Tracking Number: (_2023-23MPA_**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: 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 **AMENDED 1/13/25**

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 **1/13/2025 (Amended)**

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 <action@g2kr.com>
Sent: Monday, January 13, 2025 10:38 AM
To: Ashcraft, Susan@FGC <Susan.Ashcraft@fgc.ca.gov>; Keith Rootsaert <keith@g2kr.com>
Cc: Andy Beahrs <andy@g2kr.com>; Calla Allison <calla@mpacollaborative.org>; Rossi, Devon-Contractor@FGC <Devon.Rossi@FGC.ca.gov>; 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

Giant Giant Kelp
Restoration Project

From: Ashcraft, Susan@FGC <[redacted]>
Sent: Thursday, January 9, 2025 2:07 PM
To: Keith Rootsaert <[redacted]>
Cc: Andy Beahrs <[redacted]>; Calla Allison <[redacted]>; Rossi, Devon-Contractor@FGC <[redacted]>; G2KR Team <[redacted]>; FGC <[redacted]>
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@FGC <[redacted]>; G2KR Team <[redacted]>
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 <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

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