCAs outside of the Channel Islands Network. These limited take MPAs were implemented in 2012, after the island network in 2003, and display the 9 year shift toward more pelagic allowed areas.



Document 18: Definition of State Marine Conservation Areas per California Code of Regulations Title 14 Section 632(a)(1)(C). The recommended change would make these MPAs effectively SMCAs and MCAs with limited HMS take and CPS possession.

(C) State Marine Conservation Areas: In a state marine conservation area, it is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource for commercial or recreational purposes, or a combination of commercial and recreational purposes except as specified in subsection 632(b), areas and special regulations for use. The department may issue scientific collecting permits pursuant to Section 650. The commission may authorize research, education, and recreational activities, and certain commercial and recreational harvest of marine resources, provided that these uses do not compromise protection of the species of interest, natural community, habitat, or geological features.

Document 19: Charts displaying no-take vs limited-take areas around the Channel Islands vs. the whole State MPA Network showing the disparity of no-take areas around the islands. If the changes are made, this disparity would all but disappear (see Table 1 in the analysis for before and after ratios). The calculation also includes federal sections of the MPAs.



Document 20: How the regulatory language could read if the preferred proposed change was selected (limited HMS take, deep drop methods and federal DSBG allowed, no nearshore closure) **NOTE:** Existing regulation modifications presented similar to how CDFW shows yearly changes, ~~crossed out~~ being removed regulation and red being the amended regulation. State and federal sections are listed with proposed changes. For simplicity the federal amendments will follow the states for the MPA specific changes.

State and Federal Definition Modifications-
Amend: 14 CCR § 632 (a)** **and** 15 CFR 922.71:

(13) Highly Migratory Species. Highly migratory species, for the purpose of this section, are a subset of finfish defined as: albacore, bluefin, bigeye, and yellowfin tuna (Thunnus spp.); skipjack tuna (Katsuwonus pelamis); dorado (dolphinfish) (Coryphaena hippurus); striped marlin (Tetrapturus audax); thresher sharks (common, pelagic, and bigeye) (Alopias spp); shortfin mako shark (Isurus oxyrinchus); blue shark (Prionace glauca); and Pacific swordfish (Xiphias gladius). *Marlin is not allowed for commercial take

(14) Coastal Pelagic Species: Coastal pelagic species, for the purpose of this section, are a subset of finfish and invertebrates defined as: northern anchovy (Engraulis mordax), Pacific sardine (Sardinops sagax), Pacific mackerel (Scomber japonicus), jack mackerel (Trachurus symmetricus), and market squid (Loligo opalescens).

**(13) and (14) exclusive to 14 CCR § 632 (a), amendments to 15 CFR 922.71 would read identical but not include "(13)" and "(14)." Highly Migratory species and Coastal Pelagic species are defined under State regulations (Title 14 §1.49 and 1.39), meaning the change to Title 14 § 632 (a) may not be required.

State MPA Modifications-
Amend: 14 CCR § 632 (b) (109)

(109) Gull Island State Marine ~~Reserve.~~ Conservation Area.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

33° 58.065' N. lat. 119° 50.967' W. long.;

33° 58.000' N. lat. 119° 51.000' W. long.;

33° 58.000' N. lat. 119° 53.000' W. long.;

33° 55.449' N. lat. 119° 53.000' W. long.; thence eastward along the three nautical mile offshore boundary to

33° 54.257' N. lat. 119° 48.000' W. long.; and

33° 57.769' N. lat. 119° 48.000' W. long.

(B) ~~Area restrictions defined in subsection 632(a)(1)(A) apply.~~ Area restrictions defined in subsection 632(a)(1)(C) apply, with the following specified exceptions:
1. The recreational take of highly migratory species is allowed.
2. The commercial take of highly migratory species by hook-and-line and swordfish by harpoon is allowed. The use of standard deep-set-buoy-gear is permitted outside of state waters (3nm).
3. The possession of coastal pelagic species is allowed.

Amend: 14 CCR § 632 (b) (114)

(114) Footprint State Marine ~~Reserve.~~ Conservation Area.

(A) This area is bounded by the straight lines connecting the following points in the order listed except where noted:

33° 59.300' N. lat. 119° 30.965' W. long.;

33° 57.510' N. lat. 119° 30.965' W. long.; thence eastward along the three nautical mile offshore boundary to

33° 57.264' N. lat. 119° 25.987' W. long.;

33° 59.300' N. lat. 119° 25.987' W. long.; and

33° 59.300' N. lat. 119° 30.965' W. long.

(B) ~~Area restrictions defined in subsection 632(a)(1)(A) apply.~~ Area restrictions defined in subsection 632(a)(1)(C) apply, with the following specified exceptions:
1. The recreational take of highly migratory species is allowed.

2. The commercial take of highly migratory species by hook-and-line and swordfish by harpoon is allowed. The use of standard deep-set-buoy-gear is permitted outside of state waters (3nm).
3. The possession of coastal pelagic species is allowed.

Amend: 14 CCR § 632 (b) (116)

(116) Santa Barbara Island State Marine ~~Reserve.~~ Conservation Area.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

33° 28.500′ N. lat. 119° 01.813′ W. long.;

33° 28.500′ N. lat. 118° 58.051′ W. long.; thence along the three nautical mile offshore boundary to

33° 24.842′ N. lat. 119° 02.200′ W. long.; and

33° 27.911′ N. lat. 119° 02.200′ W. long.

(B) ~~Area restrictions defined in subsection 632(a)(1)(A) apply.~~ Area restrictions defined in subsection 632(a)(1)(C) apply, with the following specified exceptions:
1. The recreational take of highly migratory species is allowed.
2. The commercial take of highly migratory species by hook-and-line and swordfish by harpoon is allowed. The use of standard deep-set-buoy-gear is permitted outside of state waters (3nm).
3. The possession of coastal pelagic species is allowed.

NOTE: It may not be required to mention deep-set-buoy-gear (DSBG) in the state regulation as it would not be allowed in state waters. However, as all regulations (State and federal) may be listed under one "rulebook" this mention of federal DSBG allowance maybe needed.

Federal Modifications-
Amend: 15 CFR 922.73(b):

(b) ***Marine conservation area.*** Unless prohibited by 50 CFR part 660 (Fisheries off West Coast States), the following activities are prohibited and thus unlawful for any person to conduct or cause to be conducted within the specified marine conservation areas described in appendix C to this subpart, except as specified in paragraphs (b) through (e) of § 922.72:

(b.1). Anacapa Island Marine Conservation Area

(1) Harvesting, removing, taking, injuring, destroying, collecting, moving, or causing the loss of any Sanctuary resource, or attempting any of these activities, except:

(i) Recreational fishing for pelagic finfish; or

(ii) Commercial and recreational fishing for lobster.

(2) Possessing fishing gear on board a vessel, except legal fishing gear used to fish for lobster or pelagic finfish, unless such gear is stowed and not available for immediate use.

(3) Possessing any Sanctuary resource, except legally harvested fish.

(b.2) Gull Island (Santa Cruz Island) Marine Conservation Area

(1) Harvesting, removing, taking, injuring, destroying, collecting, moving, or causing the loss of any Sanctuary resource, or attempting any of these activities, except:

(i) Recreational fishing for highly migratory species; or
(ii) Commercial fishing for highly migratory species by hook-and-line and harpoon. DSBG is allowed inside of federal waters.
(iii) Possession of coastal pelagic species.

(2) Possessing fishing gear on board a vessel, except legal fishing gear used to fish for highly migratory species, unless such gear is stowed and not available for immediate use.

(3) Possessing any Sanctuary resource, except legally harvested fish.

(b.3) Footprint Marine Conservation Area

(1) Harvesting, removing, taking, injuring, destroying, collecting, moving, or causing the loss of any Sanctuary resource, or attempting any of these activities, except:

(i) Recreational fishing for highly migratory species; or
(ii) Commercial fishing for highly migratory species by hook-and-line and harpoon. DSBG is allowed inside of federal waters.
(iii) Possession of coastal pelagic species.

(2) Possessing fishing gear on board a vessel, except legal fishing gear used to fish for highly migratory species, unless such gear is stowed and not available for immediate use.

(3) Possessing any Sanctuary resource, except legally harvested fish.

(b.4) Santa Barbara Island Marine Conservation Area

(1) Harvesting, removing, taking, injuring, destroying, collecting, moving, or causing the loss of any Sanctuary resource, or attempting any of these activities, except:

(i) Recreational fishing for highly migratory species; or
(ii) Commercial fishing for highly migratory species by hook-and-line and harpoon. DSBG is allowed inside of federal waters.
(iii) Possession of coastal pelagic species.

(2) Possessing fishing gear on board a vessel, except legal fishing gear used to fish for highly migratory species, unless such gear is stowed and not available for immediate use.

(3) Possessing any Sanctuary resource, except legally harvested fish.

Amend: Appendix B to Subpart G of Part 922 (Marine Reserve Boundaries) for 15 CFR 922 B.4, B.5, B.6, B.7, and B.8.

~~B.4. Gull Island (Santa Cruz Island) Marine Reserve~~

~~The Gull Island Marine Reserve (Gull Island) boundary is defined by the 3 nmi State boundary, the coordinates provided in Table B–4, and the following textual description.~~

~~The Gull Island boundary extends from Point 1 to Point 2 along a straight line. It then extends along a straight line from Point 2 to the 3 nmi State boundary where a line defined by connecting Point 2 and Point 3 with a straight line intersects the 3 nmi State boundary. The boundary then follows the 3 nmi~~

~~State boundary westward until it intersects the line defined by connecting Point 4 and Point 5 with a straight line. At that intersection, the boundary extends from the 3 nmi State boundary to Point 5 along a straight line.~~

~~Table B–4—Gull Island (Santa Cruz Island) Marine Reserve~~

~~Point~~	~~Latitude~~	~~Longitude~~
~~1~~	~~33.86195° N~~	~~119.80000″ W~~
~~2~~	~~33.86195° N~~	~~119.88330″ W~~
~~3~~	~~33.92690° N~~	~~119.88330″ W~~
~~4~~	~~33.90700° N~~	~~119.80000″ W~~
~~5~~	~~33.86195° N~~	~~119.80000″ W~~

B.4. Scorpion (Santa Cruz Island) Marine Reserve

The Scorpion Marine Reserve (Scorpion) boundary is defined by the 3 nmi State boundary, the coordinates provided in Table B–5, and the following textual description.

The Scorpion boundary extends from Point 1 to Point 2 along a straight line. It then extends along a straight line from Point 2 to the 3 nmi State boundary where a line defined by connecting Point 2 and Point 3 with a straight line intersects the 3 nmi State boundary. The boundary then follows the 3 nmi State boundary westward until it intersects the line defined by connecting Point 4 and Point 5 with a straight line. At that intersection, the boundary extends from the 3 nmi State boundary to Point 5 along a straight line.

Table B–4—Scorpion (Santa Cruz Island) Marine Reserve

Point	Latitude	Longitude
1	34.15450° N	119.59170″ W
2	34.15450° N	119.54670″ W
3	34.10140° N	119.54670″ W
4	34.10060° N	119.59170″ W
5	34.15450° N	119.59170″ W

~~B.6. Footprint Marine Reserve~~

~~The Footprint Marine Reserve (Footprint) boundary is defined by the 3 nmi State boundary, the coordinates provided in Table B–6, and the following textual description.~~

~~The Footprint boundary extends from Point 1 to Point 2 along a straight line. It then extends along a straight line from Point 2 to the 3 nmi State boundary where a line defined by connecting Point 2 and Point 3 with a straight line intersects the 3 nmi State boundary. The boundary follows the 3 nmi State boundary northeastward and then southeastward until it intersects the line defined by connecting Point 4 and Point 5 along a straight line. At that intersection, the boundary extends from the 3 nmi State boundary to Point 5 along a straight line.~~

~~Table B–6—Footprint Marine Reserve~~

~~Point~~	~~Latitude~~	~~Longitude~~
~~1~~	~~33.90198 ° N~~	~~119.43311 ″ W~~
~~2~~	~~33.90198 ° N~~	~~119.51609 ″ W~~
~~3~~	~~33.96120 ° N~~	~~119.51609 ″ W~~
~~4~~	~~33.95710 ° N~~	~~119.43311 ″ W~~
~~5~~	~~33.90198 ° N~~	~~119.43311 ″ W~~

B.5. Anacapa Island Marine Reserve

The Anacapa Island Marine Reserve (Anacapa Island) boundary is defined by the 3 nmi State boundary, the coordinates provided in Table B–7, and the following textual description.

The Anacapa Island boundary extends from Point 1 to Point 2 along a straight line. It then extends to the 3 nmi State boundary where a line defined by connecting Point 2 and Pont 3 with a straight line intersects the 3 nmi State boundary. The boundary follows the 3 nmi State boundary westward until it intersects the line defined by connecting Point 4 and Point 5 with a straight line. At that intersection, the boundary extends from the 3 nmi State boundary to Point 5 along a straight line.

Table B–5—Anacapa Island Marine Reserve

Point	Latitude	Longitude
1	34.08330 ° N	119.41000 ″ W
2	34.08330 ° N	119.35670 ″ W
3	34.06450 ° N	119.35670 ″ W
4	34.06210 ° N	119.41000 ″ W

Point	Latitude	Longitude
5	34.08330 ° N	119.41000 ″ W

~~B.8. Santa Barbara Island Marine Reserve~~

~~The Santa Barbara Island Marine Reserve (Santa Barbara) boundary is defined by the 3 nmi State boundary, the coordinates provided in Table B–8, and the following textual description.~~

~~The Santa Barbara boundary extends from Point 1 to Point 2 along a straight line. It then extends along a straight line from Point 2 to the 3 nmi State boundary where a line defined by connecting Point 2 and Point 3 with a straight line intersects the 3 nmi State boundary. The boundary follows the 3 nmi State boundary northeastward until it intersects the line defined by connecting Point 4 and Point 5 with a straight line. At that intersection, the boundary extends from the 3 nmi State boundary to Point 5 along a straight line. The boundary then extends from Point 5 to Point 6 along a straight line.~~

~~Table B–8—Santa Barbara Island Marine Reserve~~

~~Point~~	~~Latitude~~	~~Longitude~~
~~1~~	~~33.36320 ° N~~	~~118.90879 ″ W~~
~~2~~	~~33.36320 ° N~~	~~119.03670 ″ W~~
~~3~~	~~33.41680 ° N~~	~~119.03670 ″ W~~
~~4~~	~~33.47500 ° N~~	~~118.97080 ″ W~~
~~5~~	~~33.47500 ° N~~	~~118.90879 ″ W~~
~~6~~	~~33.36320 ° N~~	~~118.90879 ″ W~~

Amend: Appendix C to Subpart G of Part 922 (Marine Conservation Area ~~Boundary~~ Boundaries) for 15 CFR 922

C.2. Gull Island (Santa Cruz Island) Marine Conservation Area

The Gull Island Marine Conservation Area (Gull Island) boundary is defined by the 3 nmi State boundary, the coordinates provided in Table B–4, and the following textual description.

The Gull Island boundary extends from Point 1 to Point 2 along a straight line. It then extends along a straight line from Point 2 to the 3 nmi State boundary where a line defined by connecting Point 2 and Point 3 with a straight line intersects the 3 nmi State boundary. The boundary then follows the 3 nmi State boundary westward until it intersects the line defined by connecting Point 4 and Point 5 with a straight line. At that intersection, the boundary extends from the 3 nmi State boundary to Point 5 along a straight line.

Table B–4—Gull Island (Santa Cruz Island) Marine Conservation Area

Point	Latitude	Longitude
1	33.86195 ° N	119.80000 ″ W

Point	Latitude	Longitude
2	33.86195 ° N	119.88330 ″ W
3	33.92690 ° N	119.88330 ″ W
4	33.90700 ° N	119.80000 ″ W
5	33.86195 ° N	119.80000 ″ W

C.3. Footprint Marine Conservation Area

The Footprint Marine Conservation Area (Footprint) boundary is defined by the 3 nmi State boundary, the coordinates provided in Table B–6, and the following textual description.
The Footprint boundary extends from Point 1 to Point 2 along a straight line. It then extends along a straight line from Point 2 to the 3 nmi State boundary where a line defined by connecting Point 2 and Point 3 with a straight line intersects the 3 nmi State boundary. The boundary follows the 3 nmi State boundary northeastward and then southeastward until it intersects the line defined by connecting Point 4 and Point 5 along a straight line. At that intersection, the boundary extends from the 3 nmi State boundary to Point 5 along a straight line.
Table B–6—Footprint Marine Conservation Area

Point	Latitude	Longitude
1	33.90198 ° N	119.43311 ″ W
2	33.90198 ° N	119.51609 ″ W
3	33.96120 ° N	119.51609 ″ W
4	33.95710 ° N	119.43311 ″ W
5	33.90198 ° N	119.43311 ″ W

C.4. Santa Barbara Island Marine Conservation Area
The Santa Barbara Island Marine Conservation Area (Santa Barbara) boundary is defined by the 3 nmi State boundary, the coordinates provided in Table B–8, and the following textual description.
The Santa Barbara boundary extends from Point 1 to Point 2 along a straight line. It then extends along a straight line from Point 2 to the 3 nmi State boundary where a line defined by connecting Point 2 and Point 3 with a straight line intersects the 3 nmi State boundary. The boundary follows the 3 nmi State boundary northeastward until it intersects the line defined by connecting Point 4 and Point 5 with a straight line. At that intersection, the boundary extends from the 3 nmi State boundary to Point 5 along a straight line. The boundary then extends from Point 5 to Point 6 along a straight line.
Table B–8—Santa Barbara Island Marine Conservation Area

Point	Latitude	Longitude
1	33.36320 ° N	118.90879 ″ W
2	33.36320 ° N	119.03670 ″ W
3	33.41680 ° N	119.03670 ″ W
4	33.47500 ° N	118.97080 ″ W
5	33.47500 ° N	118.90879 ″ W
6	33.36320 ° N	118.90879 ″ W

Links to data sources:

1. CDFW Marine Species Portal: https://marinespecies.wildlife.ca.gov/ for Bluefin Tuna, Swordfish, and Striped Marlin
2. NOAA Species Directory: https://www.fisheries.noaa.gov/species-directory for North Pacific Swordfish and Pacific Bluefin Tuna
3. PIER papers: https://pier.org/resources/publications/ for swordfish migratory movements DOI: 10.1111/fog.12461, and DOI:10.1111/j.1365-2419.2010.00543.x
4. WCPFC stock analysis: https://www.wcpfc.int/current-stock-status-and-advice for Pacific Bluefin Tuna, North Pacific Swordfish, North Pacific Striped Marlin
5. Oceana DSBG Sustainability Article: https://usa.oceana.org/press-releases/new-day-dawns-for-whales-sea-turtles-and-sustainable-swordfish-fishing-off-californias-shores/
6. PEW DSBG Sustainability Article: https://www.pewtrusts.org/en/research-and-analysis/articles/2023/06/22/us-approves-sustainable-way-to-catch-swordfish-off-west-coast
7. MPA regional info: https://californiampas.org/mpa-regions/north-coast-region
8. Channel Islands Network info (NOAA): https://channelislands.noaa.gov/about/maps.html#:~:text=Channel%20Islands%20National%20Marine%20Sanctuary%20protects%201%2C470%20square%20miles%20of,Miguel%2C%20and%20Santa%20Barbara%20islands
9. MPA Master Plan hub: https://wildlife.ca.gov/Conservation/Marine/MPAs/Master-Plan

11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing:
    - Would give local charter businesses better access to local Northern Channel Island banks, helping business and reducing fuel costs and emissions spent traveling further offshore.
    - Would significantly assist the commercial swordfish industry and total domestic swordfish landings, returning legacy harpoon fishery waters, and allowing for more sustainable, domestic product to be landed by harpoon and DSBG after the phase out of drift nets.

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

None to my knowledge.

SECTION 3: FGC Staff Only

Date received: 01/09/2025

FGC staff action:

☐ Accept - complete
☐ Reject - incomplete
☐ Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: _____

Meeting date for FGC consideration: _____

FGC action:

☐ Denied by FGC

☐ Denied - same as petition _____
Tracking Number

☐ Granted for consideration of regulation change

From: G2KR Team <[redacted]>
Sent: Monday, January 13, 2025 10:38 AM
To: Ashcraft, Susan[redacted] Keith Rootsaert <[redacted]>
Cc: Andy Beahrs <[redacted]>; Calla Allison <[redacted]>; Rossi, Devon-Contractor[redacted]>; FGC <FGC@fgc.ca.gov>
Subject: RE: Petition Amendment Request

Dear FGC Staff,

Attached is a revised version of our FGC-1 Petition Amendment Request. Please consider this our final amendment request and the Department can begin working on it.

I also revised the last email to reflect the new page number references in yellow highlighter. I also clarified R7 as requested by Susan Ashcraft in the petition 2023-23MPA below.

Dear FGC staff,

This email serves as our **Notice of Intent to Amend** and **Petition Amendment Request** for FGC Petition 2023-23MPA. See attached amended petition 2023-23-MPAR FINAL.

R1

Specific Change: Page 3. In Monterey the community led group Giant Giant Kelp Restoration Project has successfully defended a kelp forest at Tanker's Reef and is <u>was</u> aspiring to restore large kelp forests on both sides of the Monterey Peninsula by SCP.

Rationale: This change is to the tense of the word "is" to become "was". We had hoped to work in MPAs with a Scientific Collecting Permit and pre-applied with the Department for 22 months, but we did not obtain the permit. A SCP was instead granted to UCSC in 2024 at the sites we proposed.

R2

Specific Change: Page 4. Add the following paragraph: <u>Recreational sportfishers and kelp harvesters have expressed opposition to changing SMCAs to SMRs. The fishers feel that they will never get to fish in these areas again without a reversing petition that would be time consuming and difficult to obtain from FGC. The kelp harvester is only permitted to harvest kelp in non-SMRs and even though kelp harvest is part of our restoration plan, the concern is that the MPA designation may occur without an allowance for kelp harvest for abalone aquaculture. Although kelp harvest is essential for giant kelp resilience and survivorship, the Department and OPC don't acknowledge this interaction. To obtain a consensus of proponents we ask the Department to consider keeping the SMCA designation and writing in a SMCA specific rule that when a Kelp Restoration Management Permit is active, fin fishing is not allowed.</u>

Rationale: This amendment is intended to address concerns by opposition parties and develop a consensus. Because there are many interrelated and dependent parts to this petition and passage of any part is uncertain, it is important that each petition be more independent. For example: if the SMCAs are designated as SMRs but kelp canopy pruning is not allowed, it would shut down the Monterey Abalone Company or if the KRMP component is not implemented then there is no mechanism to sunset the SMR designation. Because the process of obtaining Adaptive

Management changes on the Central Coast may take more than 17 years, fishers are understandably reluctant to rely on Adaptive Management to reopen fishing in SMRs when fish stocks recover in the future. Changing SMCAs to have a provision for Kelp Restoration Management Permit fishing prohibition deconflicts the fishing and diving activities and puts a sunset date on the fishing prohibition which allows for depleted rockfish stocks in the SMCAs to recover.

While we understand that prohibiting fishing benefits kelp forests and biodiversity, the fishers deny the science is conclusive. Fishing is detrimental to kelp forests and is exacerbated by culling urchins that benefit the snails that eat the urchin carcasses and kelp. G2KR is not staffed to counter the fisher's assertions and so we will rely on the rationale that fishing in a kelp restoration site is a deadly conflict of activities. There is a similar petition 2023-33 for changing MPA designations in Santa Cruz that can argue the DMR scientific findings, and we will defer to Laura Deehan and Environment California to pursue that rationale in places without the compounding influence of kelp restoration activities and conflicting uses.

R3

Specific Change: Page 5. We propose that <u>a portion of</u> the Tanker's Reef enforcement area be designated the Tanker's Reef State Marine Reserve (working title).

Rationale: Add the words "a portion of" to the description. The enforcement area was set very large for enforcement purposes but is larger than needed for kelp restoration purposes. The area to the east of the reserve serves as the control area where restoration efforts are not undertaken. See map below for proposed area.

A revised Tanker's Reef SMR of 193 acres from 685 acres, (23%)

R4

Specific Change: Page 8. We request similar fees for Kelp Restoration <u>Management</u> Permits.

Rationale: Add the word "Management" to the permit name. The working title of Kelp Restoration Management Permit more closely aligns with the State Kelp Restoration Management Plan that informs the permit framework. See R6.

R5

Specific Change: Page 8. The extension of Tanker's Reef is "noticed" at the FGC and hopefully will be extended 5 years, but the point is that Restoration should lead the activity and scientific experiments should evaluate, but not interfere with, or seek to end, the restoration effort.

Rationale: Delete a portion of the sentence. Our request to extend Tanker's Reef for 5 years was denied for the sake of the scientific experiment and anticipation of the SCP in R1.

R6

Specific Change: Page 9. We ask that these issues be repaired in the SCP software and Kelp Restoration Management Permit Project approval process.

Rationale: Revised the working title of the permit. See R4.

R7

Overlooked Petition:

Page 9. Public Outreach by FGC and the Department is requested and should be reflected in the petition breakdown into subparts.

The petition reads:

Public Outreach

This petition asks the FGC to affirm kelp restoration as public policy in MPAs and to celebrate community collaboration in kelp restoration, mitigating climate change, and conserving biodiversity in public outreach to stakeholders and encourage ocean stewardship. At the October 12 FGC meeting the commissioners suggested kelp practitioner leadership be unified under an "Adopt a Reef" community program, which is a wonderful idea, and we ask the commission to consider our proposed sites as G2KR adopted reefs. We ask that FGC and the Department promote kelp restoration collaboration on their website and in public outreach. This is prioritized in California Marine Protected Area Decadal Management Review, near-term Priorities (ongoing- 2 years), Cornerstone Management Program, Outreach and Education, Recommendation 16. Conduct more targeted outreach to specific audiences to connect stakeholders with coastal resources and to encourage stewardship and compliance with regulations.

Please note

Petition 2023-23MPA was submitted 11/29/23. The MPA binning process delayed evaluation and consideration into 2025. FGC asking for petitioners to engage with organized opposition and creating corresponding amendments is an additional burden to unfunded public petitioners to revise plans even before the Department considers the petition. It is not clear how much to weaken the petition before it is historically opposed by the Department of "No". How many cards should we take when the dealer is showing a face card? We engaged with the public, G2KR divers, local

governments, recreational fishers, commercial fishers, and kelp harvesters but we don't have written guidance or counter proposals from them to address their concerns. We have not received feedback on this amendment, and this is our best attempt to address concerns. We do not have consensus on this petition and/or this amendment.

Keith Rootsaert

Giant Giant Kelp Restoration

From: Ashcraft, Susan [redacted]
Sent: Thursday, January 9, 2025 2:07 PM
To: Keith Rootsaert [redacted]
Cc: Andy Beahrs [redacted] Calla Allison [redacted] Rossi, Devon- [redacted] G2KR Team <action@g2kr.com>; FGC <FGC@fgc.ca.gov>
Subject: RE: Petition Amendment Request

Hi Keith,

Thanks for submitting your statement. I have a couple of questions.

First, I noticed that the changes you proposed below are integrated thoroughly into the form FGC 1 text, but the revised map showing the revised proposed Tankers Reef SMR is not part of the FGC 1 document. Could you please add (insert) the map image into the FGC 1 document after your description of the revised proposal on page 5?

Also, the rationale is built into your email but not also added to the FGC 1 document. That's fine – we can attach your email to support understanding of the revised petition.

Finally, I'm not sure I understand what your email says about R 7 (re: overlooked petition). Could you clarify?

If you don't have any other pieces of your petition you want to amend, then this can serve as more than a statement of intent, but also the actual amended petition request. i.e., we can move forward with it. Please confirm if that is the case.

In summary, two things:

1. Could you please add the map image of your revised proposed SMR boundaries to the FGC 1 form (preferably after the description on page 5)?
2. Do you plan to make other changes? If not, when you re-send with the map inserted into FGC 1, let us know this is your amendment request and we will forward for review to CDFW

Thank you,

Susan

From: Keith Rootsaert [redacted]
Sent: Saturday, December 28, 2024 2:06 PM
To: FGC <FGC@fgc.ca.gov>
Cc: Andy Beahrs [redacted] Calla Allison [redacted] Ashcraft, Susan [redacted] G2KR Team <action@g2kr.com>
Subject: Petition Amendment Request

Dear FGC staff,

This email serves as our **Notice of Intent to Amend** and **Petition Amendment Request** for FGC Petition 2023-23MPA. See attached amended petition 2023-23-MPAR.

R1

Specific Change: Page 3. In Monterey the community led group Giant Giant Kelp Restoration Project has successfully defended a kelp forest at Tanker's Reef and is was aspiring to restore large kelp forests on both sides of the Monterey Peninsula by SCP.

Rationale: This change is to the tense of the word "is" to become "was". We had hoped to work in MPAs with a Scientific Collecting Permit and pre-applied with the Department for 22 months, but we did not obtain the permit. A SCP was instead granted to UCSC in 2024 at the sites we proposed.

R2

Specific Change: Page 4. Add the following paragraph: Recreational sportfishers and kelp harvesters have expressed opposition to changing SMCAs to SMRs. The fishers feel that they will never get to fish in these areas again without a reversing petition that would be time consuming and difficult to obtain from FGC. The kelp harvester is only permitted to harvest kelp in non-SMRs and even though kelp harvest is part of our restoration plan, the concern is that the MPA designation may occur without an allowance for kelp harvest for abalone aquaculture. Although kelp harvest is essential for giant kelp resilience and survivorship, the Department and OPC don't acknowledge this interaction. To obtain a consensus of proponents we ask the Department to consider keeping the SMCA designation and writing in a SMCA specific rule that when a Kelp Restoration Management Permit is active, fin fishing is not allowed.

Rationale: This amendment is intended to address concerns by opposition parties and develop a consensus. Because there are many interrelated and dependent parts to this petition and passage of any part is uncertain, it is important that each petition be more independent. For example: if the SMCAs are designated as SMRs but kelp canopy pruning is not allowed, it would shut down the Monterey Abalone Company or if the KRMP component is not implemented then there is no mechanism to sunset the SMR designation. Because the process of obtaining Adaptive Management changes on the Central Coast may take more than 17 years, fishers are understandably reluctant to rely on Adaptive Management to reopen fishing in SMRs when fish stocks recover in the future. Changing SMCAs to have a provision for Kelp Restoration Management Permit fishing prohibition deconflicts the fishing and diving activities and puts a sunset date on the fishing prohibition which allows for depleted rockfish stocks in the SMCAs to recover.

While we understand that prohibiting fishing benefits kelp forests and biodiversity, the fishers deny the science is conclusive. Fishing is detrimental to kelp forests and is exacerbated by culling urchins that benefit the snails that eat the urchin carcasses and kelp. G2KR is not staffed to counter the fisher's assertions and so we will rely on the rationale that fishing in a kelp restoration site is a deadly conflict of activities. There is a similar petition 2023-33 for changing MPA designations in Santa Cruz that can argue the DMR scientific findings, and we will defer to Laura Deehan and Environment California to pursue that rationale in places without the compounding influence of kelp restoration activities and conflicting uses.

R3

Specific Change: Page 5. We propose that <u>a portion of</u> the Tanker's Reef enforcement area be designated the Tanker's Reef State Marine Reserve (working title).

Rationale: Add the words "a portion of" to the description. The enforcement area was set very large for enforcement purposes but is larger than needed for kelp restoration purposes. The area to the east of the reserve serves as the control area where restoration efforts are not undertaken. See map below for proposed area

R4

Specific Change: Page 7. We request similar fees for Kelp Restoration <u>Management</u> Permits.

Rationale: Add the word "Management" to the permit name. The working title of Kelp Restoration Management Permit more closely aligns with the State Kelp Restoration Management Plan that informs the permit framework. See R6.

R5

Specific Change: Page 7. The extension of Tanker's Reef is "noticed" at the FGC and hopefully will be extended 5 years, but the point is that <u>R</u>estoration should lead the activity and scientific experiments should evaluate, but not interfere with, or seek to end, the restoration effort.

Rationale: Delete a portion of the sentence. Our request to extend Tanker's Reef for 5 years was denied for the sake of the scientific experiment and anticipation of the SCP in R1.

R6

Specific Change: Page 8. We ask that these issues be repaired in the SCP software and Kelp Restoration Management Permit Project approval process.

Rationale: Revised the working title of the permit. See R4.

R7

Overlooked Petition:

Page 8. Public Outreach by FGC and the Department is requested and should be reflected in the petition breakdown into subparts.

Please note

Petition 2023-23MPA was submitted 11/29/23. The MPA binning process delayed evaluation and consideration into 2025. FGC asking for petitioners to engage with organized opposition and creating corresponding amendments is an additional burden to unfunded public petitioners to revise plans even before the Department considers the petition. It is not clear how much to weaken the petition before it is historically opposed by the Department of "No". How many cards should we take when the dealer is showing a face card? We engaged with the public, G2KR divers, local governments, recreational fishers, commercial fishers, and kelp harvesters but we don't have written guidance or counter proposals from them to address their concerns. We have not received feedback on this amendment, and this is our best attempt to address concerns. We do not have consensus on this petition and/or this amendment.

Keith Rootsaert

Giant Giant Kelp Restoration

Tracking Number: (_2023-23MPA__)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

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

SECTION I: Required Information.

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

1. Person or organization requesting the change (Required)
Name of primary contact person: Keith Rootsaert
Address: [redacted].
Telephone number: [redacted]
Email address: [redacted]

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Sections 200, 205(c), 265, 399, 1590, 1591, 2860, 2861 and 6750, Fish and Game Code; and Sections 36725(a) and 36725(e), Public Resources Code.

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

Kelp Restoration
Multiple methods in 3 SMCAs and 1 SMR.

Kelp Protection by Redesignation
Edward F. Ricketts State Marine Conservation Area to Edward F. Ricketts State Marine Reserve.
Pacific Grove Marine Gardens State Marine Conservation Area to Pacific Grove Marine Gardens State Marine Reserve.
Carmel Bay State Marine Conservation Area to Carmel Bay State Marine Reserve.

Kelp Protection by Designation
The Tanker's Reef enforcement area as Tanker's Reef State Marine Reserve.

Permission to deploy buoys
Prevent anchor damage to rocky reef denizens,
Navigation aid for kelp restoration activities.

Regulatory Pathway for
Sunken ship and other artificial reef structures

SCP Framework Changes
Management of Kelp Restoration

Public Outreach
Adopt a Reef for Kelp Restoration

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

This Giant Giant Kelp Restoration petition advances MLPA goals 1-6 and has strong community support of volunteers and grassroots funding. The MPA Collaborative network lists many of these issues on rows 77, 78, 83, & 88, and was supported by all present at the Monterey MPA Collaborative Meeting at Asilomar, August 16, 2023.

This petition is in alignment with the prioritized recommendations from the California Marine Protected Area Decadal Management Review, near-term Priorities (ongoing- 2 years), Cornerstone Governance, Regulatory and Review Framework, Recommendation 04. Apply what is learned from the first Decadal Management Review to support proposed changes to the MPA Network and Management Program. Also: Management Program, Policy and Permitting 18: Utilize OPC's Restoration and Mitigation Policy to develop a framework to evaluate and approve appropriate restoration and mitigation actions within MPAs and MMAs

Kelp Restoration
Due to widespread urchin barrens following the 2014-2016 marine heat wave and kelp biomass decline in central and northern California, kelp restoration is a proven remedy by scuba divers culling urchins to suppress grazing pressure. Early results at Tanker's Reef in Monterey have shown that divers culling urchins results in natural kelp recruitment and survival.

This petition will allow certified Kelp Restoration Specialty Divers, recreational and commercial fishermen, to participate in a Regenerative Fishery which suppresses grazing pressure from urchins and promotes giant kelp survival in three State Marine Conservation Areas: Edward F. Ricketts, Pacific Grove Marine Gardens, and Carmel Bay State Marine Conservation Areas and in "Whaler's Cove", a portion of the Point Lobos State Marine Reserve.

The methods will involve multiple techniques to suppress grazing pressure on kelp and to enhance kelp recruitment and survivorship and are explained in further detail in Blueprint for Kelp Restoration in Monterey.

Suppression:
Hand culling of urchins.
Commercial harvest of urchins for urchin ranching and food sales.
Baiting & trapping urchins.
Utilizing natural defenses of acid weed.

Removing invasive marine algae.

Benefitting:
Pruning kelp canopy to promote growth and resilience to storms.
Out-planting kelp on the reef.
Spore dispersal by sporophyte bags.
Artificial reef structures.

All the methods employed will be detailed, discussed, and approved by the Department and work would be performed in coordination with other restoration activities. Reef Check California is our monitoring partner and will perform modified kelp forest monitoring surveys of the treated sites and controls. Reports on the project criteria will be discussed bi-weekly with the Department and as requested by the FGC.

We are asking that these kelp restoration methods be permitted without a SCP both inside and outside MPAs and will involve changes to sportfishing regulations to allow unlimited culling of urchins by hand tools, deploying sporophyte bags, etc. We ask that recreational fishermen be allowed to trap, harvest, capture for research, and cull urchins. Commercial fishing regulations will require a restoration exception to harvesting urchins in MPAs and exemption to the wanton waste rule for kelp restoration activities to allow commercial fishermen to cull urchins that are below the 4.5 cm minimum useful harvest size or for commercial divers to alternate between commercial and recreational fishing.

Kelp Protection by Redesignation:
The MPAs were mapped without considering the possibility of a native invertebrate species becoming overabundant and gobbling up most of the algae in the ecosystem combined with the Department's unwillingness to address that crisis. Urchin barrens have occurred sporadically for millennia as evidenced by the millions of urchin-made holes in the benthos at Tanker's Reef. 250 years ago, when southern sea otters were nearly extirpated by the fur trade, the abalone and urchins flourished and for 125 years kelp disappeared from the central coast until abalone were eventually overfished and take banned south of San Francisco in 1997 and giant kelp again became dominant. in 2007, the central coast MPA rules were formed to prohibit the take of any invertebrates, relying on a written provision for "restoration" as an "allowed" activity in MPAs but the Department does not "permit" restoration because they have conjured a de facto contradictory 7th goal of MPAs to "not disturb" them.

In Monterey the community led group Giant Giant Kelp Restoration Project has successfully defended a kelp forest at Tanker's Reef and ~~is~~ was aspiring to restore large kelp forests on both sides of the Monterey Peninsula by SCP. FGC would not consider petitions allowing take of invertebrates in the SMCAs & SMRs until the Decadal Management Review could be completed. Now that the DMR has passed, this petition is seeking to begin the Adaptive Management Review Cycle for the central coast MPAs that have remained unmodified since 2007.

Kelp forests need protection from fishing pressure which has detrimental effects on species richness and kelp biomass. By designating the areas of kelp restoration as State Marine Reserves, fishing pressure will be considerably reduced. This is safer for the volunteer divers involved to avoid fishing boat traffic or getting hooked by fishing gear while diving.

Recreational sportfishers and kelp harvesters have expressed opposition to changing SMCAs to SMRs. The fishers feel that they will never get to fish in these areas again without a reversing petition that would be time consuming and difficult to obtain from FGC. The kelp harvester is only permitted to harvest kelp in non-SMRs and even though kelp harvest is part of our restoration plan, the concern is that the MPA designation may occur without an allowance for kelp harvest for abalone aquaculture. Although kelp harvest is essential for giant kelp resilience and survivorship, the Department and OPC don't acknowledge this interaction. To obtain a consensus of proponents we ask the Department to consider keeping the SMCA designation and writing in a SMCA specific rule that when a Kelp Restoration Management Permit is active, fin fishing is not allowed.

The MLPA is now administered in 3-year Adaptive Management Review Cycles and there is now flexibility in addressing the kelp crisis in a way that accomplishes the MLPA goals but also does not harm the environment in a long term, unforeseen and unwanted way that occurred on the central coast for the last 16 years. The G2KR projects at Lovers Cove and at Tanker's Reef demonstrated that the effort of the certified volunteer divers can be consistently and positively directed to restore kelp forests. Restoration work in these clearly described and familiar MPA boundaries would avoid confusion and guide diver effort in a predictable and effective strategy. In an Adaptive Management Review Cycle these methods can be continuously evaluated and adapted to the evolving stressors in the environment and as our knowledge, techniques, and capabilities at restoring kelp similarly evolve.

In future Adaptive Management Review Cycles the consequences of kelp restoration can be reviewed and the FGC may consider applying these methods more broadly, changing allowed methods, and allowing fishing under modified conditions. The other Monterey SMRs are acting as "controls" without treatment, but in the next review cycle we may ask for those SMRs to be treated as well in order to halt urchin migration and to achieve our goal, pledged to the Kelp Forest Alliance, to restore 2000 acres of giant kelp around the Monterey Peninsula by 2030.

Research shows the reduced fishing pressure in places where fish are born will be beneficial to the fishery in the future when more fish live to adulthood and make more fish. In the future the kelp situation may change, and these places may be opened again in future management cycles to fishing for selected species, or in coordination with scientific monitoring protocols. The three State Marine Conservation Areas mentioned presently have diminished fish stocks and species richness and could benefit from a temporary fishing prohibition. This closure, in coordination with kelp restoration, will benefit adjacent areas with the "spillover effect" of the MPAs providing better fishing opportunities for participants.

This closure would not affect commercial fishermen who are prohibited from fishing in SMCAs already, but mostly the recreational fishermen who fish from shore. The fishermen fishing from boats are typically fishing further from shore because the fish are not as plentiful in the nearshore SMCAs now that the kelp has thinned. Although this closure would prohibit fishing at the Monterey Breakwater parking lot, there is still accessible fishing at the Commercial Wharf. Surf fishing from shore is generally not done at the Tanker's Reef area but further to the north at Sunset, Seacliff and New Brighton State Parks.

There are some fishermen that fish on the west side of Lovers Point and the north side of Point Pinos that would be displaced in a portion of the Pacific Grove Marine Gardens SMCA that is frequented by tourists and rented out by Pacific Grove for weddings. To mitigate the loss of this fishing opportunity we recommend the replacement of the Del Monte Bathhouse Pier, by others. It is not fair that our community group of volunteers is working hard to restore kelp and suppress kelp grazers while the state licenses individuals to fish in the same place and time with activities that are detrimental to that same kelp's growth and survival while also endangering diver's lives with propellers and fishing hooks.

The Central Coast Regional Stakeholder Group's intent during regional MLPA planning process (including MPA-specific goals/objectives and design considerations), adopted in April 2007, was found to be aligned with our proposal to improve the conservation status. In the Regional Goals Design Considerations #3."To the extent possible, site MPAs to prevent fishing effort shifts that would result in serial depletion" is what has happened in these places due to fishing pressure being concentrated in only a few accessible places. Redesignating the SMCAs as SMRs aligns with the original intent of more fishing prohibitions at two sites and stopping serial depletion of species at all three sites.

Edward F. Ricketts SMCA was proposed by the RSG to be split as half Edward F. Ricketts SMCA and half Edward C. Cooper SMR so the original intent was to make the area closest to the breakwater into a SMR. John Wolfe, Diving representative to the Regional Stakeholder Group, recalled that a disabled veteran testified that the breakwater was the "only place he could fish" so fishing by hook and line was decided to be allowed. There was a favorite wolf eel that lived on the wall and a spearfishermen shot it and threw it in a garbage can and divers were outraged so fishing by spear was not allowed on this site and the site is partially closed to fishing already. The fishermen fishing off the breakwater wall is a constant danger to divers at this most popular dive site on the west coast of North America and for safety it must stop. There is disabled access at the municipal wharf for fishermen.

Pacific Grove Marine Gardens SMCA was proposed by the RSG to be an SMR north of Point Pinos. Presently the delineation between Asilomar SMR and PG Marine Gardens SMCA is at Point Pinos, so the original intent was to make a large portion north of the peninsula protected as a SMR. This was the first area impacted by widespread urchin barrens in 2015 and is a high priority site for kelp restoration.

Carmel Bay SMCA was implemented as designed but has poor fishing opportunities and depletion of species because it is the only accessible fishing place south of the Monterey Peninsula until Malpaso Creek south of Point Lobos SMR. The loss of kelp forests exacerbates the problem because rockfish are born in kelp forests and take 8-10 years to reach maturity.

These MPAs were all described as "High Priority" sites by OPC's research that would have the highest probability of kelp restoration success.

Kelp Protection by Designation:
We propose that a portion of the Tanker's Reef enforcement area be designated the Tanker's Reef State Marine Reserve (working title).

A revised Tanker's Reef SMR of 193 acres from 685 acres, (23%)

This kelp forest was created by volunteer divers and is very vulnerable from fishing pressure because it is outside of MPA fishing prohibitions. Routinely fishermen in boats and kayaks take fish at the 11 acre kelp forest. The experimental 2.5-acre underwater cable grid is studied by OPC, CDFW, MBNMS, and Reef Check California. We try very hard to reduce externalities as much as possible to determine a natural process of kelp reforestation. Fishermen taking fish is an externality for the scientific design and confounds the results. Fishing gear often becomes entangled in underwater navigation cables used to guide divers. Furthermore, boat propellers are a threat to injure scuba divers in the area under the water.

Designating this area as a State Marine Reserve will also protect more sandy habitat at Del Monte Beach, the most eroded beach in California, at a time when the beach is nourished after the closure of sand mining in Southern Monterey Bay and studied by USGS.

In the Regional Goals Design Considerations #8, "To the extent possible, site MPAs to take advantage of existing long-term monitoring studies" is consistent with designating Tanker's Reef, the site of CDFW/MBNMS and Reef Check surveys, as a State Marine Reserve.

Permission to deploy buoys

Boat anchors on rocky reefs often disturb sensitive marine habitat with their heavy chains scraping in an arc from the anchor to the boat. In a sensitive kelp restoration site that has frequent visits, dropping and recovery of the anchor disturbs the kelp we are trying to defend. By deploying a temporary buoy that the boats can attach to instead of dropping an anchor, the kelp is not disturbed. The use of buoys also aids the divers in the kelp restoration activity by providing underwater visual markers to guide where to cull the urchins and protect the kelp.

This petition seeks to allow seasonal deployment of certain colored and well-maintained buoys to be deployed in kelp restoration areas for the purpose of directing boats where to anchor and to direct divers for the purpose of kelp restoration.

Regulatory Pathway for an Artificial Reef:
Since 2010 Scuba divers have expressed an interest in diving on a sunken ship in Monterey Bay and this was proposed by the community group California Ships to Reefs and studied by the Office of National Marine Sanctuaries in 2012. In 2017 Artificial Reefs was established as a priority for Monterey Bay National Marine Sanctuary Advisory Council. This was proposed to CDFW, but because the State has never permitted an artificial reef in State waters, this was never permitted. However, there are 52 other artificial permitted reefs in California including the Wheeler North Reef in Southern California. created in 2008.

Creating a shipwreck in protected nearshore waters deep enough to not be displaced by winter storms would be of interest to the scuba diving community. It will also serve as a unique scientific baseline to observe what is the order of marine life formation on a “blank” surface. It may also be beneficial to plant kelp on artificial structures better suited to kelp growth and marine aquaculture. This petition seeks a pathway for the FGC to determine if an artificial reef is in the public interest and establish an application process to obtain permission from CDFW and other state and federal agencies.

This request is in alignment with the prioritized recommendations from the California Marine Protected Area Decadal Management Review, near-term Priorities (ongoing- 2 years), Cornerstone Governance, MPA Statewide Leadership Team and Partner Coordination 09. Continue to coordinate and collaborate with OPC and other agencies on California’s ocean and coastal priorities to enhance coastal biodiversity, climate resiliency, human access and use, and a sustainable blue economy.

SCP Framework Changes
Management of Kelp Restoration

This petition is in furtherance of the prioritized recommendations from the California Marine Protected Area Decadal Management Review, near-term Priorities (ongoing- 2 years), Cornerstone Management Program, Policy and Permitting, Recommendations 17. Improve the application and approval process for scientific collecting permits. And 18. Utilize OPC’s Restoration and Mitigation Policy to develop a framework to evaluate and approve appropriate restoration and mitigation actions within MPAs and MMAs

We propose to establish a new process in CDFW’s Scientific Collecting Permit program for Restoration Permits. Presently the process available for the Department to manage restoration projects in marine ecosystems is the Scientific Collecting Permit process where

applicants submit applications for $71.62 and pay $269.08 for a Special Use Permit to operate a project with certain methods, species take restrictions, and reporting requirements. We request similar fees for Kelp Restoration Management Permits.

In our 2018 SCP permit with Reef Check we were not able to amend the permit to take sufficient red urchins and we had to abandon the project. In our 2 attempts to obtain SCPs for kelp restoration methods we were denied. Our pre-application to cull urchins in 3 SMCAs has been in process for 18 months before we can submit it into the SCP portal. The problem is that kelp restoration seeks to change a grazer species population within the defined area, but "Decision Tree" limits the take of species to not affect and change a species population within the area. This leads to situations where kelp restoration experiments are impossible because the number of permitted animals to take is very small and not enough to benefit the recruitment and survival of kelp forests. This led to the abandonment of our experiment at Lovers Cove in year 3 when we couldn't remove sufficient red urchins.

The scientific method requires isolation of treatment methods and establishment of a control area. This places a limitation on kelp restoration practitioners to only employ singular methods when the best results are possible using multiple methods. This also restricts the kelp restoration activities by attempting to answer scientific questions where the goal is simply kelp restoration and this scientific component is best accomplished by science divers rather than certified kelp restoration specialists. Once a permit application is obtained it is difficult to change as new discoveries are made that affect kelp survivorship and the process to attempt to amend a permit takes over a year. At the end of the typical 3 year SCP permit period the treatment must stop, and the 5 year post-restoration monitoring period begins. This is contradictory to the goals of kelp restoration and has led to similar abandonment of work in the treatment area at Tanker's Reef where the effort is desired to be continued by the volunteers, but because the experiment stops after 3 years, the divers are not allowed to come back and tend the kelp forest they successfully created and defended. ~~The extension of Tanker's Reef is "noticed" at the FGC and hopefully will be extended 5 years, but the point is that~~ Rr~~r~~estoration should lead the activity and scientific experiments should evaluate, but not interfere with, or seek to end, the restoration effort.

Kelp Restoration is an allowable activity in SMRs, and now with the unanimous passage of AB63, in SMCAs as well. However, restoration is allowed but not permitted. Our attempt to obtain a Restoration Management Permit was denied because the law does not address conspecifics. The Department could issue a Letter of Authorization, similar to the one written for the Monterey Bay Aquarium to repair intake pipes, but that is not available to us for inequitable reasons that support the built environment over the natural environment. The only available process we are told is available to us is the SCP process, which is exceedingly slow and inappropriate mechanism which, by rule, restricts the restoration activity to being deliberately inconsequential to improving the health of the MPA.

To remedy this, we petition that the Department establish a "Restoration" category in the SCP process that would allow restoration methods, coordinate with CDFW Research, and establish periodic reviews of restoration efforts, allow for 10-year project durations, and allow take of overpopulating species until the species reaches the threshold density observed pre-marine heatwave of 2014.

Additional comments on the SCP Portal and Process are that the website interface is very clunky and time consuming to complete, especially when submitting for take of multiple species at multiple locations and the program slowly populates look-up tables. The response to permit applications is not transparent, we never know who made the comments and there is not an ability to clarify and discuss the commenter's concerns. There is not an opportunity to have a conversation of what would be acceptable, only a rejection and it becomes incumbent on the petitioner to apply again and guess what would be acceptable. We ask that these issues be repaired in the SCP software and Kelp Restoration Management Permit ~~Project~~ approval process.

Public Outreach
This petition asks the FGC to affirm kelp restoration as public policy in MPAs and to celebrate community collaboration in kelp restoration, mitigating climate change, and conserving biodiversity in public outreach to stakeholders and encourage ocean stewardship. At the October 12 FGC meeting the commissioners suggested kelp practitioner leadership be unified under an "Adopt a Reef" community program, which is a wonderful idea, and we ask the commission to consider our proposed sites as G2KR adopted reefs. We ask that FGC and the Department promote kelp restoration collaboration on their website and in public outreach. This is prioritized in California Marine Protected Area Decadal Management Review, near-term Priorities (ongoing- 2 years), Cornerstone Management Program, Outreach and Education, Recommendation 16. Conduct more targeted outreach to specific audiences to connect stakeholders with coastal resources and to encourage stewardship and compliance with regulations.

Thank you for considering our petitions! In our effort to be succinct and consolidate seven petitions into one, we reduced arguments in favor of the proposal yet still exceeded 5 pages. Additional rationale/justification is available upon request and may be presented at future FGC meetings.

SECTION II: Optional Information

5. Date of Petition: 11/29/23

6. Category of Proposed Change
☒ Sport Fishing
☒ Commercial Fishing
☐ Hunting
☒ Other, please specify: MPAs, Section 6.32

7. The proposal is to: (*To determine section number(s), see current year regulation booklet or https://govt.westlaw.com/calregs*)
X Amend Title 14 Section(s): 29.06 and others.
☒ Add New Title 14 Section(s): 29.06 and others.
☐ Repeal Title 14 Section(s): Click here to enter text.

8. If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition 2021-025 & 2023-02

Or ☐ Not applicable.

9. **Effective date**: If applicable, identify the desired effective date of the regulation. If the proposed change requires immediate implementation, explain the nature of the emergency: 4/1/24

10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: See blue links in this document and supporting documents here.

11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: See Recreational Sea Urchin fiscal impact study in October FGC Meeting materials here.

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

SECTION 3: FGC Staff Only

Date received: Click here to enter text.

FGC staff action:

☐ Accept - complete
☐ Reject - incomplete
☐ Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: _____

Meeting date for FGC consideration: _____

FGC action:

☐ Denied by FGC
☐ Denied - same as petition _____

Tracking Number

☐ Granted for consideration of regulation change

environmental
DEFENSE CENTER

January 17, 2025

California Fish and Game Commission
715 P Street, 16th Floor, Sacramento, CA 95814

Re: <u>Anacapa Island State Marine Conservation Area (2023-27MPA) Revised Petition Cover Message</u>

Dear President Murray and honorable commissioners:

In November 2023, the Environmental Defense Center ("EDC") submitted a petition (2023-27MPA) to reclassify the Anacapa Island State Marine Conservation Area ("Anacapa SMCA") as a State Marine Reserve ("SMR") or, at a minimum, to reclassify the portion of the SMCA from shore to at least 30 meters depth to better protect eelgrass habitat. We now request that the Fish and Game Commission ("FGC") and California Department of Fish and Game ("CDFW") evaluate the below solutions and choose the one that best protects the eelgrass meadow while allowing for community access:

- Change current regulations to disallow commercial lobster fishing year round
- Change current regulations to disallow hard bottomed fishing gear (including anchoring if applicable) near eelgrass meadows
- Change the existing border, prohibiting the deployment of lobster traps from 0-30 meters (0-98.43 feet) instead of the existing 0-20 feet

We came to the above alternative solutions after extensive and ongoing community outreach (please refer to EDC's July 31, 2024, letter re: Petition for Anacapa State Marine Conservation Area – Agenda Item 6(c) for more detailed explanation (see attached). The goal of our petition is to protect the historic eelgrass meadow that has gone through rehabilitation and replantation efforts and is being directly threatened by hard bottomed lobster traps, with potential impact from other hard bottomed items like anchors.

Sincerely,

Azsha Hudson
Marine Conservation Analyst & Program Manager

906 Garden St. Santa Barbara, CA 93101
PHONE (805) 963-1622
www.EnvironmentalDefenseCenter.org

Tracking Number: (_2023-27MPA_)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

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

SECTION I: Required Information.

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

1. Person or organization requesting the change (Required)
Name of primary contact person: Azsha Hudson
Address: [redacted]
Telephone number: [redacted]
Email address: [redacted]

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Authority cited: Sections 200, 205(c), 265, 399, 1590, 1591, 2860, 2861 and 6750, Fish and Game Code; and Sections 36725(a) and 36725(e), Public Resources Code

3. Overview (Required) - Summarize the proposed changes to regulations: ~~This petition seeks to reclassify the Anacapa State Marine Conservation Area (SMCA) as a State Marine Reserve (SMR) or at a minimum reclassify the portion of the SMCA from shore to at least 30 meters depth to better protect eelgrass habitat.~~

This petition seeks to protect the eelgrass meadows located in the Anacapa Island State Marine Conservation Area (SMCA) from hard bottomed objects such as the gear type listed for the commercial lobster fishery and anchors used for vessels. We ask the Commission to evaluate the below solutions and choose the one that best protects the eelgrass meadow while allowing for community access:

- Change current regulations to disallow commercial lobster fishing year round
- Change current regulations to disallow hard bottomed fishing gear (including anchoring if applicable) near eelgrass meadows
- Change the existing border, prohibiting the deployment of lobster traps from 0-30 meters (0-98.43 feet) instead of the existing 0-20 feet

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

Numerous state and federal policies underscore the importance of eelgrass as an important yet vulnerable species that provides nursery habitat for fish, reduces coastal erosion, acts as a carbon sink, and increases species diversity by providing three-dimensional structure on sandy bottomed habitats.

Based on a scientific study conducted at the Anacapa SMCA from 2016 to 2019[1], and a growing body of literature on eelgrass recruitment and ecology, there is compelling evidence that seasonally occurring lobster trapping and anchoring in the SMCA is destroying eelgrass beds that are otherwise thriving in the adjacent Anacapa SMR.

~~The limited subset of pelagic fishing methods allowed at the Anacapa SMCA also creates challenges for enforcement by requiring officers to board vessels and confirm compliance on an individual basis.~~ This petition requests Fish and Game Commission (FGC) approval to support the goals of the Marine Life Protection Act (MLPA), align with state and federal policies focused on eelgrass resilience and health, and protect important eelgrass and associated marine life at Anacapa Island.

SECTION II: Optional Information

5. Date of Petition: ~~11/17/2023~~ 1/17/2025

6. Category of Proposed Change
☐ Sport Fishing
☐ Commercial Fishing
☐ ~~Hunting~~
X Other, please specify: MPAs, Section 632.

7. The proposal is to: (*To determine section number(s), see current year regulation booklet or https://govt.westlaw.com/calregs*)
X Amend Title 14 Section(s): Westlaw regulations.
☐ Add New Title 14 Section(s): Click here to enter text.
☐ Repeal Title 14 Section(s): Click here to enter text.

8. If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition Click here to enter text.
Or X Not applicable.

9. Effective date: If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: November 1, ~~2024~~ 2025

[1]Jessica Altstatt (2021). Island Eelgrass (*Zostera pacifica*): Focused Assessment of Condition and Extent of Meadows and Biological Monitoring of Associated Fish and Invertebrate Communities

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

- Petition narrative on eelgrass at Anacapa SMCA
- White paper research from Jessica Alstatt.

11. Economic or Fiscal Impacts: Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing:

This petition protects habitat that confers biodiversity and biomass benefits that enhance the health of Anacapa Island and surrounding ecosystems. Eelgrass beds filter nutrients, stabilize sediments, and increase complexity of the substrate and effective habitat for marine life. As demonstrated by numerous reports of lobster traps "fishing the line" of the Anacapa SMR, fishers perceive that the nearby fully protected MPA has created a beneficial habitat for lobster trapping. Notably, a recent study on the California spiny lobster fishery determined that the short-term losses from a restrictive MPA is compensated by an over 200% increase in total catch after about 6 years of MPA designation.[2]

This petition is intended to protect ~~would close~~ the Anacapa SMCA eelgrass meadow and associated biodiversity from ~~to~~ lobster trapping which occurs during the months of November and December. The proposed amendment would extend the prohibition to include these months. ~~and would also prevent anchoring damage from pelagic fishing efforts.~~ The three potential options we offer to the Commission ~~While converting this SMCA into an SMR~~ may have short term impacts on recreational and commercial fishing, any such impacts will be offset by the long-term ecosystem wide benefits of protecting eelgrass function at this valuable site.

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

Click here to enter text.

SECTION 3: FGC Staff Only

Date received: Click here to enter text.

FGC staff action:

- ☐ Accept - complete
- ☐ Reject - incomplete
- ☐ Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: _____

Meeting date for FGC consideration: _____

FGC action:

[2] Lenihan, H.S., Gallagher, J.P., Peters, J.R. et al. Evidence that spillover from Marine Protected Areas benefits the spiny lobster (Panulirus interruptus) fishery in southern California. Sci Rep 11, 2663 (2021). https://doi.org/10.1038/s41598-021-82371-5

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

Outlook

Intent to modify

From Richard Ogg [redacted]
Date Thu 01/09/2025 06:29 PM
To FGC <FGC@fgc.ca.gov>

Good evening and please forgive me for my late notice.

I am intending to modify #16MPA.

Thank you so very much,

Richard Ogg
Sent from my iPhone

Outlook

Revision to Laguna Bluebelt Coalition Petition 2023-24 MPA

From Mike Beanan [redacted]
Date Fri 01/10/2025 03:20 PM
To FGC <FGC@fgc.ca.gov>
Cc [redacted]

Commission and Staff,

Please find attached a Revision to Laguna Bluebelt Coalition Petition 2023-24 MPA with supporting information. We welcome your feedback and any recommendations to achieve citywide protection for all marine life within the City of Laguna Beach.

Thanks always for your leadership in advancing the protection of California's unique sea life and essential habitats.

Mike Beanan

w/Laguna Bluebelt Coalition

 Swimming with Fishes by Michelle Hoalton

California Fish and Game Commission
Marine Resources Committee
fgc@fgc.ca.gov

January 7, 2025

Subject: Revision to Laguna Bluebelt Coalition Petition 2023-24 MPA

Commissioners and Staff,

The Laguna Bluebelt Coalition seeks to revise the southern boundary for Petition 2023-24MPA to a No Take SMCA (State Marine Conservation Area) for citywide enforcement consistency and protection of essential sea life habitat between Palos Verdes and La Jolla MPAs.

The proposed revised No Take SMCA is within the jurisdiction of the City of Laguna Beach and has widespread support from community organizations and the City's Environmental and Sustainability Committee. Community support includes the South Laguna Civic Association, Three Arch Bay Service District, Village Laguna, Laguna Canyon Conservancy, Project O, OC Coastkeeper and many individuals.

The City of Laguna Beach has submitted multiple letters seeking to participate in processing the Laguna Bluebelt Petition. In a December 10, 2024 letter to the Commission, Laguna Beach Mayor Rounaghi emphasized the "City looks forward to reviewing the State's assessment of Petition 2023-24 MPA" and "The City remains committed to actively participate and providing informed input…".

Presently, the southern area of Laguna Beach is inaccurately designated as within the Dana Point SMCA leading to confusion about place names and take regulations. The Petition will simplify the no take regulation for the entire city of Laguna Beach, address inaccurate place names and restore Laguna Beach as the correct jurisdiction for this area. The revised No Take SMCA boundary will be identified by the prominent bluff top outcropping at Three Arch Bay consistent with the Laguna Beach City Limits.

The Petition reflects the MLPA's Adaptive Management Objectives to:

• Protect the structure and function of marine ecosystems • Improve native marine life populations, including those of economic value • Ensure minimal disturbance while allowing for sustainable opportunities for recreation, education and research • Ensure comprehensive representation of all key habitats, including unique habitats • Use learning acquired through administration of the MLPP to adaptively manage the objectives, management measures, enforcement efforts, and scientific guidelines to inform management decisions • MPAs function as a cohesive statewide network

Size and Spacing Considerations

The Science Advisory Team (SAT) spacing requirements determined Laguna Beach is an essential linkage for larval dispersal among Southern California's MPAs. Guidelines set a maximum distance and minimum size for each MPA.

Maximum Shoreline Distance: To ensure the persistence of a suite of species in an MPA network, the maximum distance between MPAs was determined to be within 50 -100 km (31 -62 miles). A network of MPAs 20 km (12 miles) in length met the upper boundary of the preferred size guidelines and led to population persistence for a larger set of movement combinations. With MPAs this large, decreasing spacing produced a more substantial effect. MPAs of 20 km (12 mile) shoreline length protected a much larger range of movement combinations when spaced 50 km (31 miles) apart (51.8%) than when spaced 100 km apart (21.6%). This increase occurred because persistence of populations with large mean larval dispersal was maintained through a network effect, rather than self-persistence. Laguna Beach's MPAs maximum distance are 50 miles from Palos Verdes MPAs and 72 miles from La Jolla MPAs to meet this goal.

In summary, bigger MPAs yield better results for protecting marine life. Laguna Beach is an excellent candidate when you combine community support and the City's present MPA enforcement measures to be able to achieve noteworthy success.

Minimum Alongshore Extent: To best protect adult populations, based on adult neighborhood sizes and movement patterns, Guidelines conclude MPAs should have an alongshore extent of at least 3-6 miles of coastline, and preferably 6-12.5 miles. Larger MPAs would be needed to fully protect marine birds, mammals, and migratory fish. Combined and simplified, the Guideline indicates that MPAs should have a minimum area of 9-18 square miles, or a preferred area of 18-36 square miles.

The Revised Petition to include full protection of all of Laguna Beach's MPAs is necessary to comply with SAT Guidelines since, once approved, it will protect 7 miles of coastline slightly within the preferred alongshore extent (6-12 miles). A fully protected Laguna MPA will also grow to 11 square miles, the minimum preferred area (9-18 square miles).

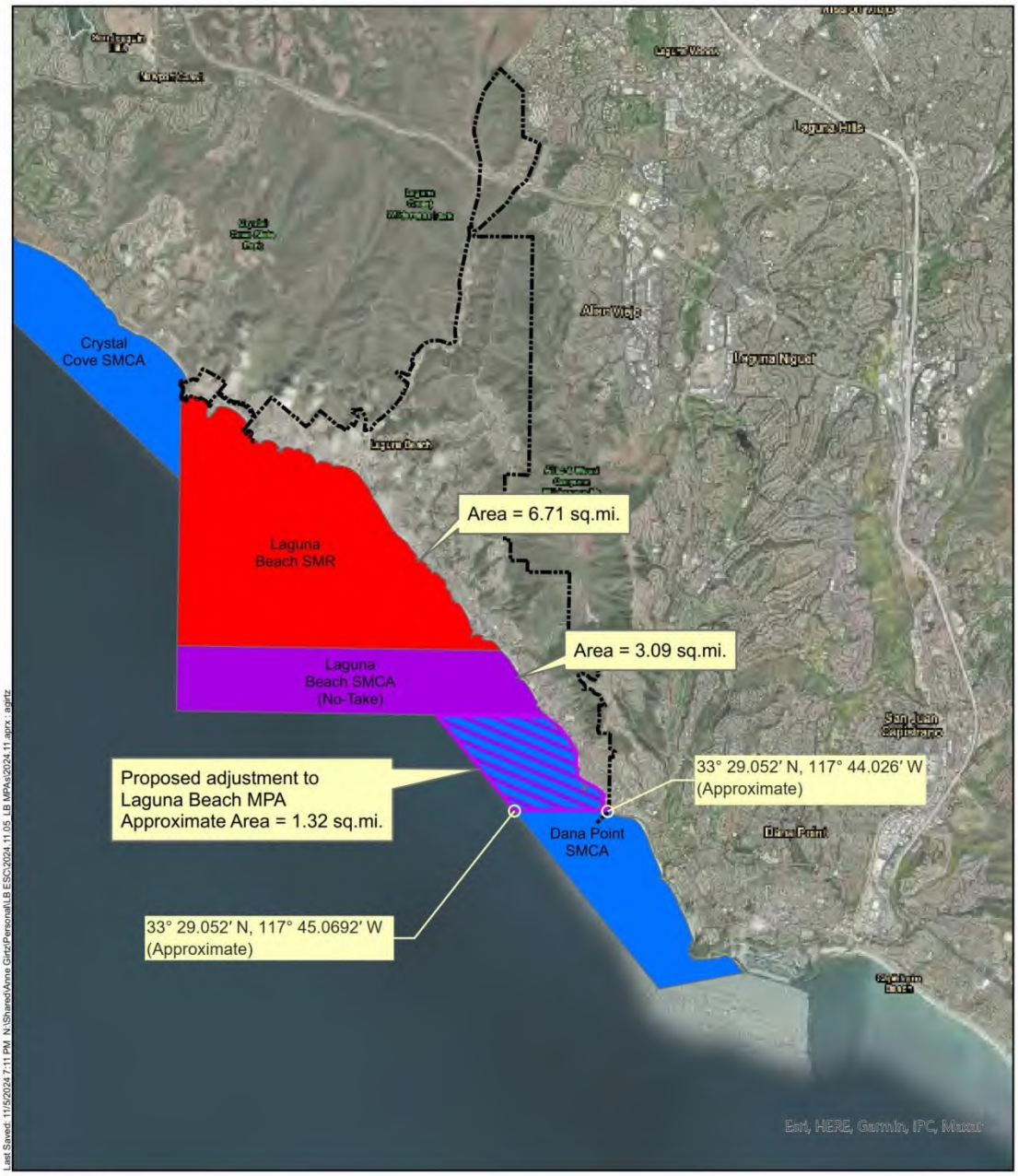
Once approved, the citywide and a fully protected MPA will comply with SAT Guidelines for preferred coastline and size. This will be complimented by local, well-established education and enforcement capabilities to support the continued success for Laguna Beach's MPAs.

Stakeholder Collaboration

The Laguna Bluebelt Coalition, a statewide model for MPA Collaboratives since 2009, has met with key stakeholders through OCMPAC including fishing groups, tribal representatives, game wardens and others to revise Petition 2023-24MPA to accommodate the local lobster fishery. By adjusting the

southern SMCA to follow the east/west latitude line at the request of the Dana Point lobster group, placement of lobster traps is facilitated by a consistent GPS latitude line to avoid encroachment into the proposed southern Laguna Beach No Take SMCA.

Revised Boundary Map



Symbology

- City Limits
- SOCWA Effluent Transmission Line
- SOCWA Ocean Outfall
- Proposed Laguna Beach SMCA (No-Take) Adjustment

0 2,500 5,000

Scale in Feet

Figure 1

City of Laguna Beach
Proposed Marine Protected Area Adjustment

Laguna Bluebelt Coalition
MPA Decadal Review

Economic Considerations

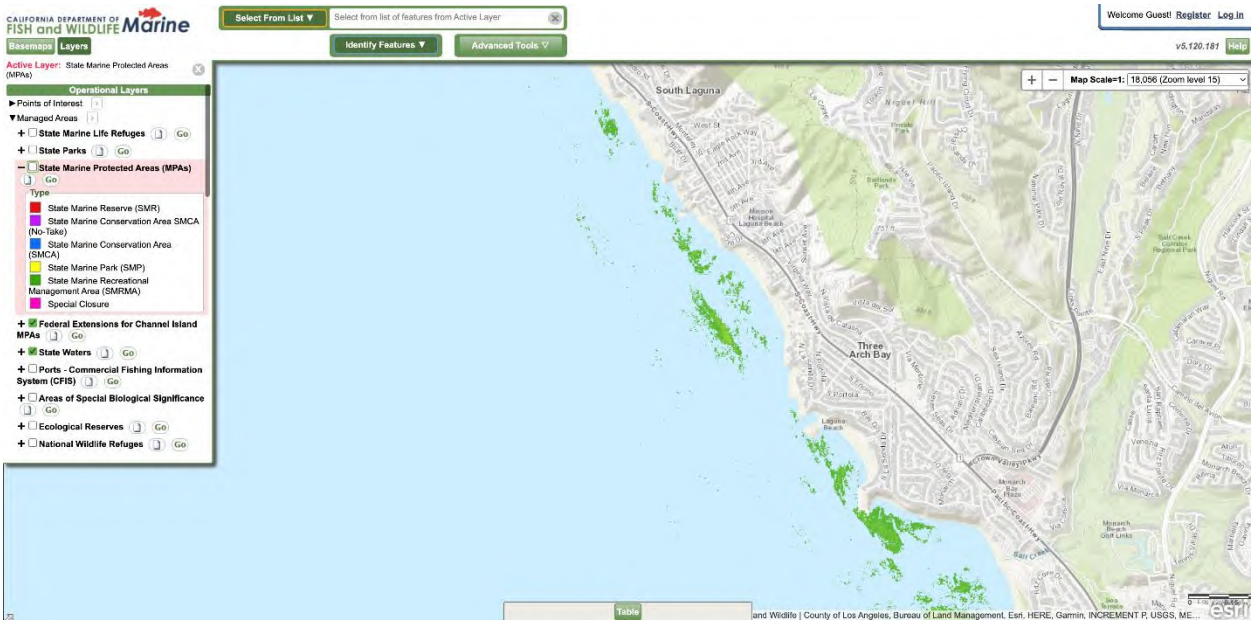
While commercial fishing businesses generally object to MPAs, it is worth noting that Dana Wharf has shifted operations away from fishing to pursue new economic opportunities as the Whale and Dolphin Watching Capital of the World – America's first Whale Heritage Site. The designation of just over 1 square mile of a new No Take SMCA is just a fraction of the present Dana Wharf fishing grounds and will not measurably impact their annual sportfishing and whale tour revenues. Dana Wharf presently operates large fishing grounds spanning hundreds of square miles from Dana Point south to Camp Pendleton and west to Catalina and San Clemente Islands.

See: [The Ultimate Guide To Fishing In Dana Point, CA | Dana Wharf]

Essential Marine Habitats

With steep coastal bluffs, isolated coves and offshore reefs, Laguna Beach's southern coastline provides unique habitats for coastal sea life nurseries. Kelp forests populate local reefs throughout the city while dolphin and whales routinely transit the area for foraging opportunities and annual migration.

Laguna Beach's Essential Kelp Habitat



The City of Laguna Beach has a long ocean tradition and is committed to protecting marine resources. All Marine Safety Lifeguards are qualified as Marine Protection Officers to maintain a robust education and enforcement program.

The Laguna Beach General Plan and Policies recognize the value of coastal resources (see References).

The success of Laguna's Marine Protected Areas over the past 12 years is clear evidence that sea life can be protected and restored in an urban environment. The City's commitment to manage over 6 million visitors continues to educate and motivate compliance with all MPA regulations and policies. Revising

the southern SMCA boundary for full citywide protection will support the community's dedication to achieve the goals and objectives of the State's Marine Life Protection Act.

The Laguna Bluebelt Coalition appreciates the dedicated role of the Fish and Game Commission to serve as a global leader in advancing the State's recovery of sea life for present and future generations.

Mike Beanan
w/Laguna Bluebelt Coalition
mike@lagunabluebelt.org

Julianne E Steers, Sargo School

References

Laguna Beach General Plan and Policies

Action 1.1.1 Protect natural assets and open-space areas to maintain their role as “carbon sinks.”

Policy 4.1 Policy 4.2 Develop and adopt a program to protect sensitive coastal resources.

Action 4.1.1 Compile an inventory of the City’s coastal resources and prepare a Coastal Resources Protection Program.

Action 4.2.2 Enforce State’s Marine Life Management Act and identified Marine Life Protected areas within the City and local regulations for the protection of marine life and intertidal resources and to conduct educational and outreach programs.

Action 10.7.2 Periodically review the City’s Water Quality Control Ordinance and related policies for protecting marine resources and update as appropriate.

In cooperation with the State Department of Fish and Game, a Marine Preserve was created by the State in 1968 for a portion of the City's shoreline particularly rich in tidepool life. In addition to the Marine Preserve, the State, in conjunction with the City, established an Ecological Reserve in 1974, creating, in essence, a marine sanctuary, or a protected "aquarium".

Policies 2-A Encourage the expansion of the Marine Life Refuges and the designation of particularly unique or ecologically sensitive coastal areas as Ecological Reserves (such as seal and bird rocks), pursuant to the provisions of the State Department of Fish and Game.

2-F Develop a local enforcement program, pending funding availability, consisting of shoreline protection regulations and citation authority for Marine Safety personnel.

2-H Support restoration of offshore kelp beds.

41 Watershed Protection and Restoration Promote the protection and restoration of offshore, coastal, lake, stream or wetland waters and habitats and preserve them to the maximum extent practicable in their natural state. Oppose activities that may degrade the quality of offshore, coastal, lake, stream or wetland waters and habitat and promote the rehabilitation of impaired waters and habitat.

Develop an enforcement program for the protection of marine life resources.

Promote an expanded Marine Life Refuge.

Marine Resources: A small estuary occurs at the mouth of Aliso Creek. As recently as 1976 this estuary supported the Tidewater Goby, a species considered uncommon and declining in numbers due to habitat loss. A resource inventory included in the Orange County Conservation Element identifies the presence of the South Laguna Marine Life Refuge in the South Laguna area. The refuge, near the mouth of Aliso Creek, was given refuge status by the California Fish and Game Commission because the animal

populations in the rocky intertidal habitat had not been subjected to the collecting pressures that had occurred in other areas along the south coast.

Outlook

Notification of amendments to Petitions 2023-28MPA and 2023-29MPA

From Sullivan, Isabella [redacted]
Date Fri 01/10/2025 01:42 PM
To FGC <FGC@fgc.ca.gov>
Cc Aylesworth, Sandy [redacted]

Dear Honorable Commissioners,

We are writing to notify you that NRDC and our cosponsors plan to amend Petition 2023-28MPA, Point Sal State Marine Reserve, and Petition 2023-29MPA, Mishopshno State Marine Conservation Area, by the March 13th deadline.

For Petition 2023-28MPA, we have been in discussions with members of the Coastal Band of Chumash Nation and may change the name to a Chumash place name that is more representative of the importance the area holds to Chumash Tribes.

For Petition 2023-29MPA, our amendments will align with sentiments we have heard from conversations with the non-federally recognized Tribes of the Coastal Band of Chumash Nation, the Barbareño Band of Chumash Indians and some recreational fishers.

We believe that our amended petitions will reflect input from local communities and effectively protect ecological diversity and marine life. Please let us know if there are any additional documents we must provide to notify our plans to amend the petitions.

Sincerely,

Bella Sullivan

Outlook

Intent to amend petitions (2023-33MPA & 34MPA)

From Mio Senzaki [redacted]
Date Thu 01/09/2025 06:22 PM
To FGC <FGC@fgc.ca.gov>
Cc Laura Deehan [redacted] Tomas Valadez [redacted]

Dear President Murray and Honorable Commissioners,

My name is Mio Senzaki, and I am an Ocean Conservation Associate with Environment California.

Attached is our letter indicating our intent to amend our petitions.

Please let me know if you have any questions.

Yours sincerely,

Mio Senzaki
Ocean Conservation Associate
Environment California
msenzaki@environmentcalifornia.org
(510) 392-2265
www.environmentcalifornia.org

January 9th, 2025

Dear President Murray and Honorable Commissioners,

I am writing to formally notify you of our intent to submit amendments to our previously submitted petitions on Marine Protected Areas, submitted by Environment California and Azul jointly.

Specifically, we seek to amend the following petitions:

1. 2023-33MPA
2. 2023-34MPA

We wish to update these proposals to incorporate new relevant data and additional stakeholder input.

Person or organization requesting the amendment: Environment California Research and Policy Center and Azul
Name of primary contact person: Laura Deehan, Environment California
Address: 3435 Wilshire Blvd., Suite 385, Los Angeles, CA, 90010
Telephone number: (415) 420-4710
Email address: ldeehan@environmentcalifornia.org

Thank you for your consideration.

Sincerely,

Laura Deehan
Director
Environment California

Tomas Valadez
CA Policy Manager
Azul

December 10, 2024

Via Email: **fgc@fgc.ca.gov**
California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090

Subject: Appreciation for Local Agency Participation Framework and Petition Review Process

Dear Members of the California Fish and Game Commission,

On behalf of the City of Laguna Beach, I would like to express our sincere gratitude for the thoughtful development of a framework to include local agencies in the petition process. This initiative exemplifies the Commission's commitment to fostering collaboration and ensuring diverse perspectives are considered in the stewardship of California's Marine Protected Area (MPA) Network.

The City looks forward to reviewing the State's assessment of Petition 2023-24MPA, which contemplates the expansion of the No-Take Laguna Beach State Marine Conservation Area's southern boundary to align with the City's southern limits. We value the careful analysis being undertaken and recognize its importance in shaping the future of our marine ecosystems.

As we approach 2025, the City of Laguna Beach remains committed to actively participating in this process and providing informed input. We appreciate the Commission's leadership and dedication to preserving California's coastal resources and stand ready to engage in discussions that will ensure the continued success of the MPA Network.

Thank you for your ongoing efforts and for providing the City and other local agencies the opportunity to contribute to this critical process.

Sincerely,

Alex Rounaghi
Mayor

505 FORESTAVE. • LAGUNA BEACH, CA 92651 • TEL (949) 497-3311 • FAX (949) 497-0771

From: GAYLE WAITE <[redacted]>
Sent: Thursday, January 23, 2025 01:22 PM
To: FGC <FGC@fgc.ca.gov>
Subject: Support for the Extension of MPA-Laguna Beach

Dear CA Fish and Game Commissioners,

Please see the attached support letter from the Laguna Canyon Conservancy Board of Directors regarding extension of the MPA along the southern coast of Laguna Beach. I have also attached the petition from the Laguna Bluebelt regarding this matter as we join with our local environmental colleagues to urge you to advance this forward.

Thank you for all of your hard work on behalf of the state of California.

Best regards,

Gayle Waite

President, Laguna Canyon Conservancy

[redacted]

P.O. Box 1383, Laguna Beach, CA 92652 • www.LagunaCanyonConservancy.org

January 23, 2025

Fish and Game Commission, State of California
ATTN: Melissa Miller-Henson, Executive Director and
Commissioners Samantha Murray, Erika Zavaleta, Jacque Hostler-Carmesin, Eric Sklar and Darius Anderson
P.O. Box 944209
Sacramento, CA 94244-2090
Via Mail and Email: FGC@FGC.CA.GOV

RE: Extension of the MPA along the southern coast of Laguna Beach

Dear Commissioners,

The Board of Directors of the Laguna Canyon Conservancy (LCC) joins with other local environmental groups in support of the Laguna Bluebelt's revision to the Southern Boundary for Petition 2023-24 MPA to a No Take SMCA (State Marine Conservation Area), for citywide enforcement and protection of essential sea life between Palos Verdes and La Jolla MPAs.

At present the southern area of Laguna Beach is designated as within the Dana Point SMCA. This designation has led to confusion regarding place names and Take regulations. The Bluebelt Petition will simplify the No Take regulation for the entire city of Laguna Beach, address inaccurate site names and restore Laguna Beach as the correct jurisdiction for this area.

The Laguna Canyon Conservancy hopes the Commission will accept and implement these revisions as vital to the protection of our ecosystems and sea life, revising and expanding the network of No Take MPAs.

As stewards of our wilderness, along with our colleagues from other environmental organizations, the LCC looks forward to the California Fish and Wildlife Commission protecting our coastal environment and habitat for present and future generations, as you have consistently done.

We thank you in advance for taking this critical step forward.

Laguna Canyon Conservancy is a nonprofit, all-volunteer environmental organization founded in 1988 to Save and Protect Laguna Canyon. LCC members have been involved in expanding the South Coast Wilderness nature reserves of Orange County that now include over 22,000 acres of parks, open space, and marine preserves. For more information, please visit www.LagunaCanyonConservancy.org.

Sincerely,

Gayle Waite
President, Laguna Canyon Conservancy

CC: City Council of Laguna Beach, City Manager Dave Kiff, Assistant CM Jeremy Frimond

FGC@FGC

From: david rowell [redacted]
Sent: Monday, December 9, 2024 12:19 PM
To: FGC
Subject: Marine Protected Areas (MPAs) Proposal

I would like to express my support for improving and adding more MPAs. I have lived in Santa Barbara for 40 years and have frequently been SCUBA diving at the SB Channel Islands. The ecosystem inside an MPA is clearly benefiting from the protection. Frankly, it reminds me of diving in the 1980s. MPAs are critically important not only for recovery of fisheries but also enrichment of areas outside the MPA.

In addition, I support the proposal to reclassify Anacapa Island State Conservation Area as s State Marine Reserve. This will serve to protect the eelgrass in the shallow waters, which as you are aware is a breeding ground for juvenile marine organisms. This designation will not only assist this location but also serve to enhance the entire ecosystem with greater replenishment.

I fully acknowledge the issues the commercial fisherman have raised given this is their livelihood. However, I do think expanding MPAs which serve as sanctuaries from over fishing and it will create much more productive fishing in other areas through restocking. In terms of maintaining sustainable fisheries, I believe Cal Fish and Game should review the number and type of commercial fishing licenses in various areas such as Santa Barbara. Given the lower overall catch and the difficulty of making a living as a commercial fisherman, it might make sense to retire some licenses. This could be accomplished through a program that offers compensation plus job training.

Thank you for your consideration

David Rowell

FGC@FGC

From:
Sent:
To:
Subject: Statement from Catalina Adventure Tours Regarding the BIN 1: MPA Petition for the Ban on Feeding Fish in Lover's Cove and the Dive Park

Statement from Catalina Adventure Tours Regarding the BIN 1: MPA Petition for the Ban on Feeding Fish in Lover's Cove and the Dive Park

To Whom It May Concern:

At Catalina Adventure Tours, we deeply respect the natural beauty and biodiversity of the waters surrounding Catalina Island. Our Yellow Submarine tours on the U.S.S. Nautilus, including the stops at Lover's Cove, have been a longstanding way for visitors to experience the incredible underwater world of the island. For over three decades, our mission has been to provide an educational and awe-inspiring experience while fostering a deep appreciation for the ocean and its inhabitants.

Our unique fish-feeding experience has been a signature part of our tour from the start, allowing guests to safely and responsibly observe a wide variety of local marine life up close. We use a torpedo-like fish-feeding system that is designed to minimize any impact on the ecosystem while enhancing our guests' understanding of the marine environment. On every tour, our educated and experienced Deckhands provide informative commentary about the delicate balance of sea life in areas like Lover's Cove, helping visitors learn about the importance of preserving these habitats.

We recognize that as part of the California Marine Protected Areas (MPA) program, some activities in these waters are being reexamined to ensure the sustainability and health of the ecosystem. While we fully support the conservation and protection of Catalina Island's rich marine life, we also want to emphasize the significant role that responsible tourism plays in local economies. Our fish-feeding activity not only provides an unforgettable experience for our guests, but it also generates critical revenue for the operation of our tours, helping to support the local community and the ongoing education efforts about Catalina's marine environment.

Catalina Adventure Tours has always operated with a commitment to conservation and environmental stewardship. We are open to discussing ways to further enhance the sustainability of our operations, and we hope that any future regulations consider the balance between ecological protection and the economic and educational value that these experiences bring to both locals and visitors.
We are committed to working with local authorities, conservationists, and other stakeholders to ensure that we continue to offer memorable, educational experiences while safeguarding the natural wonders of Catalina Island for generations to come.

Sincerely,

Heather Milburn
President of Operations
www.CatalinaAdventureTours.com

Contact:
Josefina Barrantes | 30x30 Coordinator/Del Norte Advocate | josefina@wildcalifornia.org

Submitted via email to fgc@fgc.ca.gov on January 14, 2025

California Fish and Game Commission Members
P.O. Box 944209
Sacramento, CA 94244-2090

Re: Letter of Support for The Tolowa Dee-ni' Nations' No-Take Proposal - Pyramid Point SMCA

The Power in Nature Coalition is writing to express our support for the Tolowa Dee-ni' Nation's No-Take Proposal for the Pyramid Point State Marine Conservation Area (SMCA). The Tolowa Dee-ni' Nation is requesting that the Fish and Game Commission modify take allowances in the Pyramid Point SMCA to no-take with a tribal exemption, and change the northern boundary to align with the California/Oregon state line. The reason for this request is because smelt is a culturally important species to the Tolowa Dee-ni' Nation and a "No Take" designation will be clearer to the public, reducing violations that reduce the smelt population.

The survival of smelt or *lhvmsr* is vital to the continuation of the "fish camp" tradition, practiced by the Tolowa Dee-Ni'. The Tolowa Dee-ni' Nation is the only Indigenous group in the lower Pacific Northwest to continue the practice of "fish camp." Tribal families seasonally migrate to the Tr'uuluu-k'wvt territory from July to October and set up temporary housing to fish, camp, and traditionally process the lhvmsr throughout its spawning months. Lhvmsr are harvested with a traditional A-frame net by the men of the society and then processed by the family members who oversee the family camp unit. The practice of "fish camp" plays a key role in the health of the community and environment and it is important to ensure the continuance of this important cultural tradition. Smelt is an integral part of Tolowa Dee-ni' culture as there are specific prayers and ceremonies centered on lhvmsr, being a key indicator of the health of the local ecosystem.

Furthermore, the 30x30 Draft Decision-Making Framework for Coastal Waters states, "Fully or highly protected areas have the greatest potential to protect biodiversity, confer resilience, and benefit species and ecosystems." It is, therefore, consistent with OPC policy for the Department to evaluate and approve petitions that would re-designate SMCAs to SMRs, expand existing MPAs, and create new SMRs or highly protected SMCAs such as this one. There is significant value in creating a highly protected SMCA for the natural relatives that will directly benefit from less take, but also for the local Indigenous community that will be able to continue their cultural traditions that rely on a thriving ecosystem. As a coalition dedicated to furthering 30x30 in California, we believe that this proposal, and policy actions alike truly help wildlife and the communities that depend on them.

30 x 30 CA
POWER IN NATURE

Sincerely,

The Undersigned Organizations of the Power in Nature Coalition:

Josefina Barrantes
30x30 Coordinator/Del Norte Advocate
Environmental Protection Information Center
josefina@wildcalifornia.org

Chance Cutrano
Director of Programs
Resource Renewal Institute
ccutrano@rri.org

Reverend Scott Baier
[redacted]

Mark Green
Executive Director
CalWild
mgreen@calwild.org

Luna Latimer
Director
Mid Klamath Watershed Council
luna@mkwc.org

Amy Clayton
Member
Grace Episcopal Church
[redacted]

Sherri Norris
Executive Director
California Indian Environmental Alliance
sherri@cieaweb.org

Anne Hawthorne
Executive Director
Los Angeles Urban Foundation
annehawthorne@urbanfoundation.org

Katie O'Donnell
US Ocean Conservation Manager
WILDCOAST
katie@wildcoast.org

Candance Reynolds
Restoration Ecologist
HANA Resources
candacer@hanaresources.com

Luke Ruediger
Executive Director
Applegate Siskiyou Alliance
luke@applegatesiskiyou.org

Siskiyou Crest Coalition
Luke Ruediger
Member
siskiyoucrest@gmail.com

Alicia Hamann
Executive Director
Friends of the Eel River
alicia@eelriver.org

Kasil Willie
Staff Attorney
Save California Salmon
kasil@californiasalmon.org

Annalisa Rush
Administrative Support
Osher Lifelong Learning Institute
[redacted]

Mahtisa Djahangiri
Campaign Strategist
Sierra Club CA
mahtisa.djahangiri@sierraclub.org

Sandy Aylesworth
Director, Pacific Initiative, Oceans
NRDC
saylesworth@nrdc.org

About the Power in Nature Coalition

Power In Nature is a statewide coalition of over 100 community groups, environmental and conservation organizations, land trusts, Indigenous organizations and tribal members dedicated to advancing California's 30x30 commitment. The Power In Nature coalition has identified nearly 100 potential 30x30 projects across the state and works on a broad range of issues including biodiversity protection, climate resilience, equity, recreation, outdoor access and social justice. For more information, visit powerinnature.org.

From: Keith Rootsaert
Sent: Thursday, January 30, 2025 4:22 PM
To: FGC <FGC@fgc.ca.gov>
Cc: Ashcraft, Susan Andy Beahrs Dave Rudie David Goldenberg
Subject: FGC Written Comments 25.0213

Dear FGC Staff,

Attached are our written comments for the FGC meeting in Sacramento on February 13, 2025. They are associated with Agenda items 21, and 27C2.

These are transmitted prior to the Written Comment deadline of 1/30/25 at 5:00 PM.

Thank you!

Keith Rootsaert
Giant Giant Kelp Restoration
408-206-0721

Giant Giant Kelp
Restoration Project

Dear Fish and Game Commissioners,

Regarding FGC meeting agenda Item 27,C,2. Amendments to MPA Petitions.

On MPA Day in Monterey on March 16, 2023, long awaited adaptive management changes to the central coast MPAs seemed so possible. We were running a kelp restoration project in Monterey and were looking to scale up to reach our kelp restoration goals. We set up a booth and hosted a fun game to guess how many urchin puff balls were in a 10 gallon aquarium. Everybody guessed way too low how many urchins were in the tank.

Tomorrow is the one-year anniversary of the Valentines Day Kelp Massacre when FGC voted to shutdown our project and let the urchins eat the 11 acres of kelp we saved. We dive there bi-monthly to document the urchin's consumption of the kelp in the treatment area. FGC showed appreciation of our project and recognized that the recreational diver effort morphed into something different now and we needed a new legal pathway to cull urchins. Per your request, all of our petitions and applications were channeled into this one huge petition 2023-23MPAR to change the rules in the places where kelp restoration has the best chance of success.

Our 30-part petition is centered around kelp restoration in Monterey. Even though restoration is very urgent, we are now caught up in a slow process that includes 19 non-urgent rule changes that have a higher priority. The delay in considering our petition gave the 252 certified kelp restoration divers nothing to do for over a year while we wait for the uncertain process of getting approval. We traveled over 600 miles to Mexico three times to restore kelp in 2024 but mostly the diver's effort in California faded and the slow rulemaking process fatigued advocacy efforts for the last dozen FGC/MRC meetings.

The biggest holdup to approving our petitions is a clear policy that kelp restoration is allowed in MPAs or even outside MPAs. CDFW and OPC assigned this authority in 2022 to their Kelp Restoration Management Plan which has 3 working groups of kelp adjacent folks to determine for $1.2 million a framework for permitting restoration efforts. A CWG meeting summary indicates they are uniformed about actual restoration practices and the KRMP will have a misaligned policy to implement in 2027. Essentially, we are considered a tool and were put back in the toolbox.

2027 is just too long to wait for kelp restoration to begin! The best idea is to keep the kelp we have alive, but by 2027 we will have to outplant kelp which is about 5 times more effort and expense than our proven methods. Somehow there is this idea that we can wait until the policy is approved and then take the tool back out of the toolbox and begin kelp restoration. People are not tools, and we have lost momentum.

At the May 2, 2024 the Monterey Bay National Marine Sanctuary Advisory Council meeting in Cambria I was the chair of the Iconic Kelp working groups to recommend to the MBNMS superintendent how kelp restoration could be acted upon by the National Marine Sanctuary. Based on input from three working groups making these recommendations, we proposed that "Large scale kelp restoration is necessary in the short term and should be science based". However, the seated advisory council members from CDFW and OPC wordsmithed the language to "Moving beyond pilot project *should be explored*". Council members pointed out that this took the action out of the plan to do nothing about kelp. There was considerable back and forth between CDFW, OPC and the SAC to compromise on language that for kelp restoration "*Moving beyond pilot project should be pursued*".

To persuade OPC to pursue this quickly, I spoke up at all the OPC meetings in Sacramento in 2024, but I found that I attended more meetings of this council than the council members themselves. The members knew the meeting was a waste of time and they sent proxies instead, which made it pointless to go there and speak to them.

At the state level, kelp restoration "*beyond the pilot scale*" is not a consideration at all. At Eastern Pacific Kelp Recovery Workshop in January, Department staff said that large scale kelp restoration is dependent on the KRMP which will not deliver a product until 2027 and after our remnant kelp forests disappear. These California state agencies have contradictory policies at the state and federal level for the same activity in state waters.

We amended petition 2023-23MPAR on January 13, 2025 and are waiting for the Department to begin work on this urgent petition. So far, we have not received a phone call or email about items where the Department recommended to consult with us. From our perspective we are talking to the trees. Our worry is that we have put all our hopes in a gift box that will not be opened for another two years. We hope this changes, but if the past is prolog, the State will continue to ignore our request to restore the nearshore marine ecosystem which is actually their neglected responsibility.

The health of the nearshore ecosystem in California is strangely dependent on our amateur petitions. There are no other alternative legal pathways for kelp restoration in California proposed. There are small scale pilot research projects that the Department is claiming as "restoration", but nothing large or lasting is truly in consideration.

We ask that FGC instruct the Department to evaluate petition 2023-23MPAR immediately and allow us to get back in the water in spring of 2025 with our Priority "A" petitions consistent with the precedent kelp restoration policy CDFW and OPC established at the National Marine Sanctuaries.

Keith Rootsaert
Giant Giant Kelp Restoration

January 30, 2025

California Fish and Game Commission
Marine Resources Committee
P.O. Box 944209
Sacramento, CA 94244-2090

Submitted electronically to fgc@fgc.ca.gov

RE: Comments on Fish and Game Commission February 2025 Meeting Agenda Item 27 C II: *Amendments to marine protected area (MPA) petitions*

Dear President Murray and Honorable Commissioners:

We want to first thank the Fish and Game Commission (FGC) and the California Department of Fish and Wildlife (CDFW) staff for their dedication to the adaptive management process of California's marine protected areas (MPA). The undersigned organizations – representing the public interest, marine science and environmental justice advocates, and recreational and

subsistence fishing interests – in collaboration with FGC and CDFW, are working to ensure that our MPA network is resilient to increasing stressors on the marine environment.

We write with two recommendations that pertain to the MPA network adaptive management process. The first supports a robust and inclusive public process, and the second applies to the overarching frame of the MPA adaptive management process.

1) We recommend the FGC retain Marine Resources Committee (MRC) meetings for MPA adaptive management discussions.
2) CDFW and FGC should refer to the 2016 Marine Life Protection Act (MLPA) Master Plan (Master Plan) for guidance on adaptive management of the MPA network. The Master Plan explicitly states that the ten-year adaptive management process should account for current and future ocean threats and conditions.

Recommendation 1: The MRC forum is crucial for transparent and collaborative public participation in MPA management.

The MRC plays a critical role as an official forum for discussion and shared learning, and we request that the MRC continues to be the forum for MPA decadal management review (DMR) discussions, which allows for more open and constructive dialogue. The MRC provides a unique space where agency staff, anglers, students, community members, NGO representatives, and scientists can engage in clarifications, relationship-building, and meaningful conversation. The MRC's structure emphasizes robust public engagement – essential for informed decision-making – by facilitating conversational discussions that include clarifying questions and explanations of positions. This format, coupled with recorded meetings, ensures transparency and accessibility for those unable to attend. The informal nature of MRC meetings fosters a collaborative environment where potential decisions can be explored, questioned, and refined.

Many communities were excluded, intimidated, or made to feel unwelcome in the MPA designation process.[1] Yet another reason to prioritize retaining the MRC meeting format is that it may offer a more accessible opportunity for public participation in what is otherwise a difficult meeting format to engage in. The MRC also creates a more inclusive and comfortable environment for new voices to participate, as the informal style is less intimidating. It is not feasible for the public to participate in such an iterative process in formal full FGC meetings.

We oppose shifting MPA adaptive management recommendation solely to the full FGC, since this would reduce opportunities for public participation and eliminate the more conversational format of MRC meetings, undermining the shared learning and public engagement essential to adaptive management.

[1] Grifman, P., et al. (2016). "A Study of the Stakeholder Experience in Developing Marine Protected Areas in Southern California." https://repository.library.noaa.gov/view/noaa/43538/noaa_43538_DS1.pdf.

Recommendation 2: The adaptive management process should be responsive to current and future stressors on California's ocean health.

California State agencies (CDFW, FGC, and the Ocean Protection Council) should frame this first-ever MPA network adaptive management process in the context of current and future ocean conditions. In previous meetings, Commissioners and CDFW staff have indicated that the adaptive management process is to result in minor modifications or tweaks to the MPA network. However, this approach may fail to protect the network and bolster California's ocean health as new stressors arise and ocean conditions deteriorate. This adaptive management process is **the** opportunity to identify gaps in protection and should not be limited to minor tweaks if we are committed to ensuring that we protect California's coastal resources for the future.

The 2016 Marine Life Protection Act Master Plan offers concrete guidance for adaptively managing California's MPA network. The Master Plan notes the "need" to consider that ocean conditions will have changed by the first adaptive management review and are likely to change further, stating that the Marine Life Protection Plan (MLPP) will "need to evaluate MLPA objectives *in the context of changing ocean conditions and multiple ocean threats*, such as climate change, fishing pressure, water quality degradation, marine debris, invasive species, and other existing and emerging issues" (emphasis added).[2]

The changes to California's ocean are occurring faster and more unpredictably than scientists expected,[3] amplifying the impacts of current ocean stressors. For instance, the marine heatwave of 2014-2016 exacerbated the effects of sea star wasting syndrome and habitat compression has caused the number of California whale entanglements to compound.[4] The Master Plan correctly anticipates that ocean conditions may change and that it will be necessary to evaluate the effectiveness of the MPA network in achieving the management objectives to account for this reality.[5]

---

[2] California Department of Fish and Wildlife (2016). California Marine Life Protection Act Master Plan for Marine Protected Areas. Adopted by the California Fish and Game Commission on August 24, 2016. Retrieved from www.wildlife.ca.gov/Conservation/Marine/MPAs/Master-Plan.

[3] Emily Osborne et al., (2020). "Decadal variability in twentieth-century ocean acidification in the California Current Ecosystem." *Nature Geoscience* 13, no. 1 (2020): 43-49. doi:10.1038/s41561-019-0499-z; Andrew Leising, et al., 2023-2024 CALIFORNIA CURRENT ECOSYSTEM STATUS REPORT: A report of the NOAA California Current Integrated Ecosystem Assessment Team (CCIEA) to the Pacific Fishery Management Council, January 2024; Warren Cornwall, (2019). "Ocean Heat Waves Like the Pacific's Deadly 'Blob' Could Become the New Normal," *Science News, Jan* 21, no. 2019.

[4] C.D. Harvell, et al., (2019), "Disease epidemic and a marine heat wave are associated with the continental-scale collapse of a pivotal predator (*Pycnopodia helianthoides*)," https://www.science.org/doi/10.1126/sciadv.aau7042; Ingman K, Hines E, Mazzini PLF, Rockwood RC, Nur N, Jahncke J (2021) Modeling changes in baleen whale seasonal abundance, timing of migration, and environmental variables to explain the sudden rise in entanglements in California. PLoS ONE 16(4): e0248557. https://doi.org/10.1371/journal.pone.0248557; Leising, et al.

[5] California Department of Fish and Wildlife. (2016). California Marine Life Protection Act Master Plan for Marine Protected Areas. Adopted by the California Fish and Game Commission on August 24, 2016. Retrieved from www.wildlife.ca.gov/Conservation/Marine/MPAs/Master-Plan.

The final suite of California's 124 MPAs fell short of the Science Advisory Team (SAT) size and spacing guidelines. Ninety percent of the MPAs are smaller and almost seventy percent are farther apart than what the SAT recommended.[6] Given that the final MPA network design fell far short of the scientific guidelines, ocean conditions have worsened, and ocean stressors are expected to increase, CDFW and FGC must consider both current and future ocean conditions in the adaptive management review. At a minimum, the adaptive management process is a once-in-a-decade opportunity to remedy some of the major connectivity, habitat representation, and size gaps reflected in the current network, as well as mitigate environmental injustices impacting un/under-represented communities and Tribes.

While we are pleased that some Fish and Game Commissioners have indicated that the adaptive management process should not weaken the MPA network, we are concerned that not addressing California's inevitable ocean challenges through this adaptive management process will adversely impact coastal communities. Our organizations urge FGC to fully consider the overarching context of California's ocean health as a frame for the adaptive management process.

Today, we face major ocean changes and an opportunity to address social inequities in ocean management,[7] while building resilience for our MPA network and coastal communities. Otherwise, we risk losing the hard-earned benefits of protection. Thank you for considering these comments. As always, we are happy to answer any questions you may have.

Sincerely,

Katie O'Donnell
US Ocean Conservation Manager
WILDCOAST

Anupa Asokan
Founder and Executive Director
Fish On

Michael Blum
Director
Sea of Clouds

---

[6] Rikki Eriksen analysis 2025 based CDFW MPA CMZ files.

[7] Asokan, A. (2024). "Marine protected areas as a tool for environmental justice". Frontiers in Marine Science. Retrieved from https://www.frontiersin.org/journals/marine-science/articles/10.3389/fmars.2024.1478023/full.

Rikki Eriksen, PhD
Director Marine Programs
California Marine Sanctuary Foundation

Zoë Collins
Marine Protected Area Program Coordinator
Heal the Bay

Laura Deehan
State Director
Environment California Research and Policy Center

Sandy Aylesworth
Director, Pacific Initiative, Oceans
NRDC

Ashley Eagle-Gibbs
Executive Director
Environmental Action Committee of West Marin

Pamela Heatherington
Board of Directors
Environmental Center of San Diego

Mahtisa Djahangiri
Campaign Strategist
Sierra Club California

Chance Cutrano
Director of Programs
Resource Renewal Institute

Dan Silver
Executive Director
Endangered Habitats League

Karin Zirk, Ph.D.
Executive Director
Friends of Rose Creek

Annalisa Rush
Data Support Specialist
Eagle Eyes of False Klamath Cove

Sofia Barboza
Ocean Program Manager
Hispanic Access Foundation

Tomas Valadez
CA Policy Manager
Azul

Azsha Hudson
Marine Conservation Analyst and Program Manager
Environmental Defense Center