Chapter 1. Purpose and Need for the Proposed Action

1.1 Introduction

The Pacific Ocean and its rich marine living resources are of great environmental, economic, aesthetic, recreational, educational, scientific, nutritional, social and historic importance to the people of California. Market squid (Loligo opalescens) is the state's largest commercial fishery by tonnage. In addition, the market squid resource is important to the recreational fishery and is forage for fish, birds, marine mammals and other marine life. The growing international market for squid and declining squid production from other parts of the world has resulted in an increased demand for California market squid, which, in turn, has led to newer, larger, and more efficient vessels entering the fishery and increased processing capacity. The recent expansion in the fishery, combined with record harvests of market squid, has the potential to overfish the market squid resource. Should this occur, it could impact the resource and financially affect those engaged in the taking, landing, processing, and sale of market squid. To prevent excessive fishing effort in the market squid fishery, and to develop a plan for the sustainable harvest of market squid, it is proposed to adopt and implement a fishery management plan for the California market squid fishery that sustains both the squid population and the marine life that depends on squid.

The 1998 Marine Life Management Act (MLMA) enacted Fish and Game Code (FGC) §7050-7090 and became effective in January 1999. The MLMA created state policies, goals, and objectives to govern the conservation, sustainable use and restoration of California's marine living resources. The MLMA also provides guidance for the development of Fishery Management Plans (FMPs) which will form the primary basis for the management and development of regulations for the State's sport and commercial marine fisheries.

The Market Squid Fishery Management Plan (MSFMP) fulfills the requirements of the MLMA that the California Department of Fish and Game (Department), on behalf of the Fish and Game Commission (Commission), develop an FMP for the market squid fishery. The specific goals and objectives of the MSFMP are listed below:

Goals:

- To manage the market squid resource to ensure long term resource conservation and sustainability;
- To develop a framework for management that will be responsive to environmental and socioeconomic changes.

Objectives:

- Provide for the sustainable use of the market squid resource by commercial and recreational fisheries for the optimum long-term benefits of present and future generations;
- Maintain an adequate forage reserve for marine mammals, fish and seabirds;
- Use adaptive management to provide for necessary changes and modifications of management measures in a timely and efficient manner;



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- Ensure proper utilization and the avoidance of bycatch in the market squid fishery as well as wastage of market squid in other fisheries;
- Support and promote increased understanding of market squid natural history, population dynamics, and its ecosystem's role to improve management;
- Ensure effective monitoring of the market squid population and its fisheries;
- · Ensure enforcement of regulations;
- Identify, protect, and restore critical market squid habitat;
- Minimize the adverse impacts of management on small-scale fisheries, coastal communities, and local economies.

This Environmental Document (ED) is intended to fulfill the Commission's obligation to comply with the California Environmental Quality Act (CEQA) [Public Resources Code (PRC) §21000 et seq.] in considering and adopting an FMP, and associated implementing regulations. In general, public agencies in California must comply with CEQA whenever they propose to approve or carry out a discretionary project that may have a potentially significant adverse impact on the environment. Where approval of such a project may result in such an impact, CEQA generally requires the lead public agency to prepare an Environmental Impact Report (EIR). In contrast, where no potentially significant impacts could result with project approval, a lead agency may prepare what is commonly known as a negative declaration. Where an EIR is required. however, the document must identify all reasonably foreseeable, potentially significant, adverse environmental impacts that may result from approval of the proposed project, as well as potentially feasible mitigation measures and alternatives to reduce or avoid such impacts. Because the lead agency must also subject the EIR to public review and comment, and because the agency must respond in writing to any public comments raising significant environmental issues, compliance with CEQA serves to protect the environment and to foster informed public decision-making.

CEQA also provides an alternative to preparation of an EIR or negative declaration in limited circumstances. Under CEQA, the Secretary of Resources is authorized to certify that a state regulatory program meeting certain environmental standards provides a functionally equivalent environmental review to that required by CEQA [PRC §21080.5; see also CEQA Guidelines, California Code of Regulations (CCR) Title 14 §15250-15253;]. As noted by the California Supreme Court, "[c]ertain state agencies, operating under their own regulatory programs, generate a plan or other environmental review document that serves as the functional equivalent of an EIR. Because the plan or document is generally narrower in scope than an EIR, environmental review can be completed more expeditiously. To qualify, the agency's regulatory program must be certified by the Secretary of the Resources Agency. An agency operating pursuant to a certified regulatory program must comply with all of CEQA's other requirements" [Mountain Lion Foundation v. Fish and Game Comm. (1997) 16 Cal.4th 105, 113-114 (internal citations omitted)].

The Commission's CEQA compliance with respect to the MSFMP and associated regulations is governed by a certified regulatory program [CEQA Guidelines, CCR Title 14 §15251, subd. (b)]. The specific requirements of the program are set forth in CCR

Title 14 in the section governing the Commission's adoption of new or amended regulations, as recommended by the Department (CCR Title 14 §781.5). Pursuant to CCR Title 14 §781.5, this ED contains and addresses the proposed MSFMP and associated implementing regulations, and reasonable alternatives to the proposed MSFMP. In so doing, the ED is intended to serve as the functional equivalent of an EIR under CEQA. As noted above, however, preparation of the ED is not a "blanket exemption" from all of CEQA's requirements [Environmental Protection Information Center v. Johnson (1985) 170 Cal.App.3d 604, 616-618; see also Wildlife Alive v. Chickering (1976) 18 Cal.3d 190]. Instead, the Commission must adhere to and comply with the requirements of its certified program, as well as "those provisions of CEQA from which it has not been specifically exempted by the Legislature" [Sierra Club v. State Board of Forestry (1994) 7 Cal.4th 1215, 1228].

1.2 Location and General Characteristics of the Project Area

The shoreline of California is one of the longest in the nation. There are approximately 1,072 miles of wave washed shoreline along the mainland coast, and 300 miles around the offshore islands. The harvest of market squid is proposed statewide, in all areas defined as ocean waters (CCR Title 14 §27.00), except where prohibited or restricted, as specified, in state refuges, reserves or national parks, and as regulated by provision of this proposed MSFMP. There are two major fishery areas in California (Figure 1). The northern fishery is centered in Monterey Bay and utilizes the ports of Monterey and Moss Landing. The southern fishery is centered in Santa Barbara, Ventura and Los Angeles counties and utilizes the ports of Ventura and Port Hueneme as well as San Pedro and Terminal Island ports within Los Angeles Harbor. While the northern fishery operates predominately within a half-mile of the Monterey Bay shoreline, the southern fishery targets a multitude of fishing spots including the Channel Islands and the coastal areas from Point Conception south to La Jolla (San Diego County).

Market squid have a wide distribution throughout the California Current System from the southern tip of Baja California, Mexico (23° N Latitude) to southeastern Alaska (55° N Latitude, Dickerson and Leos 1992). Although the major fisheries are in central and southern California, short-term fisheries have developed along the coast from central California to British Columbia and southeast Alaska (CDFG 2001). Market squid are pelagic invertebrates and have been found at depths to 2,600 feet. Squid are commercially harvested during spawning at depths of 50 to 150 feet. Commercial fishermen target spawning aggregations of squid; spawning grounds are typically nearshore areas over sandy bottom habitat where egg cases are deposited. An indepth description of the habitat preferences and life history characteristics of market squid is found in Section 1, Chapter 2 of the MSFMP.

1.3 Scope of the Environmental Document

1.3.1 Proposed Action



For purposes of CEQA and this ED, the proposed action consists of the adoption of the MSFMP and its associated implementing regulations that govern market squid fishing activities in California. The proposed action is intended to be consistent with the Coastal Pelagic Species Fishery Management Plan (CPS FMP) prepared by the Pacific Fishery Management Council (PFMC). In order to prevent excessive fishing effort in the market squid fishery and to develop a plan for the sustainable harvest of market squid, it is necessary to adopt and implement a fishery management plan for the California market squid fishery that sustains both the squid population and the marine life that depends on squid. The various management tools and alternatives available will be described including the stated policies, goals, and objectives of FMPs under the MLMA. The MSFMP will continue to be managed through ongoing oversight and management of the fishery by the Commission.

1.3.2 California Environmental Quality Act (CEQA)

The Legislature enacted CEQA in 1970 to serve primarily as a means to require public agency decision makers to document and consider the environmental implications of their actions. In so doing, CEQA encompasses a number of Legislative findings and declarations, including a finding that it is "necessary to provide a high quality environment that at all times is healthful and pleasing to the senses and intellect of man" [PRC §21000 (b)]. CEQA also codifies state policy to, among other things, "prevent the elimination of fish or wildlife species due to man's activities, insure that fish and wildlife populations do not drop below self perpetuating levels, and preserve for future generations representations of all plant and animal communities and examples of the major periods of California history" [PRC §21001 (c)]. A similar provision in the FGC also declares: "It is hereby declared to be the policy of the State to encourage the conservation, maintenance, and utilization of the living resources of the ocean and other waters under the jurisdiction and influence of the State for the benefit of all the citizens of the State and to promote the development of local fisheries and distant-water fisheries based in California in harmony with international law respecting fishing and the conservation of the living resources of the oceans and other waters under the jurisdiction and influence of the State" (FGC §1700).

CEQA applies to all "governmental agencies at all levels" in California, including "state agencies, boards, and commissions" [PRC §21000 (g), 21001 (f) (g)]. Public agencies, in turn, must comply with CEQA whenever they propose to approve or carry out a discretionary project that may have a significant effect on the environment (PRC §21080). For purposes of CEQA, a project includes "an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment," that is, like the proposed project, "directly undertaken by any public agency" [PRC §21065 (a)]. Moreover, as mandated by the Legislature, "it is the policy of the State that projects to be carried out by public agencies be subject to the same level of review and consideration under [CEQA] as that of projects required to be approved by public agencies" (PRC §21001.1).



Unlike its "procedural" federal counterpart, the National Environmental Policy Act (42 United States Code [USC] §4321), CEQA contains a "substantive mandate" that public agencies refrain from approving projects with significant environmental effects if there are feasible mitigation measures or alternatives that can substantially lessen or avoid those effects (Mountain Lion Foundation, supra, 16 Cal.4th at p. 134; PRC Section 21002). CEQA, as a result, "compels government first to identify the [significant] environmental effects of projects, and then to mitigate those adverse effects through the imposition of feasible mitigation measures or through the selection of feasible alternatives" [Sierra Club v. State Board of Forestry (1994) 7 Cal.4th 1215, 1233; see also Sierra Club v. Gilroy City Council (1990) 222 Cal. App. 3d 30, 411. Public agencies fulfill CEQA's mandate through required consultation with other interested public agencies and the public; preparation of EIRs, functional equivalent documents, or other appropriate CEQA analysis; subjecting their environmental analyses to public review and comment, and preparing responses to public comments concerning the environmental impacts associated with their proposed projects; and ultimately adopting findings detailing compliance with CEQA's substantive mandate. In this respect, the CEQA process "protects not only the environment but also informed self-government" [Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 564 (internal quotation marks deleted)]. Indeed, as recently underscored by the California Supreme Court, compliance with these requirements, even in the context of a certified regulatory program, "ensures that members of the [governmental decision making body] will fully consider the information necessary to render decisions that intelligently take into account the environmental consequences. It also promotes the policy of citizen input underlying CEQA" [Mountain Lion Foundation, supra, 16 Cal.4th at p. 133 (internal citations omitted)].

1.3.3 Scoping Process

The MLMA calls for meaningful constituent involvement in the development of each FMP, and requires the Department to develop a process to involve interested parties in that process. In addition, CEQA requires public consultation during lead agency review of all proposed projects subject to a certified regulatory program [See PRC §21080.5 (d)(2); see also CCR Title 14 §781.5). The adoption of the MSFMP and its associated implementing regulations is such a project under CEQA. In addition to the requirements of the MLMA, CEQA requires public consultation on all environmental projects. The Department accomplishes this through a public comment period, scoping sessions within the communities involved, or at least two Commission meetings. The Department conducted two public meetings to present options for management of the market squid fishery on 26 January 2001, in Port Hueneme and on 27 January 2001, in Monterey. The proposed project for management of the market squid fishery was developed through these venues.

In 1998, pursuant to FGC §8426, the Squid Fishery Advisory Committee (SFAC) and the Squid Research and Scientific Committee (SRSC) were formed to examine the market squid fishery. The SFAC is composed of fishery participants and environmentalists. The SFAC made suggestions to the Department on proposed

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management strategies for the fishery. The SRSC is composed of domestic and international university, agency, and private industry scientists. The SRSC made recommendations on squid research protocols and methods as well as management. These two committees met from 1998 through 2000 and both have played a large advisory role in interim management of the fishery.

In December 2001, the Department prepared and filed a Notice of Preparation with the State Clearinghouse for distribution to appropriate responsible and trustee agencies for their input and comments. Further, the notice was provided to individuals and organizations that had expressed prior interest in regulatory actions regarding market squid.

1.3.4 Public Review and Certification of the Environmental Document

The Commission's certified regulatory program and CEQA itself require that the Draft ED be made available for public review and comment (CCR Title 14 §781.5(f); PRC §21091). Consistent with these requirements the Draft ED was released, as part of the Preliminary Draft MSFMP, for public review and comment on 15 May 2002. The Preliminary Draft MSFMP was sent to interested parties and was also posted on the Department's web site for public review. The Department accepted all written comments regarding the Preliminary Draft MSFMP that were received before 8 February 2003.

The Department submitted the Draft MSFMP to the Commission on July 7, 2003. This document was the result of revisions to a preliminary draft which was released for nearly a year of public review in 2002. It also went through an extensive scientific peer review process. Based on those reviews, substantial improvements were incorporated into the 2003 draft MSFMP and it was completely reorganized into four sections and streamlined for clarity and content. Public testimony on the Draft MSFMP was taken at the 1 August 2003 and 5 December 2003 Commission meetings. The Draft ED will once again be made available for public review and comment for no less than 45 days. During this review period, the public is encouraged to provide written comments regarding the Draft ED to the Department at the following address:

Department of Fish and Game 8604 La Jolla Shores Drive La Jolla, CA 92037

Attention: Dale Sweetnam, Senior Marine Biologist, Supervisor

The Commission will consider the proposed draft MSFMP and ED at a public hearing scheduled to be held in the late spring/early summer of 2004, and additional public comment is expected at that time. Adoption is expected late August 2004. Public notice of the Commission meeting will be provided as required by CEQA and the FGC. The Department is required by law to prepare written responses to all comments on the Draft ED and proposed MSFMP received during the public review period that raise significant environmental issues. (CCR Title 14 §781.5(h); see also PRC §21092.5.). In

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some instances, written responses to comments may require or take the form of revisions to the Draft ED or the proposed MSFMP, or both. Any such revisions, along with the Department's written responses to comments raising significant environmental issues shall constitute the Final ED. Notice of any final decision by the Commission regarding the Final ED and MSFMP will be provided to the extent required by law.

1.4 Consultation and Coordination

Because of concern about interactions between the squid fishery and nesting seabirds, including the California brown pelican, a federally and state listed species, the Department coordinated efforts to meet with the other agencies. Agencies involved in the meetings regarding the squid fishery and seabirds included the U.S. Fish and Wildlife Service (USFWS), Channel Islands National Park Service (CINPS), Channel Islands National Marine Sanctuary (CINMS), and National Oceanic and Atmospheric Administration's Fisheries Service (NOAA Fisheries) personnel. A meeting was held prior to the 4 February 2000 Commission meeting when shielding and wattage regulations were adopted for the squid fishery. An additional meeting took place on 11 October 2000. Since that time the Department has received written comments on the seabird issue as well as comments on other aspects of the MSFMP from various agencies (see Section 4 of the MSFMP, Responses to Public Comment).

1.5 Laws and Regulations

The California constitution gives authority to the State Legislature which may, by statute, provide for the seasons and conditions under which different species of fish may be taken. California law consists of 29 codes including the FGC. Laws in the FGC consist of statutes (chaptered bills that have passed through both houses of the Legislature and ultimately signed by the Governor and recorded by the Secretary of State) and propositions passed by the voters of the State. The FGC is administered and enforced through regulations. The Commission was created by the State constitution. The rulemaking powers of the Commission are delegated to it by the Legislature.

The authority and responsibility of the Commission and the Department to make and enforce regulations governing recreational and commercial fishing is provided by the Legislature and, thereby, the Department is the State agency charged with carrying out policies adopted by the Legislature and Commission. The Department enforces statutes and regulations governing recreational and commercial fishing activities, conducts biological research, monitors fisheries, and collects fishery statistics necessary to protect, conserve, and manage the living marine resources of California. General policies for the conduct of the Department are formulated by the Commission.

Recreational fishing regulations are adopted by the Commission following procedures listed in the FGC. General provisions applying to the taking and possession of fish by recreational fishermen are provided in FGC §7100-7400. Specific sportfishing regulations are found in CCR Title 14, Chapter 4.

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Commercial fishing regulations are created by the Legislature and the Commission. Provisions relating to the taking and possession of fish for commercial purposes is provided in FGC §7600-9101 and CCR Title 14, Chapter 6. With the passage of the MLMA, the Commission has been granted additional broad authority to regulate commercial fisheries.

1.5.1 Marine Life Management Act

It is the policy of the State of California to ensure the conservation, sustainable use, and, where feasible, restoration of California's marine living nearshore resources for the benefit of all the citizens of the State. Programs for the conservation and management of marine fisheries resources shall be established and administered to rebuild depressed stocks, to ensure conservation, to facilitate long-term protection, and, where feasible, restore marine fishery habitats. In addition, whenever feasible and practicable, it is the policy of the State to ensure sustainable commercial and recreational nearshore fisheries, to protect recreational opportunities, and to ensure long-term employment in commercial and recreational fisheries.

The MLMA was signed into law and incorporated into the FGC (§7050-7090) in January 1998. The Act created State policies, goals, and objectives to govern the conservation, sustainable use and restoration of California's marine living resources. The MLMA provides guidance to management of the State's living marine resources, in general, and of its fisheries. The general policy on all marine resources is to ensure conservation, sustainable use, and restoration of those resources. Sustainability is to be achieved by allowing only activities and uses that are themselves sustainable. The policy on fisheries management for both recreational and commercial fisheries is meant to maintain the long-term economic, recreational, cultural, and social values of the fisheries and their habitats.

1.5.2 Federal Laws

In addition, marine resources also are managed by federal laws governing the take of seabirds, marine mammals, fish, and shellfish. The federal government manages the marine resources and fishing activities of the United States through the Magnuson-Stevens Fishery Conservation and Management Act of 1976 and the Sustainable Fisheries Act of 1996 (now called the Magnuson-Stevens Fishery Conservation and Management Act [MSFCMA]). The purpose of the MSFCMA is to provide conservation and management of US fishery resources, develop domestic fisheries, and phase out foreign fishing activity within the Exclusive Economic Zone (EEZ) consisting of ocean waters from the edge of state waters (3 miles) to 200 miles offshore.

Eight Regional Fishery Management Councils implement the goals of the MSFCMA through regulations adopted by NOAA Fisheries. The PFMC manages the federal fisheries resources off Washington, Oregon, and California by developing fishery management plans for the EEZ. The PFMC manages five coastal pelagic species



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(CPS) species including market squid, northern anchovy, Pacific sardine, jack mackerel and Pacific mackerel under the CPS FMP. The State of California sits on the PFMC. When NOAA Fisheries adopts regulations for CPS included in the CPS FMP, conforming regulations need to be adopted by the Commission to avoid federal preemption under the MSFCMA (16 USC Section 856(b)), to facilitate coordination and execution of resource management activities, to increase the efficiency and effectiveness of state law enforcement, and to remain consist with the Legislature's intent that federal-state fisheries management conformity is desirable (FGC §7652.)

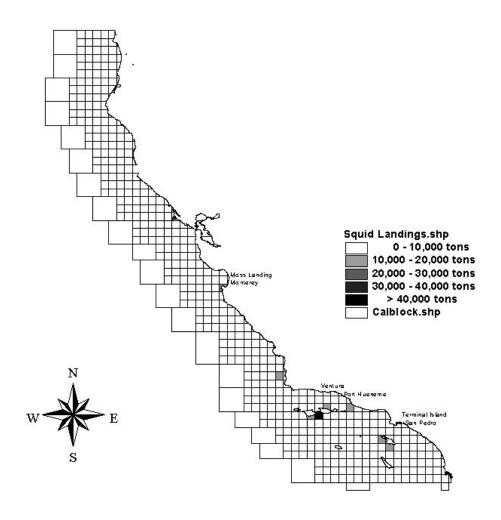




Figure 1-1. Location of Landings in the Market Squid Fishery

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