

Marine Life Protection Act North Coast Study Region Environmental Impact Report

Scoping Report

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Acronyms

BRTF	Blue Ribbon Task Force
CDFG or Department	California Department of Fish and Game
CEQA	California Environmental Quality Act
Commission	California Fish and Game Commission
CSLC	California State Lands Commission
EIR	environmental impact report
GHG	Greenhouse Gas
MLPA	Marine Life Protection Act
MPA	marine protected areas
NCRSG	North Coast Regional Stakeholder Group
NOA	Notice of Availability
NOP	Notice of Preparation
Proposed Project	Marine Life Protection Act – North Coast Study Region
RLFF	Resources Legacy Fund Foundation
RNCP	Revised North Coast Regional Stakeholder Group MPA Proposal
RSG	regional stakeholder groups
SAT	Science Advisory Team
SIG	statewide stakeholder interest group
SMCA	state marine conservation area
SMR	state marine reserve

Overview

This Scoping Report summarizes the comments and questions raised during the public scoping period for the preparation of an environmental impact report (EIR) by the California Department of Fish and Game (Department) for proposed Marine Life Protection Act regulations for the North Coast Study Region (Proposed Project). This report, nor the comment summaries provided herein, is not a requirement under CEQA. The Department has prepared this summary report for informational purposes only.

Scoping is the process conducted to determine the coverage, focus, and content of the EIR as prescribed by the California Environmental Quality Act (CEQA). Scoping helps to identify the range of actions, alternatives, environmental effects, and mitigation measures for in-depth analysis in the EIR. This process also helps to select methods of assessment, and to eliminate from detailed study those issues that are not relevant to the project or required under CEQA. In addition, scoping is an effective way to identify and consolidate the concerns of any interested parties, which may include project proponents and opponents, and interested federal, state, and local agencies, among others.

The scoping period during which interested parties were invited to comment on the environmental issues and concerns regarding the Proposed Project began on September 12, 2011 and ended on October 14, 2011.

This Scoping Report includes:

- a brief description of the Proposed Project's purpose and need;
- a summary of the public scoping process;
- a summary of key issues identified during the scoping period; and
- a description of future steps to be taken in the environmental review process.

Project Background

In 1999, the Marine Life Protection Act (MLPA) was signed in to law (Stats. 1999, Chapter 1015; now found in Chapter 10.5 of the California Fish and Game Code, Sections 2850 to 2863). In determining the need for the act, the legislature found that California's marine ecosystems and biological diversity are vital assets to the state and nation, and the health of those assets is threatened by human activities. The MLPA directs the state, through the California Fish and Game Commission (Commission), to redesign California's system of MPAs to function as a network in order to: increase coherence and effectiveness in protecting the state's marine life and habitats, marine ecosystems, and marine natural

heritage, as well as to improve recreational, educational, and study opportunities provided by marine ecosystems.

In August 2004, the California Natural Resources Agency, the California Department of Fish and Game, and the Resources Legacy Fund Foundation (RLFF) launched the MLPA Initiative partnership. Groups established for the MLPA Initiative included a MLPA Blue Ribbon Task Force (BRTF), MLPA Master Plan Science Advisory Team (SAT), a statewide stakeholder interest group (SIG), regional stakeholder groups (RSG), and contracted MLPA Initiative staff. Rather than attempting to design a single MPA network for the entire state at one time, the MLPA Initiative recommended a series of regional processes by dividing the state into five study regions: North Coast, North Central Coast, San Francisco Bay, Central Coast, and South Central Coast.

The Proposed Project is the northern California coast component of the statewide network of MPAs, which is defined as state waters (0-3 nautical miles offshore) between the California-Oregon border and Alder Creek, near Point Arena (Mendocino County).

Project Development Process

The North Coast Study Region process was the fourth regional MPA design process to be conducted under the MLPA Initiative. A comprehensive stakeholder and public process was conducted between July 2009 and February 2011, with established regional planning groups as described above. The MPA development process consisted of iterative rounds of proposal development, evaluation, and refinement, with the initial round of proposed MPA arrays submitted by self-organized community groups for consideration and further development in two subsequent rounds of proposal development within the North Coast Regional Stakeholder Group (NCRSG). The NCRSG, after reviewing and considering (a) community proposals, (b) the five existing MPAs in the study region, (c) public comments and (d) evaluations of existing and proposed MPA arrays provided by the SAT, Department, State Parks, MLPA Initiative staff, and the BRTF, produced a single proposal. The proposal was comprised of proposed new MPAs, special closures, and recommendations to retain, remove, or revise the existing MPAs. The NCRSG submitted its MPA proposal to the BRTF for consideration in its development of proposals to recommend to the Commission. Further documentation of the development process is available for review on the MLPA website for the North Coast Study Region: <http://www.dfg.ca.gov/mlpa/northcoast.asp>.

This process ultimately resulted in the development of the Proposed Project and its alternatives. For a more complete description of the Proposed Project and its development process, please refer to the Notice of Preparation (Appendix A1).

Chapter 2

CEQA SCOPING PROCESS

The State CEQA Guidelines provide guidance for the scoping process. Scoping has the following general objectives:

1. to identify the concerns of the affected public and agencies;
2. to define the issues and alternatives that will be examined in detail in the environmental impact report (EIR) while simultaneously devoting less attention and time to issues that cause no concern; and
3. to appropriately scale the overall review process by obtaining early feedback on the scope and content of the EIR (environmental studies and evaluations then can be focused on areas and issues of concern).

The Department is committed to a planning process that includes strong public involvement, is based on sound science, and is open and transparent.

Notice of Preparation

CEQA requires formal public announcement of the intent to prepare an EIR for a proposed project. In compliance with the State CEQA guidelines (14, California Code of Regulations, Section 15082), CDFG issued a Notice of Preparation (NOP) on September 12, 2011. The NOP presented general background information on the Proposed Project, the scoping process, the environmental uses to be addressed in the EIR, and the anticipated uses of the EIR.

The NOP invited the public to offer comments during the scoping period, which began on September 12, 2011. Initially, the NOP indicated that the dates for the scoping meetings in Crescent City, Fortuna, and Fort Bragg would occur on September 27-29, 2011; however, a supplemental correction letter was issued to clarify that the dates for the meetings would occur on September 26-28th 2011. This correction of the scoping meeting dates was noted online on the CDFG's Web site and appropriately published in subsequent outreach materials. A copy of the NOP and the correction letter is provided in Appendix A1.

The NOP was mailed to the Del Norte, Humboldt, and Mendocino county clerks as well as various interested agencies, tribal governments, organizations, and library locations. The NOP mailing list and related Project contact information are included in Appendix A2.

Public Outreach

The NOP was posted on the CDFG's Web site (<http://www.dfg.ca.gov/mlpa/northcoast.asp>) and an email announcement was sent to various interested parties. The email announcement and a list of the e-mail addresses that

received the press release is included in Appendix A3. A newspaper ad (Appendix A4) was prepared and placed in the following publications.

CDFG North Coast Marine Protected Areas EIR Newspaper Notices		
Newspaper	County	Date Published
The Press Democrat	Sonoma	13 September 2011
The Sacramento Bee	Sacramento	12 September 2011
The Triplicate	Del Norte	13 September 2011
Fort Bragg Advocate-News	Mendocino	15 September 2011
The Humboldt Beacon	Humboldt	15 September 2011
The Times-Standard	Humboldt	12 September 2011

Affidavits certifying the publication of the newspaper notices also are included in (Appendix A4).

Public Meetings

To provide the public and regulatory agencies with an opportunity to ask questions and provide comments on the scope of the EIR, several public scoping meetings were held during the NOP review period. CDFG conducted scoping meetings at four different locations throughout the greater Project Area. These scoping meetings were held in Crescent City, Fortuna, Fort Bragg and Sacramento to solicit input from the public and interested public agencies regarding the nature and scope of environmental impacts to be addressed in the draft EIR. The scoping meeting dates, times, and locations were as follows:

- **Crescent City, CA:** September 26, 2011, 6:30 - 8:00 p.m., Del Norte County Board Chamber Building (981 H Street, Crescent City, CA 95531)
- **Fortuna, CA:** September 27, 2011, 6:30 – 8:00 p.m., Fortuna River Lodge (1800 Riverwalk Dr., Fortuna, CA 95540)
- **Fort Bragg, CA:** September, 28, 2011, 6:30 – 8:30 p.m., Dana Grey Elementary School (1197 Chestnut St., Fort Bragg, CA 95437)
- **Sacramento, CA:** October 4, 2011, 6:30 – 8:00 p.m., Sacramento Department of Health Care Services and Department of Health Building (1500 Capital Avenue, Sacramento, CA 95814)

Meeting Format

All meetings used the same format, and interested parties were invited to attend one or all meetings.

Reception

The public was welcomed to the meetings by CDFG staff at each location. At the greeting table, guests were asked to sign in and were given a brief description of the available handouts and process for public comment. The handouts included copies of the NOP

(Appendix A1); a Project Comment Flyer, a Speaker Card, and a Comment Form (all included in Appendix A5).

Several meeting posters (Appendix A6) also were prepared for public viewing before and after each meeting. These posters were created to direct the public to the meeting site as well as to provide general orientation on the CEQA process and Project considerations.

Meeting

Each meeting began at approximately 6:30 p.m., with a presentation given by Horizon Water and Environment (Horizon) staff, the consulting firm leading the preparation of the EIR (Appendix A7). Michael Stevenson of Horizon provided a brief overview of the Project and the CEQA process. Susan Ashcraft of CDFG gave an overview of the Project background and efforts leading up to the proposed actions. Jill Sunahara of Horizon then provided additional details, relating to the range of actions and alternatives to be included in the Project. A public comment session followed, during which time CDFG staff received public comments about the Project. In addition to oral comments, CDFG also accepted written comments during the meetings. Those attendees who provided comments during the scoping meetings were as follows:

Crescent City, CA

Russ Crabtree
Alecia McQuillen
Rosie Clayburn

Fort Bragg, CA

Hawk Rosales
Mike Schaver
Richard Smith
Richard Charter
Larry Knowles
anonymous speaker

Sacramento, CA

No speakers

Fortuna, CA

Nick Angetoff

One speaker at the Fort Bragg meeting declined to state their name; however comments were recorded and included for consideration in this scoping report. Near the conclusion of each meeting, CDFG staff reminded the attendees that written comments would be accepted anytime during the scoping period, which concluded on October 14, 2011.

Participating Staff

The following CDFG representatives and supporting consultants participated in one or more of the scoping meetings:

Department of Fish and Game

Becky Ota, Habitat Conservation Program
Manager
Susan Ashcraft, Senior Marine Biologist

Horizon Water and Environment, LLC

Michael Stevenson, Principal
Jill Sunahara, Senior Associate
Sandy Devoto, Associate
Pam Rittelmeyer, Analyst

Meeting Attendance

At each meeting, attendees were asked, but were not required to, sign in and provide contact information. Ten people signed the attendance sheet at the Crescent City meeting; 8 people signed at the Fortuna meeting, 10 at the Fort Bragg meeting and 2 at the Sacramento meeting. Copies of the attendance sheets are provided in Appendix A8.

Chapter 3

SUMMARY OF COMMENTS RECEIVED

Introduction

All written and oral comments received in response to the NOP will be considered during preparation of the draft EIR. Oral comments received during the scoping meetings were noted and summarized during each meeting. Speaker cards and notes, along with comments submitted during the meetings, are included in Appendix A8. In addition to these meetings, 18 written comments were received via U.S. Mail, e-mail, and fax during the scoping period and two written comments were received after the close of the comment period and were accepted (Appendix A9).

Review of Scoping Comments Received

To ensure that a neutral and transparent analysis is used to review and categorize all public comments received, this scoping report includes copies of the original documents submitted during the scoping period and a few that were received after the scoping period ended (see Appendix A8 and A9). The issues presented below are not intended to replicate the comments received verbatim, but rather to provide a synopsis of the comments received and capture the general views and opinions of the commenters.

While analyzing all of the comments, several major themes emerged related to the EIR evaluation. The following pages summarize the comments received and report them categorically under these themes (the key issue headings are introduced in **bold text** below). Each key issue is discussed in more detail in the following sections of this report.

- **General Concerns** for the Proposed Project and EIR
- Comments specifically related to the **Project Description**
- **Air Quality, Global Climate Change and Greenhouse Gas Emissions** evaluation
- **Biological Resources** evaluation
- **Consumptive Use** evaluation
- **Cultural Resources** evaluation
- **Environmental Justice/Socioeconomic Effects** evaluation
- **Land Use** evaluation
- **Mineral Resources** evaluation
- **Public Services and Utilities** evaluation
- **Recreation** evaluation

- **Cumulative Effects** evaluation
- **Environmental Review Process**

In addition, some comments were submitted which were not relevant to the CEQA process. These comments were directed at the Commission's proposed regulations, and not to the CEQA process to evaluate the potential effects of implementation of the proposed regulations. These are described under **Issues Outside of the Scope of the EIR**.

The following briefly summarizes the major perspectives from the review of all the comments:

- The vast majority of commenters voiced general support for the proposed preferred alternative (modified North Coast Regional Stakeholder Group Proposal) with Tribal Option 1 and the special closures. There was a general consensus that most socioeconomic effects have been minimized or avoided through the extensive project development process of the preferred alternative.
- The most common concerns were related to the potential biological and economic effects of displacement related to MPA restrictions.
- A common issue raised by Tribal members placed emphasis on the inclusion of a detailed and accurate environmental setting description to base environmental impacts.
- There was an expressed desire by Tribal members for Tribal consultation during the duration of the EIR process.
- Additional common concerns regarded the potential effects of alternatives other than the preferred alternative with Tribal Option 1, enforcement capabilities, and specific restriction considerations.

Key Issues Relevant to the Environmental Review

The following comments were received on key issues relevant to the Proposed Project and preparation of the draft EIR.

General Issues

- The EIR should evaluate the effects of potential changes against the baseline. The baseline and existing conditions must be determined in detail, especially in regards to Tribal traditional and cultural practices within the North Coast Study Region.
- The EIR must address all required topics under CEQA.
- The mitigation measures should either be presented as specific, feasible, enforceable obligations, or should be presented as formulas containing "performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way" (as specified by CEQA Guidelines section 15126.4).

- The EIR should include a background discussion of ecological trends in California, distinct ecological trends, oceanography and communities of North Coast and explain the differences in proposed MPA coverage in this region compared to the other regions in the state.
- The EIR should consider that any increased activity outside MPA boundaries as a result of the MPA network implementation has not been documented to have detrimental effects, and benefits vastly outweigh any displacement effects. A specific example is the Channel Islands.
- The EIR should note that a number of existing factors result in large unfished areas of the North Coast which provides natural refuge from the impacts of fishing that other regions experience.

Project Description

- The NOP summarizes details of the Proposed Project in a way that may be confusing. All details of the Proposed Project should be included in the EIR.
- The EIR should include a table showing all of the public meetings held during the MLPA North Coast planning effort.
- The EIR should include a discussion of the science behind marine reserves and MPA network design, which acknowledges the benefits of MPAs.
- The EIR should contain a brief explanation regarding the North Coast process which was used to achieve a single unified stakeholder proposal.
- The NOP does not state that waterfowl hunting is allowed for Big River SMCA; however at the June 29-30 Fish and Game Commission's meeting, it was stated that waterfowl hunting should continue to be permitted in this area and three others (South Humboldt Bay, Navarro River, and Ten Mile). This needs to be clarified.
- The NOP description of Tribal Option 1 is incorrect. It stated that the option is aimed at allowing traditional Tribal gathering. However this should be corrected and the EIR should include an analysis of both traditional Tribal gathering **and** Tribal harvesting. In addition, the NOP describes the factual record needed to support Tribal uses as one that demonstrates "ancestral take in a specific SMCA". However the correct requirement is met by submitting evidence of ancestral take **or** current Tribal gathering or harvesting. The EIR should reflect the correct language.

Air Quality/Global Climate Change /Greenhouse Gas Emissions

- The EIR should evaluate the potential effects, such as water temperature and chemistry of climate change on the proposed MPAs and the key resources they are designed to protect.
- Because the Proposed Project may indirectly impact existing travel patterns, the EIR should consider the impacts of greenhouse gas emissions and other pollutants from changes in fishing **and** non-fishing vessel movement.

- The EIR should include a GHG emissions analysis as consistent with the California Global Warming Solutions Act (AB 32) and required by section 15064.4 of the State CEQA Guidelines. The analysis should identify a threshold for significance for Greenhouse Gas (GHG) emissions, calculate the level of GHGs that will be emitted as a result of the Project, determine the significance of the impacts of those emissions, prepare mitigation measures and analyze the potential for cumulative impacts of GHG emissions.

Biological Resources

- The Proposed Project and alternatives (except no action alternative) would have a less than significant impact on biological resources.
- The EIR should analyze the effects of unchecked urchin growth, or urchin barrens in MPAs upon removal of fishing pressures, the result of which could be loss of kelp forest habitat and may reduce populations of threatened abalone.
- The EIR should include a detailed discussion of state and federal special status species found in the North Coast Study Region as well as species likely to benefit from MPAs.
- The EIR should evaluate the potential for the new MPAs to exacerbate or accelerate the introduction or spreading of existing nonnative species within the MPAs. Including the potential for fishing vessel traffic to result in the introduction or establishment of nonnative species to the area (vessels as vectors).
- The EIR should analyze the effects of reduced take or no take areas on biodiversity and the ability of the potentially more diverse communities to better guard against invasion by nonnative species.

Consumptive Uses

- The EIR should study the effects of increased fishing pressure on areas that will remain open after the implementation of the MPAs due to the displacement effect. This could result in the collapse of the fisheries and subsequently the fishing industry.
- The EIR should take into account the highly uneven distribution of fishing pressures across the study region, based on spatial analysis of specific benthic habitat and fish assemblages.
- The EIR should evaluate the extent to which displacement of commercial or recreational fishing may have on piers and related facilities and communities that rely on fishing activities.
- The EIR should note that there is already a prohibition on kelp harvesting through removal by mechanical means north of San Francisco, so proposed restrictions are not necessary (hand harvesting is allowed up to 4,000 lbs).

Cultural Resources

- Tribes appear to have been mentioned in the NOP in the past tense – this should be changed in the EIR to reflect the vibrant existence of current Tribes and their activities.
- The EIR should address the effort that the North Coast Tribes and the Commission have put into working together to find a solution (Tribal Option 1) which ensures that the Proposed Project does not impact the diverse and culturally important traditional Tribal use and gathering practices taking place on ancestral territories throughout the North Coast.
- The regulatory setting section of this chapter should include the legal basis for Tribal Option 1 and also include the requirements for those operating under this option (Tribal identification card, valid fishing license, etc).
- The EIR should consider effects on important cultural sites in the Project Area which are eligible under the National Register as Traditional Cultural Properties.
- The EIR should include a discussion of Tribes that have demonstrated their ceremonial, religious and cultural aspects to their subsistence gathering within the designated MPAs.
- Tribal cultural practices and locations are resources which are entitled to protection under the law.
- The baseline should identify existing state regulations in regards to which Tribal practices are currently allowed or prohibited. A comparison must be drawn between the existing regulations and the regulations being proposed that specifically affect Tribal traditional and cultural practices within the North Coast Region.
- The EIR should note that limiting access to healthy traditional food sources within Tribes has been directly linked to an increase in diabetes and obesity.
- Effects of the Proposed Project that would affect cultural activities upon which the cultural or historic integrity of an historic or cultural resource is dependent should be considered a potentially significant impact.
- The environmental setting, cultural resources, historical setting, and physical setting should fully take into account the significant and current connections of federally recognized Tribes in the North Coast Region.
- The setting section should include a detailed discussion of traditional, cultural and subsistence Tribal uses in the Project Area and specifically discuss individual Tribes. This should be based on the information submitted by the North Coast Tribes.
- The EIR should analyze the effects of the Proposed Project, such as reserves or conservation harvest restrictions on site-specific ceremonial, religious, cultural and subsistence needs. Any limitation, displacement, or prohibition on traditional Tribal gathering would be considered a substantial adverse effect on a Tribe's ability to conduct ceremonial and religious activity. These effects should detail specific effects to individual Tribes.

- Appropriate mitigation measures for prohibited or adversely affected Tribal traditional uses and cultural practices must be included.
- The EIR should note that Tribal uses are an intrinsic part of the marine environment and include the stewardship practices of the Tribes. The Tribes are not the reason there is a decline in marine species nor do they have a negative impact on marine species and ecosystems.
- The EIR should note that Tribal uses are consistent with the goals of the MLPA.
- The EIR should note that Tribal resources and cooperation can enhance restriction monitoring/enforcement and scientific research.
- The EIR should evaluate the possibility of submerged cultural resources in the Project area of which California State Lands Commission (CSLC) maintains a record. Any submerged archeological site or historic resources within state waters more than 50 years old may be considered significant.
- The EIR should mention that the title to all abandoned shipwrecks, archaeological sites and historic or cultural resources on or in the tide and submerged lands of California is vested in the State and under the jurisdiction of the CSLC. CSLC staff should be consulted on any cultural resources discovered during surveys conducted to support the Project.

Environmental Justice/Socioeconomic Effects

- Given that the North Coast MLPA design process facilitated an agreed-upon proposal, potential negative socioeconomic impacts are unlikely to be significant. Therefore the EIR does not need to analyze socioeconomics beyond what is required by CEQA.
- The EIR should evaluate and consider the socioeconomic impacts of the Proposed Project and alternatives due to the fact that cities in the North Coast Region have a high degree of community isolation, are sparsely populated, have limited industry diversification, high unemployment and poverty rates.
- The EIR should discuss the large portions of the North Coast Region's population who are dependent on wild-harvested coastal resources to augment their livelihood and diet.
- The EIR should include information regarding the North Coast Region's relatively high economic dependence on fishing, with low landings.
- The EIR should note that all the action alternatives considered would minimize the negative socioeconomic impacts by leaving the most biologically productive and popular fishing locations open.
- The EIR needs to analyze whether the Proposed Project may cause blight or decay within Tribal communities that rely on cultural and subsistence uses of marine and coastal resources or facilities and business areas that rely on uses of marine and coastal resources.
- In assessing environmental justice impacts, the analysis should consider Tribes as separate, identifiable communities.

- The Environmental Justice analysis should point out that the Tribal Option 1 would not result in preferential treatment based on race but rather citizenship.

Land Use

- The NOP notes that the EIR will consider the Proposed Project's conflicts with existing CSLC permits and leases. The EIR should also evaluate the maintenance and repairs that may be required for leased structures and activities as well as their operations.

Mineral Resources

- The NOP states on page 12 that there has been a federal moratorium on new outer continental shelf oil and gas leasing activities off the coast since 1982, however this moratorium has been allowed to lapse. An Executive Deferral on new federal offshore oil and gas leasing has been put in place and should last until 2017 – though this protection can be removed at any time.

Public Services and Utilities

- The EIR should discuss the limited resources available to the CDFG Law Enforcement Division. Information regarding estimates of the cost and staffing needed for basic enforcement of the Proposed Project, as well as the potential biological impacts of the loss of enforcement capacity that may be unavoidable due to greater workloads required of CDFG Wardens.

Recreation

- The EIR should analyze the Proposed Project's proposed land use restrictions on short-term and long-term impacts on recreational resources. Mitigation should be included to compensate for any significant impacts on public access.

Cumulative Effects

- The EIR should discuss both present and future projects rather than just existing projects.

Environmental Review Process

- Tribes of the North Coast region should be included in active consultation during the remaining CEQA process and for joint management of marine resources.
- Some of the EIR hearings should be held at one of the Tribal headquarters to increase public and Tribal participation.
- Transcripts of statements made at the public scoping meetings are requested.

Issues Outside of the Scope of EIR

The following comments were determined to be outside of the scope of the CEQA environmental review process. These comments were not related to the scope or content of the EIR, and were not related to issues that are within the scope of CEQA. These comments were directed to the MLPA regulations proposed under the authority and jurisdiction of the Commission. The Commission has a separate process to receive comments on the proposed MLPA regulations for the North Coast Study Region. The scope of this EIR analysis is on the potential environmental effects of implementation of the proposed MLPA regulations for the North Coast Study Region.

- The Levels of Protection model used to assess the effects of marine protected areas needs to take into account anthropogenic factors in addition to biological and ecological determinants. The baseline and goal for this model is an “unharvested system” however traditional indigenous use and stewardship should be integrated.
- The regulations should be changed to allow the take of bull kelp in the SMCAs or provide biological justification for restrictions. Bull kelp grows in large quantities and removing restrictions on bull kelp would eliminate conflict with the established sustainable commercial harvest. Instead, restricted take on Giant Kelp should be considered.
- The North Coast Study Regions Unified Array should be included in the EIR analysis.
- CDFG should be conducting an analysis on the unsustainable trawling industry which is causing harm to fish species world-wide.
- The regulations should identify a strategy of cooperative management between local agencies and stakeholders to assist with education and implementation of MLPA.
- The regulations should be expanded to protect the coastline from oil and gas development and provide opportunity for wind and wave energy.
- The CSLC staff suggests that CDFG consult with CSLC when considering restrictions on fishing, access and navigation.
- Planning, implementation and management efforts should be coordinated with the Yurok Marine Resource Program restoration efforts.
- The Commission adopted a sub-option for the proposed Pyramid Point SMCA that moves the southern boundary into federal property held in trust for the benefit of the Smith River Rancheria. As an alternative, the regulations should consider moving the southern boundary of Pyramid Point SMCA north to Cone Rock to avoid impacting fish camps.

Tribal Options

- The EIR should note the superiority of the unified proposal along with Tribal Option 1 which achieves the goals of the MLPA, allows for Tribal gathering with SMCAs, and provides greater protection for biodiversity hotspots.
- Gathering and harvesting as allowed by DFG to Federally-recognized Tribal members must be consistent with existing regulations of season and take.
- The Tribal Option 1 is the preferred option to maintain the Tribal way of life otherwise there will significant impacts on the Tribes.
- Tribal Option 2 developed by NCRSG should not be analyzed because it is not feasible or practical due to Tribal uses categorized as recreational. This alternative does not protect gathering and harvesting as separate and distinct uses.
- The EIR should analyze Tribal Option 2 which was unanimously supported by the RNCP. It would allow Tribal gathering to continue throughout all open coast MPAs (except state marine reserves), taking of specified species using specified gear.
- The analysis of Option 2 should consider that Tribal take in offshore SMCAs would be allowed only for species assigned high or moderate high level of protection, which would curtail Tribal use.
- The analysis for Tribal Option 2 should consider whether adverse impacts to Tribal uses in offshore areas meet the legal criterion for significance.
- The feasibility analysis of Option 2 should discuss practical difficulty in enforcing take regulations under the geographically bifurcated SMCA network which results in different regulations for near shore as compared to offshore.

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Development of the Draft EIR

Comments that relate to the scope and content of the CEQA analysis will be used to inform the analysis contained in the draft EIR. Specifically, comments related project alternatives, preferred options, and socioeconomic concerns will be considered in the preparation of the draft EIR.

List of Topics to be Addressed in the EIR

A detailed evaluation of potential environmental impacts will be provided in the draft EIR for a variety of resource topics. A brief description of these resource topics and identification of key issues is provided next, based on preliminary evaluation and the scoping comments received. This is *not* intended to be a comprehensive list of all issues that will be evaluated in the draft EIR, but this list provides an overview of some of the key issues that are planned to be discussed.

Agricultural Resources

Key issues to be evaluated in the DEIR will focus on the potential effects on aquaculture farming practices, such as oyster farming.

Air Quality

The draft EIR will evaluate the increase in combustion-related particle emissions from fishing vessel traffic outside of the designated MPAs.

Biological Resources

Key issues to be evaluated in the draft EIR will include:

- Direct and indirect impacts to natural communities and species listed under the Federal and California Endangered Species Acts from the Proposed Project
- Effects on wetlands or other sensitive habitats
- Effects of the movement of or restriction in the range of any native species
- Effect on life history requirements of native species
- Effects on expansion of invasive species due to the Proposed Project

Consumptive Uses

The draft EIR will review consumptive uses and socioeconomic considerations in the Project Area for informational purposes since the Commission is proposing new regulations. An analysis of the potential changes in congestion and displacement related to consumptive uses, including commercial and recreational fisheries and potential adverse effects on those consumptive uses (and related indirect effects, such as potential for blight) will be included in the DEIR. Note that socioeconomic effects are not considered environmental impacts under CEQA, unless they have relevance to a significant physical impact. The EIR therefore will make use of the socioeconomic information as appropriate where such a nexus exists.

Cultural Resources

The draft EIR will evaluate the potential for the Proposed Project to directly or indirectly impact archaeological and historic resources or result in substantial adverse changes to traditional cultural properties or tribal practices.

Environmental Justice

The draft EIR will evaluate the potential impacts of the Proposed Project and alternatives on economically-disadvantaged communities and determine if they result in fair and equitable treatment of individuals regardless of race, ethnicity or income.

Global Climate Change and Greenhouse Gas Emissions

The draft EIR will evaluate the effects of changes in vessel traffic resulting in the potential for an alteration in the net release of greenhouse gases.

Land Use

The draft EIR will evaluate the potential conflicts with land uses regulated by the California Coastal Commission and the State Lands Commission.

Public Services and Utilities

The draft EIR will evaluate the potential impacts on the need for new governmental facilities or services due to an increased need for enforcement of the proposed restrictions. In addition, the EIR will consider potential conflicts with electric-generating projects involving use of ocean currents or tides.

Recreation

The draft EIR will evaluate the direct or indirect effects that could lead to an increase, decrease or concentration in the use of coastal waters within MPAs or other recreational facilities, such that substantial physical deterioration would occur or be accelerated. The

draft EIR will also analyze whether the Proposed Project would require the construction or expansion of recreational facilities that would adversely affect the environment.

Research and Education

The draft EIR will evaluate the impact to scientific or educational facilities or require the construction or expansion of those facilities that would adversely impact the environment. The draft EIR will also analyze whether there will be a decrease in research and educational opportunities in the North Coast Study Region.

Vessel Traffic

The draft EIR will evaluate whether increased oceanic hazards, in particular due to changes in vessel traffic concentration or the disruption of existing vessel traffic patterns and marine navigation would significantly impact the environment.

Water Quality

The draft EIR will evaluate the potential for conflicts between existing facilities operations and permitting and the proposed MPAs and determine whether the Proposed Project would violate any water quality standards or waste discharge requirements, or otherwise substantially degrade water quality.

List of Topics to be Dismissed from Detailed Analysis in the Draft EIR

Upon review of the nature and scope of the Project and the scoping comments received, little or no potential for significant impacts exist for several CEQA checklist resource topics; these topics are planned to be eliminated from detailed analysis in the draft EIR. A brief description of these resource topics and considerations for their dismissal from further analysis in the draft EIR is presented next; a similar description will be included in the draft EIR.

Aesthetics

This topic will be dismissed from detailed analysis because the Project would not result in any construction or physical changes within the North Coast Study Region. The Proposed Project involves only policy changes and changes to the level of allowed fishing and harvest activities of various areas, and no structures would be built. Therefore, the Proposed Project would not result in physical impacts on land-based resources such as scenic highways.

Geology and Soils

This topic will be dismissed since the Proposed Project would not have an effect on geologic resources. The study region includes unique geologic features, such as rocky shores, beaches of varying grain sizes (gravel to fine-grained), salt marshes, tidal flats, underwater pinnacles, and submarine canyons. These features are the result of active tectonic activity, erosion, and wave action in the surrounding area and provide habitat to marine life and

public enjoyment. The Proposed Project would not interfere with these resources or processes, and it would not expose people or structures to adverse effects from seismic ground failure or shaking.

Hazards and Hazardous Materials

Existing hazards to the public and environment involving the effects of hazardous materials spills or wildfires would not be altered by the Proposed Project. The Proposed Project also would not interfere with existing emergency response and evacuation plans. Therefore, it is not expected to result in impacts pertaining to hazards or hazardous material. Potential impacts associated with vessels that transport or utilize hazardous materials will be evaluated in the DEIR analysis of vessel traffic impacts.

Mineral Resources

There has been a federal moratorium on new outer continental shelf oil and gas leasing activities off the California coast since 1982 and a ban on issuing new state oil and gas leases in state tidelands since 1989. The federal moratorium is based on annual Congressional appropriations bans on using federal funds to plan or support offshore leasing in California, Florida, and the eastern seaboard. The ban on leasing state tidelands for oil and gas exploration and production is based on several actions, including the previously mentioned 1989 decision of the State Lands Commission (SLC), which has jurisdiction over all state property. This ban was also a result of the California Sanctuary Act of 1994 (PRC 6240 et seq.), which prohibits leasing of any state tidelands, with exceptions. Although the federal moratorium and California state ban on issuing new offshore leases are both subject to change, oil and gas exploration and production in state tidelands are currently prohibited. Based on the 2010 Outer Continental Shelf Oil and Gas Strategy announcement by the Department of Interior, the entire California coast is identified as an area of low resource potential/low support for potential new leasing such that new leases are not anticipated through at least 2017. Because any future conflicts are speculative, the Proposed Project would be considered to have no impact on mineral resources. As such, this topic will be dismissed.

Noise

Noise thresholds focusing on local general plans, noise ordinances, and land-based sensitive receptors are not applicable to this ocean-based project. A threshold of significance for noise impacts could be described as any noise created by the Proposed Project that would disturb the nesting, breeding, or feeding of marine species. No such effects are anticipated because increases in vessel traffic are not anticipated, and because shifts in locations of fishing activity to areas outside the proposed MPAs would not change the noise level resulting from such activities beyond what normally occurs in the existing conditions. Additionally, the Proposed Project designates special closures around ecologically important marine mammal haul outs and seabird rookeries; this further reduces any potential for noise-related disturbances in proximity to these resources. As such, the Proposed Project is not expected to result in noise-related impacts.

Population and Housing

The Proposed Project consists of changes in allowable fishing and other uses within defined water along a portion of the California coast. Though these changes may result in economic impacts to commercial fishing interests and ocean-dependent fishing businesses, these impacts have been evaluated and minimized during the design of the Proposed Project and will be further reviewed in the socioeconomic analysis of the EIR. As noted previously, evaluations of socioeconomic impacts are not required under CEQA, though socioeconomic considerations will be included in the EIR for informational purposes. The Proposed Project would not induce substantial population growth in the project area or cause a substantial change to the availability of housing in the project area or elsewhere. No substantial adverse impacts on population and housing are expected from the Proposed Project.

Ongoing Outreach

Comments received during the scoping period will help identify concerned parties and key stakeholders for ongoing outreach and coordination. Outreach will occur through Web page Project updates and mailings.

Questions can also be sent directly to the CDFG at the Project's dedicated email address: MLPAComments@horizonwater.com.

Project Web Site Updates

The North Coast Study Region website (<http://www.dfg.ca.gov/mlpa/northcoast.asp>) will be available to the public throughout the CEQA process. The website will be updated for the public to review as additional information becomes available about the Proposed Project or the CEQA process. This will include notices regarding circulation of the draft EIR and notification of the public comment period for the draft EIR.

Other Opportunities for Public Involvement

The public will have the opportunity to submit comments during the public review period for the draft EIR. This comment period will begin with circulation of the draft EIR. CDFG will announce the availability of the draft EIR and comment period by issuing a public Notice of Availability (NOA) to the State Clearinghouse, the Del Norte, Humboldt, and Mendocino county clerks, local libraries, and other interested individuals, tribal governments, and agencies (via standard mail and e-mail). CDFG will also post the NOA on the Project EIR Web site and issue newspaper announcements as appropriate. The draft EIR will be made available for download in electronic version on the Web site, will be available in hardcopy for viewing at local libraries and CDFG offices, and to the extent feasible, as a hard copy upon written request to CDFG. Interested individuals, agencies and organizations will be able to submit comments throughout the comment period, either online at the Project EIR Web site or by mailing comments to CDFG, as directed in the public notice.

During the public review period, the Commission will also conduct at least one public meeting in combination with the regulatory discussion hearing. The public meeting is

anticipated to include a brief presentation regarding the content of the draft EIR, the range of impacts analyzed, and the process being undertaken to produce the final EIR. Comments from the public will be accepted at these meetings, orally or in a written format.

Appendix A1

NOTICE OF PREPARATION



State of California -The Natural Resources Agency
DEPARTMENT OF FISH AND GAME
1933 Cliff Dr., Suite 9
Santa Barbara, CA 93109
<http://www.dfg.ca.gov>

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



September 12, 2011

Re: Notice of preparation of environmental document regarding marine protected areas in the northern California region pursuant to the Marine Life Protection Act.

To Interested Parties:

The California Fish and Game Commission (Commission) will be the lead agency reviewing and potentially adopting proposed regulations for marine protected areas (MPAs) in State waters within the northern California coast region. Pursuant to the requirements of the California Environmental Quality Act (CEQA), the Department of Fish and Game (Department) will prepare a CEQA equivalent draft environmental document for the Commission regarding the Proposed Project.

The Proposed Project being reviewed in this document is the northern California coast component of a statewide network of MPAs as required by the Marine Life Protection Act (MLPA, Stats. 1999 Ch. 1015). For the purpose of this project, the North Coast Region is defined as State waters (0-3 nm offshore) between the California-Oregon border and Alder Creek, near Point Arena (Mendocino County).

The project objectives are to help protect, maintain, restore, enhance, and manage living marine resources by developing this portion of the MLPA-required network of MPAs. Take of finfish, marine plants and/or invertebrates would be prohibited or restricted in several areas by regulations established by the Commission and implemented by the Department. Alternatives to the Proposed Project will be evaluated in the document, with corresponding analysis provided for each identified alternative. Additional information on the Proposed Project and the CEQA process is included in Attachment A and available online at: www.dfg.ca.gov/mlpa.

Note that at its June 29-30, 2011 meeting, the Commission selected Tribal Option 1 for traditional tribal gathering as its preferred alternative. This alternative would allow tribal gathering by federally recognized tribes to continue in State Marine Conservation Areas (SMCAs) or State Marine Recreational Management Areas (SMRMAs) provided a factual record can be established that shows ancestral take in a specific SMCA or SMRMA. The establishment of ancestral take records within the North Coast Region is currently in development. Once this process is complete, the Commission may elect to integrate tribal gathering into the Proposed Project as an allowable use within specific SMCAs or SMRMAs. As directed by the Commission, this information will be incorporated into the Proposed Project and considered in the environmental analysis.

The Department has taken steps to identify and evaluate any potential adverse environmental effects associated with the Proposed Project. However, in order to assist the Department in identifying the range of potential actions, alternatives, mitigation measures and significant effects to be analyzed in depth in the document, the

Conserving California's Wildlife Since 1870

Department is requesting your views as to the scope and content of the environmental information which you feel is germane to the subject project.

Your response relative to the scope of the environmental document must be sent at the earliest possible date, but postmarked no later than 5:00 p.m. on October 14, 2011 in order for your comments to be considered.

Public comment provided on the Proposed Project to date through extensive public processes will be addressed in the document. The Department will also hold four public scoping workshops on the development of the draft environmental document. The details on these meetings are included in Attachment A.

Please send responses to this Notice of Preparation to:

“MLPA North Coast CEQA Scoping Comments”
California Department of Fish and Game
c/o Horizon Water and Environment
P.O. Box 2727
Oakland, CA 94602.

Comments may also be submitted via email to: MLPAcomments@HorizonWater.com. Your comments should include your name, address, and daytime telephone number so a representative of the Department can contact you if clarifications regarding your comments are required.

Sincerely,



Marija Vojkovich
Regional Manager
Marine Region

NOTICE OF PREPARATION OF ENVIRONMENTAL IMPACT REPORT

1. Introduction and Background

1.1 Introduction

In 1999, the Marine Life Protection Act (MLPA) was signed in to law (Stats. 1999, Chapter 1015; now found in Chapter 10.5 of the California Fish and Game Code, Sections 2850 to 2863). In determining the need for the act, the legislature held that “California’s marine protected areas (MPAs) were established on a piecemeal basis rather than according to a coherent plan and sound scientific guidelines. Many of these MPAs lack clearly defined purposes, effective management measures and enforcement. As a result, the array of MPAs creates the illusion of protection while falling far short of its potential to protect and conserve living marine life and habitat.” Therefore, the MLPA directs the state, through the California Fish and Game Commission (Commission), to redesign California’s system of MPAs to function as a network in order to: increase coherence and effectiveness in protecting the state’s marine life and habitats, marine ecosystems, and marine natural heritage, as well as to improve recreational, educational, and study opportunities provided by marine ecosystems. The act provides six specific goals (Section 2853) to guide the development of the MPA system, which can be found at: <http://www.dfg.ca.gov/mlpa/background.asp>.

To help achieve the goals of the MLPA, different types of MPA designations are used in the MLPA designation process. These designations are defined in the Marine Managed Areas Improvement Act (MMAIA), a companion to the MLPA (California Public Resources Code Sections 36700 and 36710). The MMAIA provides a standardized classification system for all marine managed areas (MMAs), of which MPAs are a subset. Each MPA designation differs according to restricted and allowable uses that can occur within each designated area. Definitions for the designations used in California’s MPA network, including three MPA designations and a marine managed area designation, can be found at <http://www.dfg.ca.gov/mlpa/pdfs/revisedmp0108b.pdf>; a summary of these definitions is provided below:

- State Marine Reserve (SMR): Prohibits all take and consumptive use (commercial and recreational, living or geologic). Permitted research and non-consumptive uses may be allowed.
- State Marine Park (SMP): Prohibits commercial take but may allow select recreational harvest to continue. Access for permitted research and non-consumptive use is allowed.
- State Marine Conservation Area (SMCA): May allow select recreational and commercial harvest to continue. Access for permitted research and non-consumptive uses is allowed.
- State Marine Recreational Management Area (SMRMA): Provides subtidal protection equivalent to an MPA, while still allowing legal waterfowl hunting to continue. No other uses are restricted.

In August 2004, the California Natural Resources Agency, the California Department of Fish and Game (Department), and the Resources Legacy Fund Foundation (RLFF) launched the MLPA Initiative partnership. Groups established for the MLPA Initiative included a MLPA Blue Ribbon Task Force (BRTF), MLPA Master Plan Science Advisory Team (SAT), a statewide stakeholder interest group (SIG), regional stakeholder groups (RSG), and contracted MLPA Initiative staff.

Rather than attempting to design a single MPA network for the entire state at one time, the MLPA Initiative recommended a series of regional processes by dividing the state into five study regions: North Coast, North Central Coast, San Francisco Bay, Central Coast, and South Central Coast. MPA networks have been adopted for three of the five study regions to date, and the North Coast Study Region will complete the network along California's open coast, leaving only the San Francisco Bay study region to be completed.

The BRTF, SAT, and RSG for each study region all participate in the process of determining MPA design alternatives for the Commission's consideration. For each of the five study regions listed above, the BRTF may submit to the Commission a preferred alternative for a network of MPAs, and other MPA network alternatives developed by stakeholders (and potentially modified by the BRTF). A summary of development of the MPA alternatives for the North Coast Study Region is presented in Section 2.

1.2 Project Location and Project Area Background

The MLPA North Coast Study Region consists of state waters along the northern California coast, from Alder Creek, five miles north of Point Arena in Mendocino County, to the California/Oregon border in Del Norte County (see **Figure 1**). The straight-line distance between these two points is approximately 225 statute miles, but the actual length of the coastline is about 517 miles. The study region has been divided into two ecologically defined areas, or bioregions, with distinct environmental conditions. From north to south, these include the California/Oregon border to the mouth of the Mattole River (Northern Bioregion) and the mouth of the Mattole River to Alder Creek (Southern Bioregion).

In general, state waters in the North Coast Study Region extend from the mean high tide line to three nautical miles (3.4 statute miles) seaward (or west) along the mainland shore and around offshore rocks such as Reading Rock and Southwest Seal Rock. The North Coast Study Region also includes nearly 20 estuaries and lagoons greater than 0.5 square miles in size. Lagoons that are mostly or entirely closed to tidal inundation and dominated by freshwater species are not included. In total, the North Coast Study Region encompasses approximately 1,027 square miles, comprised largely of relatively shallow habitat (less than 330 feet), but extending to a maximum depth of approximately 1,667 feet at the bottom of the Mattole Canyon.

There are five existing MPAs in the North Coast Study Region, located in the southern portion of the study region (see Figure 1). Punta Gorda State Marine Reserve (SMR) in Humboldt County is the only state marine reserve on the north coast of California and is the largest MPA currently established in the study region at 2.07 square miles. Four state marine conservation areas (SMCAs) exist on the north coast, all of which are located in the southern portion of the study region: MacKerricher SMCA, Point Cabrillo SMCA, Russian Gulch SMCA and Van Damme SMCA. Other managed marine areas in the study region include the federally managed Redwood National Park (which has a boundary that extends a quarter mile offshore), two types of fishery closures: rockfish conservations areas (RCAs) and essential fish habitat (EFH) areas, and four underwater parks managed by the California Department of Parks and Recreation that overlap with existing SMCAs at MacKerricher, Point Cabrillo, Russian Gulch, Van Damme.

The northern portion of California includes some of the least developed coastal locations in the state. Exposure to high energy wind and waves shapes both the environment and human uses in the north coast, which along with unique oceanographic patterns, species, and a range of both commercial and recreational fisheries help to form the distinctive character of the north

coast's marine resources and coastal communities. The north coast also serves as an important link to habitats and management measures north of California, in Oregon.

An important characteristic of the North Coast Study Region is its federally-recognized tribes and tribal communities with significant knowledge of coastal environments and important historical connections to the coast. The study region has the greatest number of Native American tribes of any of the MLPA study regions (U.S. Census 2010). Several north coast tribes own land near the ocean in the study region and many continue to live in their ancestral homelands and practice age-old cultural traditions. Their identities as Indigenous Peoples are intimately linked to the ocean, beaches, rivers, estuaries, bays, lagoons and their associated plants and animals, rocks, landforms, and climatic and seasonal patterns.

The North Coast Study Region is part of the California Current Large Marine Ecosystem (LME), one of only four temperate upwelling systems in the world. The California Current LME is considered globally important for biodiversity because of its high productivity and the large numbers of species it supports (World Wildlife Fund 2000). The California Current LME extends from Vancouver Island to Baja California and is stimulated by upwelling, which richly supplies surface waters with nutrients; these nutrients support blooms of phytoplankton which in turn form the foundation for a food web that includes thousands of species of invertebrates, fish, marine mammals and seabirds.

The study region includes various environments ranging from rocky coasts and sandy beaches to soft- and hard-bottom deep habitat. There are opportunities for consumptive recreational activities, including shore- and vessel-based fishing, kayak angling, clamming, and abalone picking and diving (which is currently only allowed in California north of San Francisco Bay.) There are also opportunities for a range of non-consumptive activities, such as diving, surfing, kayaking, beach-going, swimming, and shore and boat-based wildlife viewing. The population, broad range of interests, sensitive marine environment, and oceanographic characteristics of the North Coast Study Region combines to create a complex setting.

2. Proposed Project - Preferred Alternative

2.1 Background on the North Coast Study Region MPA Development Process

The North Coast Study Region process was the fourth regional MPA design process to be conducted under the MLPA Initiative. A comprehensive stakeholder and public process was conducted between July 2009 and February 2011, with established regional planning groups as explained in Section 1.1 above. The MPA development process consisted of iterative rounds of proposal development, evaluation, and refinement, with the initial round of proposed MPA arrays submitted by self-organized community groups for consideration and further development in two subsequent rounds of proposal development within the North Coast Regional Stakeholder Group (NCRSG). The NCRSG, after reviewing and considering (a) community proposals, (b) the five existing MPAs in the study region, (c) public comments and (d) evaluations of existing and proposed MPA arrays provided by the SAT, Department, State Parks, MLPA Initiative staff, and the BRTF, produced a single proposal. The proposal was comprised of proposed new MPAs, special closures (detailed later in this section), and recommendations to retain, remove, or revise the existing MPAs. The NCRSG submitted its MPA proposal to the BRTF for consideration in its development of proposals to recommend to the Commission. Further documentation of the development process is available for review on the

MLPA website for the North Coast Study Region: <http://www.dfg.ca.gov/mlpa/northcoast.asp>.

The BRTF ultimately presented the Commission with two MPA proposals and recommendations for Commission consideration in determining a preferred alternative. This included the NCRSG proposal, referred to as the Revised North Coast Regional Stakeholder Group MPA Proposal (RNCP), and a BRTF-modified version of the same proposal, referred to as the Enhanced Compliance Alternative (ECA).

Options for Tribal Gathering

At its June 29, 2011 meeting, the Commission selected a preferred alternative for the north coast MPAs, which is described in Section 2.2. The Commission considered three options for how to address traditional tribal gathering in proposed MPAs for North Coast Study Region within its preferred alternative. Three options were identified as follows:

1. In addition to commercial and recreational take regulations proposed, allow tribal non-commercial gathering to continue in specific SMCAs (not SMRs) and SMRMA, by specific tribal users, where a factual record can be established that shows ancestral take or tribal gathering practices by a federally-recognized tribe in that specific MPA, and by allowing only those tribes to take specified species with specified gear types. This was a new approach not applied in the RNCP or ECA proposals.
2. In addition to commercial and recreational take regulations proposed, allow non-commercial tribal gathering to continue throughout all areas within open coast MPAs (except SMRs) by adding additional recreational take allowances for specified species and gear types recommended by tribes at all levels of protection (LOPs). This was the approach applied to the RNCP developed by the NCRSG.
3. In addition to commercial and recreational take regulations proposed, allow tribal non-commercial gathering in the nearshore component only of open coast MPAs (except SMRs) by dividing open coast SMCAs into two MPAs with a nearshore MPA component and offshore MPA component and a) in the nearshore MPA component, add additional recreational take allowances for specified species and gear types recommended by tribes at all LOPs; and b) in the offshore MPA component, add additional recreational take allowances for only those specified species and gear types recommended by tribes with a high or moderate-high LOP to increase offshore protection. Recreational take allowances at all LOPs would also be added to estuarine SMCAs or SMRMAs, if specific species and gear types were recommended by tribes. This was the approach applied to the ECA developed by the BRTF.

At its June 29, 2011 meeting, the Commission selected Tribal Gathering Option 1 for integrating traditional tribal gathering into its preferred alternative. This approach allows tribal gathering by federally recognized tribes to continue in SMCAs provided a factual record can be established that shows ancestral and current take in specific SMCAs (or SMRMA). The establishment of area-specific ancestral and current take records within the North Coast Study Region is currently in development. Once this process is complete, the Commission may elect to integrate tribal gathering into the Proposed Project as an allowable use within any or all of the SMCAs. As directed by the Commission, this information will be incorporated into the Proposed Project and considered in the California Environmental Quality Act (CEQA) analysis.

2.2 Proposed Regulation

As referenced above, the Commission selected a preferred alternative for north coast MPAs, which forms the Commission’s Proposed Regulation for the North Coast Study Region. For the purposes of compliance with CEQA, the Proposed Regulation is the “Proposed Project.” The Proposed Project includes a total of 19 MPAs and 1 marine managed area (MMA), a SMRMA, covering approximately 134 sq mi of state waters or about 13% of the north coast region; four of these MPAs are existing MPAs that were retained and modified; the fifth existing MPA, Punta Gorda SMR, is replaced by new MPAs in the vicinity, and therefore would be removed under the Proposed Project. **Table 1** presents a summary of the rationale and proposed regulations of the individual MPAs included in the Proposed Project. **Figure 2** is a map with the Proposed Project MPAs labeled.

Table 1. Characteristics of Proposed Project MPAs

MPA Name	Bioregion	Site Specific Rationale	Proposed Take Regulation
Pyramid Point SMCA	Northern	Designed to capture beach, rocky shore and offshore rocks, and 0-30m soft replicates. Large offshore rocks support Aleutian Canada geese and breeding seabirds, including some of California’s only breeding Fork-tailed Storm-Petrels and Tufted Puffin, a large rookery of Great Blue Heron, Snowy Egret (farthest north in the western U.S.) and Black-crowned Night-Heron. Contains shallow rocky reef important for nearshore rockfish and provides 14 mi ² protected forage habitat for pinnipeds and cetaceans.	Take of all living marine resources is prohibited EXCEPT: -The recreational take of surf smelt by dip net and Hawaiian type throw net; and -Specific non-commercial tribal uses where a factual record of historic and current uses can be established.
Point St. George Reef Offshore SMCA	Northern	Designed to capture replicates for 30-100m hard, 30-100m soft, and extremely rare 100-3,000m soft habitats. The area contains the only offshore banks north of Point Reyes in state waters.	Take of all living marine resources is prohibited EXCEPT: -The recreational take of salmon by trolling; and Dungeness crab by trap; and -The commercial take of salmon with troll fishing gear; and Dungeness crab by trap; and -Specific non-commercial tribal uses where a factual record of historic and current uses can be established.
Reading Rock SMR	Northern	Captures soft 30-100 m habitat and hard 30-100 m habitats. Clustered with Reading Rock SMCA with beaches, rocky shores and soft 0-30 m and is adjacent to Redwood National and State Park lands. Habitat captured here protects both fish species as well as marine mammals.	Take of all living marine resources is prohibited.

Table 1. Characteristics of Proposed Project MPAs

MPA Name	Bioregion	Site Specific Rationale	Proposed Take Regulation
Reading Rock SMCA	Northern	Captures beaches, rocky shores and soft 0-30 m habitats and is clustered with the Reading Rock SMR, which captures soft 30-100 m and hard 30-100 habitats. This MPA is adjacent to Redwood National and State Park lands. Habitat captured here protects both fish species as well as marine mammals.	Take of all living marine resources is prohibited EXCEPT: -The recreational take of salmon by trolling; surf smelt by dip net and Hawaiian type throw net; Dungeness crab by trap, hoop net and hand; and -The commercial take of salmon with troll fishing gear; Dungeness crab by trap; and surf smelt by dip net and Hawaiian type throw net; and -Specific non-commercial tribal uses where a factual record of historic and current uses can be established.
Samoa SMCA	Northern	Necessary to meet beach habitat spacing and replication guidelines. MPA captures beaches, soft 0-30m and soft 30-100m habitats.	Take of all living marine resources is prohibited EXCEPT: -The recreational take of salmon by trolling; surf and night smelt by dip net; and Dungeness crab by trap, hoop net, and hand; surf smelt by cast net; and -The commercial take of salmon with troll fishing gear; surf smelt by dip net and Hawaiian type throw net; and Dungeness crab by trap; and -Specific non-commercial tribal uses where a factual record of historic and current uses can be established.
South Humboldt Bay SMRMA	Northern	Numerous coastal access points make research, long-term monitoring, recreation and enforcement possible. This MPA protects sensitive eelgrass habitat as well as coastal marsh, mudflats and channels that provide habitat for rays and leopard sharks.	Take of all living marine resources is prohibited EXCEPT: -Recreational hunting of waterfowl is allowed unless otherwise restricted by hunting regulations (Sections 502, 550, 551, and 552); and -Specific non-commercial tribal uses where a factual record of historic and current uses can be established.
South Cape Mendocino SMR	Northern	Designed to capture a wide range of biodiversity habitats, protect seabird & pinniped colonies, and provide research opportunities. It captures rocky shores, hard 30-100m and soft 0-30m habitat replicates.	Take of all living marine resources is prohibited.
Mattole Canyon SMR	Northern	Has a variety of diverse habitats including upwelling zones, submarine canyons, offshore reef structures, and improves research opportunities provided by marine ecosystems that are subject to minimal human impacts.	Take of all living marine resources is prohibited.

Table 1. Characteristics of Proposed Project MPAs

MPA Name	Bioregion	Site Specific Rationale	Proposed Take Regulation
Sea Lion Gulch SMR	Southern	This replaces an existing MPA (SMR) at Punta Gorda with a larger SMR. Designed to capture a wide range of biodiversity habitats, protect seabird colonies, and provide research opportunities. Very remote area with limited human usage.	Take of all living marine resources is prohibited.
Big Flat SMCA	Southern	Designed to enhance and preserve rock fish habitat while at the same time posing, due to its remote location, minimal socioeconomic impacts to commercial or recreational fishermen.	Take of all living marine resources is prohibited EXCEPT: -The recreational take of salmon by trolling; Dungeness crab by trap, hoop net and diving; and -The commercial take of salmon with troll fishing gear; and Dungeness crab by trap; and -Specific non-commercial tribal uses where a factual record of historic and current uses can be established.
Double Cone Rock SMCA	Southern	Designed to protect rocky shore habitat. Its high diversity of benthic species, and both hard bottom and soft bottom communities, will help sustain, conserve, and protect marine life populations. It is a rarely visited remote area. Socioeconomic impacts were considered when placing it here. An important crab and salmon area, it is the only preferred sized MPA in the southern bioregion.	Take of all living marine resources is prohibited EXCEPT: -The recreational take of salmon by trolling; Dungeness crab by trap, hoop net and hand; finfish and abalone from shore only; and -The commercial take of salmon with troll fishing gear; and Dungeness crab by trap; and -Specific non-commercial tribal uses where a factual record of historic and current uses can be established.
Ten Mile SMR	Southern	Intended to protect the following marine habitats: rocky shoreline, beaches, offshore islets, surf grass, kelp beds, hard and soft substrates, and is designed to interface with proximate estuarine communities. The reserve also includes pinniped haul-outs, critical nesting and breeding marine bird habitat. This MPA is close to Fort Bragg, with numerous coastal access points making research, long-term monitoring, recreation and enforcement possible.	Take of all living marine resources is prohibited.
Ten Mile Beach SMCA	Southern	Adds protection for soft bottom habitat to the adjacent SMR proposed to the north. Connects the estuarine MPA to the offshore SMR. Accomplishes this while location minimizes socioeconomic impacts to crab fishing from Noyo Harbor.	Take of all living marine resources is prohibited EXCEPT: -The recreational take of Dungeness crab by trap, hoop net and hand; and -The commercial take of Dungeness crab by trap; and -Specific non-commercial tribal uses where a factual record of historic and current uses can be established.

Table 1. Characteristics of Proposed Project MPAs

MPA Name	Bioregion	Site Specific Rationale	Proposed Take Regulation
Ten Mile Estuary SMCA	Southern	Designed to protect fish and bird communities associated with areas of diverse estuarine habitat, larval source, and enhances reproductive capacity of numerous invertebrate species. Protects spawning and nursery grounds for populations that are found offshore. Also protects prime shorebirds and waterfowl habitat, feeding areas for pinnipeds, as well as habitat and transportation corridor for river otters.	Take of all living marine resources is prohibited EXCEPT: -Waterfowl may be taken in accordance with the general waterfowl regulations (Sections 502, 550, 551, and 552); and -Specific non-commercial tribal uses where a factual record of historic and current uses can be established.
MacKerricher SMCA	Southern	This is an existing MPA proposed to be retained and modified to simplify boundaries and take regulations. This MPA is intended to meet Goal 3 of the MLPA based on existing public educational facilities, including a visitor center, and is part of a well-established State Parks underwater parks program.	Commercial take of bull kelp and giant kelp is prohibited. All other take is allowed.
Point Cabrillo SMR	Southern	Designed to protect biodiversity and provide a continuation of goal 3 opportunities. The rapid depth drop-off close to shore, and the presence of urchin, abalone, kelp and other marine species, presents unique underwater features that have been studied by DFG for over 20 years. Expands existing MPA slightly and adjusts to simplify boundaries to meet DFG feasibility guidelines.	Take of all living marine resources is prohibited.
Russian Gulch SMCA	Southern	This is an existing MPA proposed to be retained and modified to simplify boundaries and take regulations. This MPA is intended to meet Goal 3 of the MLPA based on existing public educational facilities, and is part of a well-established State Parks underwater parks program.	Commercial take of bull kelp and giant kelp is prohibited. All other take is allowed.
Big River Estuary SMCA	Southern	Numerous coastal access points make research, long-term monitoring, recreation and enforcement possible. Designed to protect fish and bird communities associated with areas of diverse estuarine habitat, larval source, and enhance reproductive capacity of numerous invertebrate species. Protects spawning and nursery grounds for populations that are found offshore. Also protects prime shorebirds and waterfowl habitat, feeding areas for pinnipeds, as well as habitat and transportation corridor for river otters.	Take of all living marine resources is prohibited EXCEPT: -The recreational take of Dungeness crab by hoop net and hand; and -Specific non-commercial tribal uses where a factual record of historic and current uses can be established.
Van Damme SMCA	Southern	This is an existing MPA proposed to be retained and modified to simplify boundaries and take regulations. This MPA is intended to meet Goal 3 of the MLPA based on existing public educational facilities, including a visitor center, and is part of a well-established State Parks underwater parks program.	Commercial take of bull kelp and giant kelp is prohibited. All other take is allowed.

Table 1. Characteristics of Proposed Project MPAs

MPA Name	Bioregion	Site Specific Rationale	Proposed Take Regulation
Navarro River Estuary SMCA	Southern	Numerous coastal access points make research, long-term monitoring, recreation and enforcement possible. Designed to protect fish and bird communities associated with areas of diverse estuarine habitat, larval source, and enhance reproductive capacity of numerous invertebrate species. Protects spawning and nursery grounds for populations that are found offshore. Also protects prime shorebirds and waterfowl habitat, feeding areas for pinnipeds, as well as habitat and transportation corridor for river otters.	Take of all living marine resources is prohibited, EXCEPT: -Waterfowl may be taken in accordance with the general waterfowl regulations (Sections 502, 550, 551, and 552); and -Specific non-commercial tribal uses where a factual record of historic and current uses can be established.

MPA Sub-Options

In addition, eight of the MPAs within the Proposed Project include MPA boundary or take regulations sub-options for the Commission to make decisions on in the APA process. Boundary sub-options are included for Pyramid Point SMCA, South Humboldt Bay SMRMA, Sea Lion Gulch SMR, and Ten Mile Beach SMCA. Take regulation sub-options are included for Reading Rock, Double Cone Rock SMCA, Big River Estuary SMCA and Navarro River Estuary SMCA.

Special Closures

There are 7 special closures included in the Proposed Project. These areas are separate from the Proposed Alternative, but are intended to be linked to the Proposed Project. Special closures are designated by the Commission in the marine environment to provide geographically specific protection of resources from human activities. In some instances special closures may offer protection, such as to breeding seabird and marine mammal populations, from geographically-specific threats, including disturbance, that are not necessarily addressed by MPAs.

The following special closures are included the Proposed Project (see also Figure 2):

- Southwest Seal Rock Special Closure (year-round)
- Castle Rock Special Closure (year-round)
- False Klamath Rock Special Closure (year-round)
- Sugarloaf Island Special Closure (year-round)
- Steamboat Rock Special Closure (year-round; note this overlaps a proposed MPA)
- Rockport Rocks Special Closure (seasonal closure from March 1 - August 31)
- Vizcaino Rock Special Closure (seasonal closure from March 1 - August 31)

2.3 Proposed Project Alternatives

In compliance with CEQA, alternatives to the Proposed Project must be evaluated. Therefore, the draft environmental impact report (DEIR) will include evaluation of the following alternative proposals presented to the Commission for its selection of the preferred alternative.

Alternative 1 – No Project Alternative (No Change to Existing MPAs)

The No Project Alternative would reflect existing conditions within the project area; existing MPAs in the North Coast Region could continue to be enforced. The existing MPAs are in the southern bioregion of the north coast study area; none are in the northern bioregion (see Figure 1). Punta Gorda SMR is in Humboldt County and MacKerricher SMCA, Point Cabrillo SMCA, Russian Gulch SMCA, and Van Damme SMCA are in Mendocino County. Current regulations include some recreational and/or commercial take of particular species, except in the Punta Gorda SMR which is a no take reserve. The existing MPAs previously established in the study region encompass less than 1% (or 3 mi²) of the study region's coastal waters. In comparison, the proposed preferred alternative would encompass over 13% or 134 mi² of the study region.

Alternative 2 – BRTF Enhanced Compliance Alternative (ECA)

This alternative uses the same geographies as the MPAs in the Proposed Project, but applies Tribal Gathering Option 3 as described above in Section 2.1 to incorporate tribal uses into the proposed SMCAs while increasing protection relative to Tribal Gathering Option 2. To accomplish this, four SMCAs are divided into two MPAs: (1) a nearshore SMCA (to approximately 1,000 feet seaward) and (2) an offshore SMCA. In the nearshore SMCA, all proposed recreational take, including recreational take for all users to provide for non-commercial tribal uses. In the offshore Tribal Gathering Option 3 is a The North Coast ECA Proposal includes 6 SMRs, 3 SMRMAs, 1 SMCA recommended to be designated as SMP, and 11 SMCAs.

3. CEQA and Rulemaking Process

The Department will propose regulations for new MPAs established in the North Coast Study Region for adoption by the Commission pursuant to the MLPA and in accordance with the MMAIA. The proposed Regulations must be promulgated in compliance with the Administrative Procedure Act (APA) (Gov. Code, § 11340 et seq.). The “formal rulemaking” under the APA to promulgate MPA Regulations will run concurrently with the related environmental review required by CEQA. The following discusses the steps in the CEQA and rulemaking process.

3.1 Notice of Preparation

The Department has prepared this Notice of Preparation (NOP) pursuant to CEQA Guidelines section 15082. This NOP presents general background information on the Proposed Project, the scoping process, the environmental issues to be addressed in the EIR, and the anticipated uses of the EIR. The range of environmental issues to be addressed in the EIR may be reduced to include only those topics with potentially significant effects. The MPA Regulations may be refined during the process of preparing the DEIR, depending on, among other things, forthcoming Commission findings and direction related to traditional tribal uses.

3.2 Scoping Meetings

In order for the public and regulatory agencies to have an opportunity to ask questions and submit comments on the scope of the EIR, public scoping meetings will be held during the NOP review period. The scoping meetings will be held in three locations across the study region (Crescent City, Fortuna, and Fort Bragg), and in Sacramento to solicit input from the public and interested public agencies regarding the nature and scope of environmental impacts to be addressed in the DEIR.

All meetings will use the same format, and interested parties may attend one or all meetings. A brief presentation will be made to provide an overview of the MLPA and related process, the background leading to this EIR, the objectives and range of information to be included in the Proposed Project, and the CEQA process in general. Afterwards, meeting attendees will be given an opportunity to provide oral scoping comments to the Department. In addition, written comments will be accepted during the meetings, as well as throughout the 30-day scoping period. Comment forms will be available at the scoping meetings for those who wish to author comments during or after the meeting.

The dates, times, and exact locations of the Scoping Meetings are as follows:

1. Crescent City – Tuesday, September 27, 2011 from 6:30 to 8:00 pm. To be held at the Del Norte County Board Chamber Building (981 H Street, Crescent City, CA 95531);
2. Fortuna – Wednesday, September 28, 2011 from 6:30 to 8:00 pm. To be held at the Fortuna River Lodge (1800 Riverwalk Dr., Fortuna, CA 95540);
3. Fort Bragg – Thursday, September 29, 2011 from 6:30 to 8:00 pm. To be held at the Dana Grey Elementary School (1197 Chestnut St., Fort Bragg, CA 95437); and
4. Sacramento – Tuesday, October 4, 2011 from 6:30 to 8:00 pm. To be held at the Sacramento Department of Health Care Services and Department of Health Building (1500 Capital Avenue, Sacramento, CA 95814)

This Scoping Meeting information will be published in local newspapers and the Department's MLPA website (www.dfg.ca.gov/mlpa) prior to the events.

4. Draft EIR and Draft Regulations

The primary purpose of the EIR is to analyze and disclose the direct and reasonably foreseeable indirect environmental impacts that may occur as a result of the Proposed Project. The draft EIR, as informed by public and agency input, will analyze and disclose the potentially significant environmental impacts associated with establishment of MPAs by the Commission and, where any such impacts are significant, potentially feasible mitigation measures and alternatives that substantially lessen or avoid such effects will be identified and discussed. The DEIR will also inform the Department's development of regulations for the North Coast Study Region MPAs.

Based on the nature and scope of Proposed Project and a preliminary review of known information on potential environmental impacts that may occur as a result of implementing the Proposed Project, some impacts have been deemed not likely to occur, because either no potential exists for significant impacts on these resources, or because the impacts associated with the topic will be addressed in other sections. Such impacts will be dismissed from

consideration in the DEIR. A preliminary description of impacts dismissed from consideration in the DEIR, and the basis for dismissal, are presented in Section 4.1. The impact analyses that *will* be conducted in the DEIR is described in Section 4.2. Opportunities for the public to provide input during this scoping period on the draft impact analysis are described in Section 4.3.

4.1 Topics to be Dismissed from Consideration

Aesthetics

The study region's approximately 225 miles of coastline (straight-line distance) provide natural aesthetic appeal. Mendocino Headlands State Park is the most visited state park in the North Coast Study Region with over 1 million visitors in 2007/2008. The state, county, and city beaches in the North Coast Study Region attract visitors for wildlife viewing and observing of natural scenery. The Proposed Project involves only policy changes and changes to the level of protection of various areas, and no structures would be built. Therefore, the Proposed Project would not result in physical impacts on land-based resources such as scenic highways. The Proposed Project would provide additional protection to wildlife and other natural resources within the North Coast Study Region. Therefore, the Proposed Project would benefit scenic resources for residents and tourists. Overall, no significant aesthetic impacts would be anticipated to result from the Proposed Project.

Geology and Soils

The study region includes unique geologic features, such as rocky shores, beaches of varying grain sizes (gravel to fine-grained), salt marshes, tidal flats, underwater pinnacles, and submarine canyons. These features are the result of active tectonic activity, erosion, and wave action in the surrounding area and provide habitat to marine life and public enjoyment. The Proposed Project would not interfere with these resources or processes, and it would not expose people or structures to adverse effects from seismic ground failure or shaking. The Proposed Project would protect geologic resources and therefore is anticipated to result in a beneficial impact.

Hazards and Hazardous Materials

Existing hazards to the public and environment involving the effects of hazardous materials spills or wildfires would not be altered by the Proposed Project. The Proposed Project also would not interfere with existing emergency response and evacuation plans. Therefore, it is not expected to result in impacts pertaining to hazards or hazardous material. Potential impacts associated with vessels that transport or utilize hazardous materials will be evaluated in the DEIR analysis of vessel traffic impacts.

Mineral Resources

There has been a federal moratorium on new outer continental shelf oil and gas leasing activities off the California coast since 1982 and a ban on issuing new state oil and gas leases in state tidelands since 1989. The federal moratorium is based on annual Congressional appropriations bans on using federal funds to plan or support offshore leasing in California, Florida, and the eastern seaboard. The ban on leasing state tidelands for oil and gas exploration and production is based on several actions, including the previously mentioned 1989 decision of the State Lands Commission (SLC), which has jurisdiction over all state property. This ban was also a result of the California Sanctuary Act of 1994 (PRC 6240 et seq.), which prohibits leasing of any state tidelands, with exceptions. Although the federal moratorium and California state ban on issuing new offshore leases are both subject to change, oil and gas exploration and production in state tidelands are currently prohibited. Because any future conflicts are

speculative, the Proposed Project would be considered to have no impact on mineral resources.

Noise

Noise thresholds focusing on local general plans, noise ordinances, and land-based sensitive receptors are not applicable to this ocean-based project. A threshold of significance for noise impacts could be described as any noise created by the Proposed Project that would disturb the nesting, breeding, or feeding of marine species. No such effects are anticipated because increases in vessel traffic are not anticipated, and because shifts in locations of fishing activity to areas outside the proposed MPAs would not change the noise level resulting from such activities beyond what normally occurs in the existing conditions. Additionally, the Proposed Project designates Special Closure areas around ecologically important marine mammal haul outs and seabird rookeries; this further reduces any potential for noise-related disturbances in proximity to these resources. As such, the Proposed Project is not expected to result in noise-related impacts.

Population and Housing

The Proposed Project consists of changes in allowable fishing and other uses within defined water along a portion of the California coast. Though these changes may result in economic impacts to commercial fishing interests and ocean-dependent fishing businesses, these impacts have been evaluated and minimized during the design of the Proposed Project. The Proposed Project would not induce substantial population growth in the project area or cause a substantial change to the availability of housing in the project area or elsewhere. No substantial adverse impacts on population and housing are expected from the Proposed Project.

4.2 Environmental Topics to be Evaluated

The EIR will address potential environmental impacts associated with Agricultural Resources; Air Quality; Biological Resources; Cultural Resources; Global Climate Change and Greenhouse Gas Emissions; Public Services and Utilities; Recreation; Research and Education; Vessel Traffic; and Water Quality. Additionally, the EIR will evaluate several topics not typically evaluated under CEQA, specifically, Consumptive Uses and Environmental Justice. Mitigation measures will be proposed to avoid or reduce identified impacts, where reasonably feasible. The EIR will also analyze these topics in consideration of potential cumulative impacts and project alternatives. Each topic is briefly discussed below.

Agricultural Resources

The analysis of agricultural resources typically relates to the cultivation of land or raising of livestock. The Proposed Project would apply to state marine and estuarine waters and therefore would not interfere with lands zoned for agricultural use. The Proposed Project would also not result in direct conversion of farmland to nonagricultural use. The Proposed Project would, however, potentially affect aquaculture farming practices, such as oyster farming and kelp harvesting activities. Impacts on these agricultural-related activities from the Proposed Project will be evaluated in the DEIR.

Air Quality

The Proposed Project may result in fishing vessels travelling to different locations which are outside of the designated MPAs. Potential increases in trip length and resulting emissions of combustion-related particles will be analyzed to determine if there would be conflicts with existing air quality management plans, violations to any air quality standards or a substantial contribution to an existing or projected air quality violation, an increase in nonattainment

criteria pollutants, an increase of exposure of sensitive receptors to substantial pollutant concentrations, or an increase in objectionable odors that would affect a substantial number of people.

Biological Resources

The Proposed Project was designed to help sustain, conserve and protect marine life populations, including those of economic value, and rebuild those that are depleted. The Proposed Project was also designed to protect marine natural heritage, including protection of representative and unique marine life habitats in California waters for their intrinsic values. As such, impacts to marine resources have been reviewed and taken into account during the design of the Proposed Project. Nevertheless, the DEIR will include an analysis of potential direct and indirect impacts to natural communities, such as wetland, aquatic, and terrestrial environments, and species listed under the Federal and the California Endangered Species Acts from the Proposed Project. The DEIR will also include an evaluation of potential effects on wetlands or other sensitive habitats, and the movement of or restriction in the range of any native species, and effects on life history requirements of native species. Lastly, analysis of potential effects on expansion of invasive species due to the Proposed Project will be conducted.

Consumptive Uses

Though not directly required by CEQA, the DEIR will review consumptive uses and socioeconomic considerations in the project area. An analysis of potential changes in congestion and displacement related to consumptive uses, including commercial and recreational fisheries, and potential adverse effects on those consumptive uses and will be conducted in the DEIR.

Cultural Resources

Archeological sites and cultural resources are located throughout the North Coast Study Region. The cultural resources analysis section will be prepared in accordance with the requirements of the CEQA guidelines for determining impacts to archeological and historic resources (Title 14 CCR §15064.5), as well as traditional cultural properties (TCPs; sites associated with cultural practices or beliefs of a living community) and/or tribal practices. The DEIR will determine if the Proposed Project either directly or indirectly results in substantial adverse changes in the significance of archeological or historic resources, or results in substantial adverse changes to TCPs or tribal practices. Analysis will also be conducted to determine if the Proposed Project would directly or indirectly disturb any known human remains or destroy a unique paleontological or geological site or feature.

Environmental Justice

Though not directly required by CEQA, a review of potential impacts of the Proposed Project and alternatives on economically-disadvantaged communities will be analyzed in the DEIR. In addition, the Proposed Project and alternatives will be reviewed to determine if they result in fair and equitable treatment of individuals regardless of race, ethnicity, or income.

Global Climate Change and Greenhouse Gas Emissions

An analysis of global climate change and greenhouse gas emissions will be described in the DEIR. Changes in vessel traffic resulting from the Proposed Project may alter the net amounts of greenhouse gases which contribute to global climate change. The DEIR will compare the projected emissions resulting from the Proposed Project with State plans and policies regarding reducing greenhouse gas emissions.

Land Use

For the most part, local government general plans, policies, and zoning ordinances do not apply to the state waters located within the North Coast Study Region. Land use designations do not currently exist for the various proposed MPA network component locations. Furthermore, the Proposed Project would not physically divide an established community or conflict with habitat conservation or natural community conservation plans, because these are terrestrial-based considerations that do not apply to state waters in the north coast.

However, the DEIR will examine any potential conflicts with land uses regulated by the California Coastal Commission (CCC) and the State Lands Commission (SLC). The CCC is responsible for administering the California Coastal Act and federally approved California Coastal Management Program pursuant to the Coastal Zone Management Act. The CCC implements Coastal act policies that address issues such as public access and recreation, natural resource protection, agricultural operation, coastal development projects, port activities, and energy production. The SLC has the authority and responsibility to manage and protect the important natural and cultural resources on certain public lands within the state and the public's rights to access these lands. The SLC's jurisdiction includes rivers, lakes and coastal waters. Public and private entities may apply to the SLC for leases or permits on state lands for many purposes including marinas, industrial wharves, dredging, sand mining, tanker anchorages, grazing, right-of-ways, bank protection, and recreational uses. Specific examples of leases administered by the SLC include private recreational piers, commercial marinas, yacht clubs, marine terminals, industrial wharves, fiber optic cables, outfalls, and river bank stabilization. Furthermore, the SLC strives to protect the historical value and environmental integrity of shipwreck sites, while providing some recovery by both public and private individuals. In the North Coast Study Region the SLC issue leases for several underwater parks that are sites of shipwrecks and/or historic shell middens and administer permits for utility cables and bridges that pass through some areas of the Proposed Project. The DEIR land use section will discuss any conflicts between the Proposed Project and the existing permits and leases.

Public Services and Utilities

An analysis of the direct or indirect impacts to public services and utilities from the Proposed Project will be included in the DEIR. These analyses will include an evaluation of potential impacts on the need for new governmental facilities or services. The Proposed Project proposes to add new MPAs and place greater fishing and use restrictions on existing MPAs. Possible impacts to public services due to the increased need for enforcement of these restrictions will be reviewed in the DEIR. Additionally, potential conflicts with electric-generating projects involving use of ocean currents or tides, such as hydrokinetic projects, will be evaluated. Issues related to impacts to Publicly Owned Treatment Works will be discussed in the water quality section of the DEIR.

Recreation

Many recreational activities occur in the North Coast Study Region including sailing, diving, sightseeing, hiking, surfing, kayaking, canoeing, kite flying and whale watching. This section of the DEIR will analyze whether the Proposed Project would directly or indirectly lead to an increase, decrease, or concentration in the use of coastal waters within MPAs or other recreational facilities, such that substantial physical deterioration of coastal waters or other recreational facilities would occur or be accelerated. In addition, the DEIR will analyze whether the Proposed Project would require the construction or expansion of recreational facilities that would adversely affect the environment.

Research and Education

The North Coast Study Region is an important location for ongoing scientific research and education including studies of intertidal ecology, the pelagic zone, and the deep ocean. This DEIR will analyze whether the Proposed Project will impact scientific or educational facilities or require the construction or expansion of scientific or educational facilities that would adversely impact the environment. It will also analyze whether the Proposed Project would decrease research and educational opportunities the North Coast Study Region.

Vessel Traffic

Prohibiting certain uses within the MPAs may indirectly impact existing travel patterns within the study region, even if vessel traffic is not directly prohibited. The Proposed Project will be analyzed to determine whether increased oceanic hazards, in particular due to changes in vessel traffic concentration such as congestion, or the disruption of existing vessel traffic patterns and marine navigation, would significantly impact the environment.

Water Quality

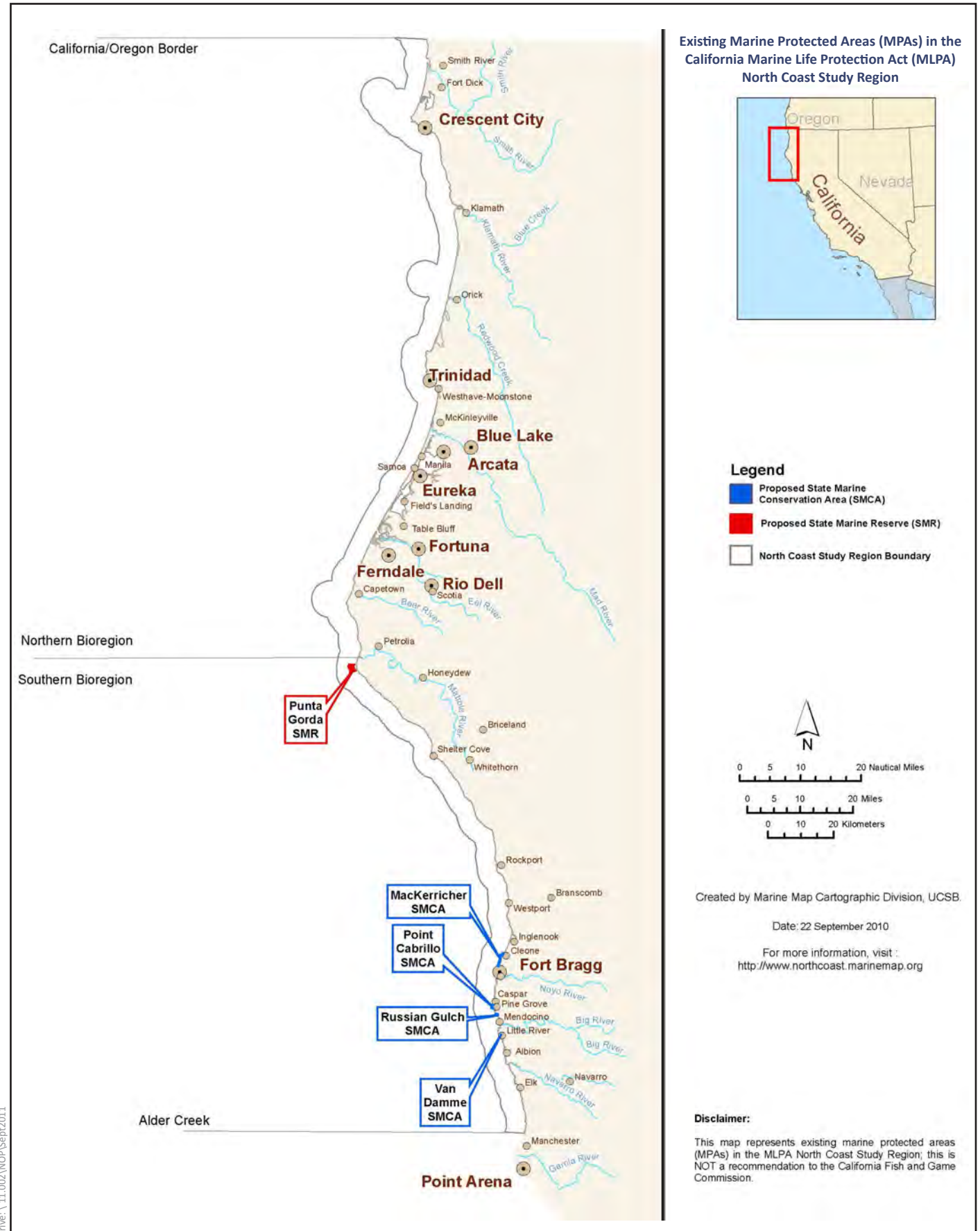
Coastal water quality was taken into consideration during the planning process of the Proposed Project. The Proposed Project is not expected to alter the land-based human-induced discharges of contaminants to ocean waters. However, this DEIR will examine the potential for conflicts between existing facilities operations and permitting and the proposed MPAs and determine whether the Proposed Project would violate any water quality standards or waste discharge requirements, or otherwise substantially degrade water quality.

4.3 Public Meetings on Draft EIR and Regulations

Once the DEIR and draft Regulations are completed, they will undergo public review for a minimum of 60 days. The Commission is also planning to hold public meeting(s) to receive comments on the DEIR in conjunction with draft Regulations discussion hearing(s). The meeting format, agenda, dates, times, and locations of these meetings will be made available to the public prior to the events. Meeting information will be posted on the Commission's MLPA website (<http://www.fgc.ca.gov>) prior to the events.

5. Final EIR and Proposed Regulations

Written and oral comments received in response to the DEIR will be addressed in a Response to Comments document which, together with the DEIR, will constitute the Final EIR. In addition, the Department will consider the comments received to refine, as necessary, the proposed Regulations. The Final EIR, in turn, will inform the Commission's exercise of discretion as a lead agency under CEQA in deciding whether or how to approve the Proposed Project and associated regulations.



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Figure 1
Project Location and Existing Conditions

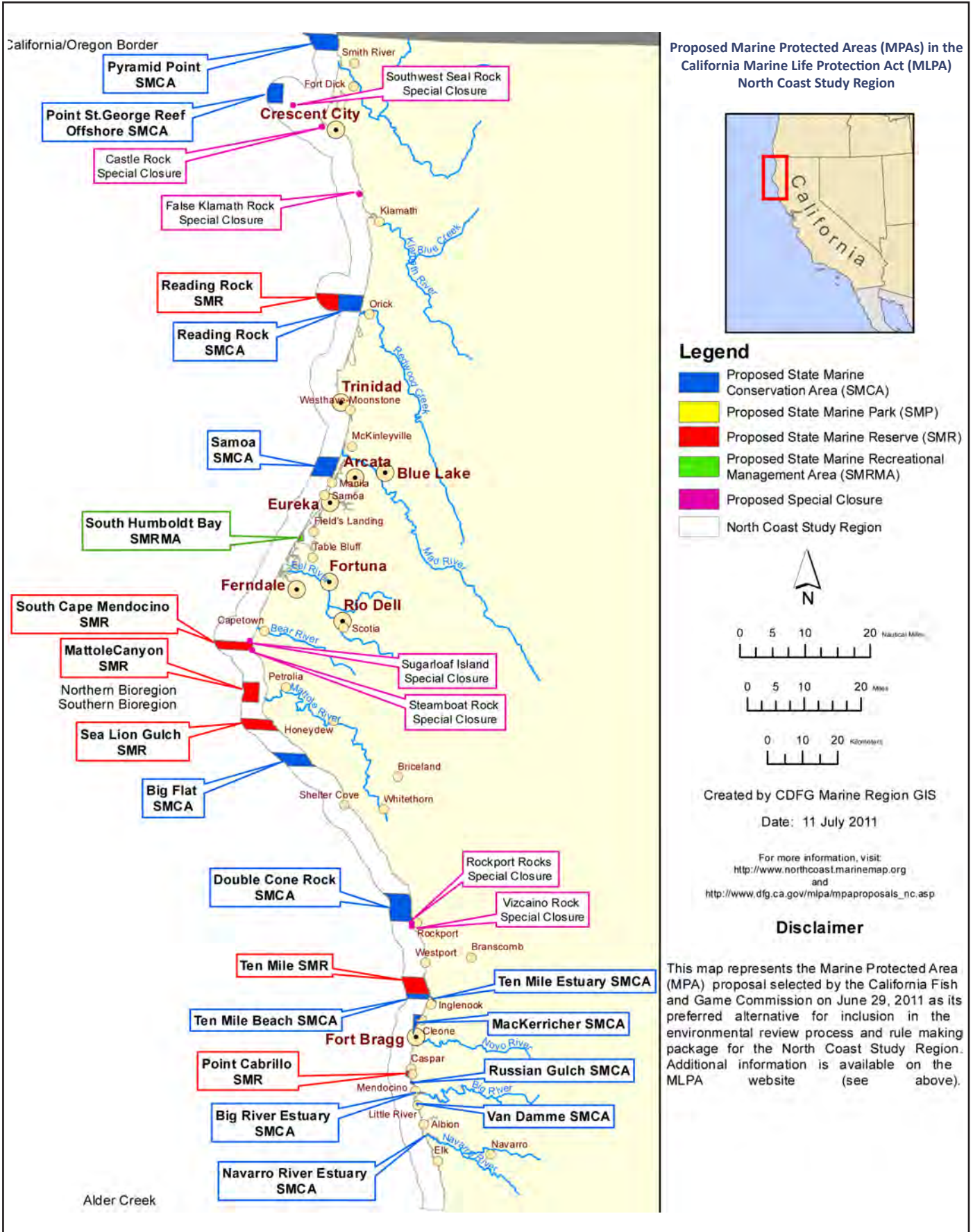


Figure 2
Proposed Project

NOP Correction Letter

September 16, 2011

Re: Correction to Notice of Preparation for the Marine Life Protection Act North Coast Study Region EIR.

To Interested Parties:

In compliance with the California Environmental Quality Act (CEQA), a Notice of Preparation (NOP) was recently distributed for the *Marine Life Protection Act North Coast Study Region EIR*. The NOP contained incorrect dates for the scoping meetings on Page 11 of Attachment A.

The correct dates, times, and exact locations of the Scoping Meetings are as follows:

1. Crescent City – **Monday, September 26, 2011** from 6:30 to 8:00 pm. To be held at the Del Norte County Board Chamber Building (981 H Street, Crescent City, CA 95531);
2. Fortuna – **Tuesday, September 27, 2011** from 6:30 to 8:00 pm. To be held at the Fortuna River Lodge (1800 Riverwalk Dr., Fortuna, CA 95540);
3. Fort Bragg – **Wednesday, September 28, 2011** from 6:30 to 8:00 pm. To be held at the Dana Grey Elementary School (1197 Chestnut St., Fort Bragg, CA 95437); and
4. Sacramento – Tuesday, October 4, 2011 from 6:30 to 8:00 pm. To be held at the Sacramento Department of Health Care Services and Department of Health Building (1500 Capital Avenue, Sacramento, CA 95814)

Note that the times and meeting locations for all meetings has not changed. The date for the Sacramento meeting was correct. Also note that the scoping meeting information published in local newspapers had the correct dates.

We look forward to receiving your input on the environmental analysis of the proposed project.

Sincerely,



Michael Stevenson, M.S.
Principal

Appendix A2

NOTICE OF PREPARATION MAILING LIST

Yurok Tribe
190 Klamath Blvd
PO Box 1027
Klamath, CA 95548

InterTribal Sinkyone Wilderness Council
P.O. Box 1523
Ukiah, CA 95482

Cher-Ae Heights Indian Community of the
Trinidad Rancheria
P.O. Box 1523
Ukiah, CA 95482

Potter Valley Tribe
Environmental Office
2251 S State Street
Ukiah, CA 95482

Elk Valley Rancheria
2332 Howland Hill Rd
Crescent City, CA 95531

Wiyot Tribe
1000 Wiyot Dr
Loleta, CA 95551

Russ Crabtree
Smith River Rancheria
140 Rowdy Creek Road
Smith River CA 95567

Recorder's Office
981 H Street, Suite 160
Crescent City, CA 95531

Humboldt County Recorder
825 5th Street Fifth Floor
Eureka, CA 95501

Mendocino County Assessor-County
Clerk-Recorder
501 Low Gap Rd., Room 1020
Ukiah, CA 95482

Pacific Fishery Management Council
7700 NE Ambassador Place
Suite 200
Portland, OR 97220

City of Crescent City
377 J St.
Crescent City, CA 95531

City of Eureka
ATTN: Mike Jones
240 Trinity St.
Eureka, CA 95501

City of Fort Bragg
120 Jewett St.
Fort Bragg, CA 95437

National Park Service
ATTN: Keith Bensen
PO Box 7
Orick, CA 95555

Bureau of Indian Affairs
Pacific Regional Office
2800 Cottage Way
Sacramento, CA 95825

NOAA National Marine Fisheries Service
Northwest Regional Office
7600 Sand Point Way NE
Seattle, WA 98115

Assemblymember Wesley Chesbro
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0001

Senator Noreen Evans
State Capitol
1303 10th Street
Sacramento, CA 95814

Crescent City Harbor District
Harbormaster
101 Citizen's Dock Rd.
Crescent City, CA 95531

Woodley Island Marina
ATTN: Harbormaster
PO Box 1030
Eureka, CA 95502

Humboldt Bay Harbor
Recreation, and Conservation District
P.O. Box 1030
Eureka, CA 95502

Lost Coast Landing
PO Box 111
Whitethorn, CA 95589

Noyo Harbor District
ATTN: Manager
19101 S. Harbor Dr.
Fort Bragg, CA 95437

Del Norte County Library District
ATTN: Reference Librarian
190 Price Mall
Crescent City, CA 95531

Mendocino County Library
105 N. Main St.
Ukiah, CA 95482

Willits Branch Library
390 E. Commercial St.
Willits, CA 95490

Humboldt County Eureka Branch Library
1313 3rd Street
Eureka, CA 95501

Humboldt County Ferndale Branch Library
P.O. Box 397
Ferndale, CA 95536

Humboldt County Hoopa Branch
Kim Yerton Memorial Library
P.O. Box 1407
Hoopa, CA 95546

Humboldt County Trinidad Branch Library
463 Trinity Street
Trinidad, CA 95570

Fort Bragg Branch Library
499 Laurel St.
Fort Bragg, CA 95437

Coast Community Branch Library
225 Main St.
Pt. Arena, CA 95468

Sacramento Public Library
ATTN: CA State Documents
828 I St.
Sacramento, CA 95814

Sacramento State Library
ATTN: Government Documents
914 Capitol Mall
Sacramento, CA 95814

Sea Grant Extension Program
James Waldvogel
586 G St.
Crescent City, CA 95531-3735

Sea Grant Extension Program
Susan Schlosser
2 Commercial St., # 4
Eureka, CA 95501

California Department of Fish & Game
ATTN: Front Desk
619 Second St.
Eureka, CA 95501

California Department of Fish & Game
ATTN: Front Desk
19160 S. Harbor Dr.
Fort Bragg, CA 95437

Del Norte County Library
Smith River Branch
241 First Street
Smith River, CA 95567

Rio Dell Library
715 Wildwood Avenue
Rio Dell, CA 95562-1321

Round Valley Public Library
P.O. Box 620
Covelo, CA 95428

Bear River Band of Rohnerville Rancheria
27 Bear River Dr.
Loleta, CA 95551

Tolowa Nation
P.O. Box 213
Fort Dick, CA 95538

Noyo River Indian Community
ATTN: Valerie Stanley
510 Acorn Place
Willits, CA 95490

San Francisco District
US Army Corps of Engineers
1455 Market Street
San Francisco, CA 94103-1398

US Fish and Wildlife Service
Region 8 - Pacific Southwest Regional Office
2800 Cottage Way Room W-2606
Sacramento, CA 95825

NOAA National Marine Fisheries Service
Southwest Regional Office
501 West Ocean Blvd.
Long Beach, CA 90802-4213

US Fish and Wildlife Service
Humboldt Bay National Wildlife Service
PO Box 576
1020 Ranch Rd.
Loleta, CA 95551-9633

Anna Kimber, Esq.
Law Office of Anna Kimber
8303 Mount Vernon Street
Lemon Grove, CA 91945

Jacque Hostler, CEI
Trinidad Rancheria
P.O. Box 630
Trinidad, CA 95570

Appendix A3

NOTICE OF PREPARATION EMAIL NOTICING

Email List

First	Last	Title	Tribe/Tribal Community	Email	Notes
Leonard	Bowman, Jr.	Chairperson	Bear River Band of Rohnerville Rancheria	lbowman@bearriver.com	
Edwin	Smith	Council Member-at-Large & EPA Director	Bear River Band of Rohnerville Rancheria	enviro@bearrivertribe.com	
Michael	Lincoln		Bear River Band of Rohnerville Rancheria	language@bearrivertribe.com	
Virgil	Moorehead	Chairperson	Big Lagoon Rancheria	vmoorehead@earthlink.net	
Claudia	Brundin	Chairperson	Blue Lake Rancheria	blrt@tidepool.com	
Cherie	Smith-Gibson	Tribal Administrator	Cahto Tribe of Laytonville Rancheria	ta@cahto.org	
Cristy	Taylor	Chairwoman	Cahto Tribe of Laytonville Rancheria	chairwoman@cahto.org	
Atta	Stevenson	Member	Cahto Tribe of Laytonville Rancheria	atta.mlpa@gmail.com	
Brock	Richards	Environmental Coordinator	Elk Valley Rancheria	brichards@elk-valley.com	
Dale	Miller	Chairperson	Elk Valley Rancheria	dmiller@elk-valley.com	
Gerry	Nailon	Chief Executive Officer	Elk Valley Rancheria	Gnailon@elk-valley.com	
Brad	Downes	Legal Counsel	Elk Valley Rancheria	bdownes@bdrlaw.com	
Sherry	Treppa-Bridges	Chairperson	Habematolel Pomo of Upper Lake	sherrybridges@sbcglobal.net	
Leonard	Masten, Jr.	Chairman	Hoopa Valley Tribe	leonardmasten@hotmail.com	
Benjamin	Henthorne	EPA Program Coordinator	Hopland Rancheria Band of Pomo Indians	bhenthorne@hoplandtribe.com	
Hawk	Rosales	Executive Director	InterTribal Sinkyone Wilderness Council	director@sinkyone.org	
Priscilla	Hunter	Chairperson	InterTribal Sinkyone Wilderness Council	intertribalsinkyone@sbcglobal.net	
Curtis G.	Berkey	Legal Counsel	InterTribal Sinkyone Wilderness Council	cberkey@abwwlaw.com	
Arch	Super	Chairperson	Karuk Tribe of California	asuper@karuk.us	
Daniel	Beltran	Chairperson	Lower Lake Rancheria	ir@koination.com	
Nelson	Pinola	Chairperson	Manchester-Point Arena Band of Pomo Indians	basket@mcn.org	
Harriet L.	Stanley-Rhoades	Spokesperson	Noyo River Indian Community	noyojetty1@earthlink.net	Mailed to Valerie Stanley
Leona	Williams	Chairperson	Pinoleville Pomo Nation	tadmin@pinoleville.org	
Salvador	Rosales	Chairperson	Potter Valley Tribe	pvtepadirector@pottervalleytribe.com	Mailed to Potter Valley Tribe Environmental Office
Frank	Dowd	Chairperson	Resighini Rancheria/Coast Indian Community	k.dowd6@verizon.net	
Tracy	Avila	Chairperson	Robinson Rancheria of Pomo Indians	tavilabasket@yahoo.com	
Carlino	Bettega	President	Round Valley Indian Tribes	esecretary@roundvalleyindiantribes.com	
Donald	Arnold	Chairperson	Scotts Valley Band of Pomo Indians	brownbearda@hotmail.com	
Mike	Fitzgerral	Chairperson	Sherwood Valley Rancheria Band of Pomo Indians	svadministrator@sbcglobal.net	

Scarlett	Carmona	Tribal Administrator	Sherwood Valley Rancheria Band of Pomo Indians	svradministrator@sbcglobal.net	
Kara	Brundin-Miller	Chairperson	Smith River Rancheria	kara.miller@tolowa-nsn.gov	
Russ	Crabtree	Tribal Administrator	Smith River Rancheria	russ.crabtree@tolowa-nsn.gov	
Anna	Kimber	Legal Counsel	Smith River Rancheria	sports111@aol.com	
Garth	Sundberg	Chairperson	Trinidad Rancheria/Cher-Ae Heights Indian Community	susie@trinidadrancheria.com	
Jacque	Hostler	Chief Executive Officer	Trinidad Rancheria/Cher-Ae Heights Indian Community	Cherae.roads@gmail.com	
Shirley	Laos	Vice Chair	Trinidad Rancheria/Cher-Ae Heights Indian Community	slaos@trinidadrancheria.com	
Tim	Seward	Legal Counsel	Trinidad Rancheria/Cher-Ae Heights Indian Community	tseward@hobbsstrauss.com	
Ted	Hernandez	Chairperson	Wiyot Tribe	wiyotone@yahoo.com	
Nick	Angeloff	CEO	Wiyot Tribe	CEO@wiyot.us	
Stephen	Kullman	Environmental Director	Wiyot Tribe	stephen@wiyot.us	
Tom	Tipton		Wiyot Tribe	Thomas.tipton@dhcs.ca.gov	
John	Gonzales	Executive Director	Yurok Tribe	jgonzales@yuroktribe.nsn.us	
John	Corbett	Senior Attorney	Yurok Tribe	JohnC@yuroktribe.nsn.us	
Thomas	O'Rourke, Sr.	Chairman	Yurok Tribe	mtripp@yuroktribe.nsn.us	
Alicia	McQuillen		Yurok Tribe	amcquillen@yuroktribe.nsn.us	

Email Notifications

Attachments included documents which are contained in Appendix A

From: MLPA CEQA

Sent: Tuesday, September 13, 2011 4:01 PM

To: cberkey@abwwlaw.com; intertribalsinkyone@sbcglobal.net; director@sinkyone.org; JohnC@yuroktribe.nsn.us; lvanzetti@yuroktribe.nsn.us; torourke@yuroktribe.nsn.us; tipina@yuroktribe.nsn.us; jgonzales@yuroktribe.nsn.us; amcquillen@yuroktribe.nsn.us; bdownes@bdlaw.com; dmiller@elk-valley.com; Gnailon@elk-valley.com; sports111@aol.com; kara.miller@tolowa-nsn.gov; russ.crabtree@tolowa-nsn.gov; tseward@hobbsstrauss.com; aatkins@trinidadrancheria.com; cherae.roads@gmail.com; stephen@wiyot.us; Supermanagertaco@yahoo.com; CEO@wiyot.us; Thomas.tipton@dhcs.ca.gov; lbowman@bearrivertribe.com; enviro@bearrivertribe.com; language@bearrivertribe.com
Subject: Notice of preparation of CEQA environmental document regarding the Marine Life Protection Act - North Coast Study Region

To Interested Parties:

The California Fish and Game Commission (Commission) will be the lead agency reviewing and potentially adopting proposed regulations for marine protected areas (MPAs) in State waters within the northern California coast region. Pursuant to the requirements of the California Environmental Quality Act (CEQA), the Department of Fish and Game (Department) will prepare a CEQA equivalent draft environmental document for the Commission regarding the Proposed Project. Further information on the Proposed Project is posted on the Department's MLPA website: www.dfg.ca.gov/mlpa.

Please find the enclosed Notice of Preparation (NOP) including a summary description of the Proposed Project in Attachment A. The Department is requesting your input in the scope and content of the environmental information which you feel is germane to the subject project.

The Department will also hold four public scoping meetings on the development of the draft environmental document. The dates, times, and exact locations of the scoping meetings are as follows:

1. Crescent City - Tuesday, September 27, 2011 from 6:30 to 8:00 pm. at the Del Norte County Board Chamber Building (981 H Street, Crescent City, CA 95531);
2. Fortuna - Wednesday, September 28, 2011 from 6:30 to 8:00 pm. at the Fortuna River Lodge (1800 Riverwalk Dr., Fortuna, CA 95540);
3. Fort Bragg - Thursday, September 29, 2011 from 6:30 to 8:00 pm. at the Dana Grey Elementary School (1197 Chestnut St., Fort Bragg, CA 95437); and
4. Sacramento - Tuesday, October 4, 2011 from 6:30 to 8:00 pm. at the Sacramento Department of Health Care Services and Department of Health Building (1500 Capital Avenue, Sacramento, CA 95814)

Your response relative to the scope of the environmental document must be sent at the earliest possible date, but postmarked no later than 5:00 p.m. on October 14, 2011 in order for your comments to be considered in the environmental document.

Please send responses to this Notice of Preparation to:

"MLPA North Coast CEQA Scoping Comments"
California Department of Fish and Game
c/o Horizon Water and Environment
P.O. Box 2727
Oakland, CA 94602

Comments may also be submitted via email to: MLPAcomments@HorizonWater.com or simply "reply" to this email.

Your comments should include your name, address, and daytime telephone number so a representative of the Department can contact you if clarifications regarding your comments are required.

Sincerely,

Horizon Water and Environment, LLC on behalf of the Department of Fish and Game

From: MLPA CEQA

Sent: Friday, September 16, 2011 2:58 PM

To: cberkey@abwwlaw.com; intertribalsinkyone@sbcglobal.net; director@sinkyone.org; JohnC@yuroktribe.nsn.us; lvanzetti@yuroktribe.nsn.us; torourke@yuroktribe.nsn.us; tipina@yuroktribe.nsn.us; jgonzales@yuroktribe.nsn.us; amcquillen@yuroktribe.nsn.us; bdownes@bdlaw.com; dmiller@elk-valley.com; Gnailon@elk-valley.com; sports111@aol.com; kara.miller@tolowa-nsn.gov; russ.crabtree@tolowa-nsn.gov; tseward@hobbsstrauss.com; aatkins@trinidadrancheria.com; cherae.roads@gmail.com; stephen@wiyot.us; Supermanagertaco@yahoo.com; CEO@wiyot.us; Thomas.tipton@dhcs.ca.gov; lbowman@bearrivertribe.com; enviro@bearrivertribe.com; language@bearrivertribe.com

Subject: Correction to the NOP for the MLPA North Coast Study Region EIR - Updated Scoping Meeting Dates

To Interested Parties:

In compliance with the California Environmental Quality Act (CEQA), a Notice of Preparation (NOP) was recently distributed for the Marine Life Protection Act North Coast Study Region EIR. The NOP contained incorrect dates for the scoping meetings on Page 11 of Attachment A.

The correct dates, times, and exact locations of the Scoping Meetings are as follows:

1. Crescent City – Monday, September 26, 2011 from 6:30 to 8:00 pm. To be held at the Del Norte County Board Chamber Building (981 H Street, Crescent City, CA 95531);
2. Fortuna – Tuesday, September 27, 2011 from 6:30 to 8:00 pm. To be held at the Fortuna River Lodge (1800 Riverwalk Dr., Fortuna, CA 95540);
3. Fort Bragg – Wednesday, September 28, 2011 from 6:30 to 8:00 pm. To be held at the Dana Grey Elementary School (1197 Chestnut St., Fort Bragg, CA 95437); and
4. Sacramento – Tuesday, October 4, 2011 from 6:30 to 8:00 pm. To be held at the Sacramento Department of Health Care Services and Department of Health Building (1500 Capital Avenue, Sacramento, CA 95814)

Note that the times and meeting locations for all meetings has not changed. The date for the Sacramento meeting was correct. Also note that the scoping meeting information published in local newspapers had the correct dates.

We look forward to receiving your input on the environmental analysis of the proposed project.

Sincerely,
Horizon Water and Environment, LLC

From: MLPA CEQA

Sent: Monday, September 19, 2011 12:46 PM

To: vmoorehead@earthlink.net; blrt@tidepool.com; ta@cahto.org; chairwoman@cahto.org; atta.mlpa@gmail.com; brichards@elk-valley.com; sherrybridges@sbcglobal.net; leonardmasten@hotmail.com; bhenthorne@hoplandtribe.com; asuper@karuk.us; ir@koination.com; basket@mcn.org; noyojetty1@earthlink.net; tadmin@pinoleville.org; pvtepadirector@pottervalleytribe.com; k.dowd6@verizon.net; tavidbasket@yahoo.com; esecretary@roundvalleyindiantribes.com; brownbearda@hotmail.com; svradministrator@sbcglobal.net; slaos@trinidadrancheria.com

Subject: Notice of preparation of CEQA environmental document regarding the Marine Life Protection Act - North Coast Study Region

To Interested Parties:

The California Fish and Game Commission (Commission) will be the lead agency reviewing and potentially adopting proposed regulations for marine protected areas (MPAs) in State waters within the northern California coast region. Pursuant to the requirements of the California Environmental Quality Act (CEQA), the Department of Fish and Game (Department) will prepare a CEQA equivalent draft environmental document for the Commission regarding the Proposed Project. Further information on the Proposed Project is posted on the Department's MLPA website: www.dfg.ca.gov/mlpa.

Please find the enclosed Notice of Preparation (NOP) including a summary description of the Proposed Project in Attachment A. The Department is requesting your input in the scope and content of the environmental information which you feel is germane to the subject project.

Note that the NOP contains incorrect dates for the scoping meetings on Page 11 of Attachment A. Therefore, also attached is a letter correcting the dates for the scoping meetings.

The correct dates, times, and exact locations of the Scoping Meetings are as follows:

1. Crescent City – Monday, September 26, 2011 from 6:30 to 8:00 pm. To be held at the Del Norte County Board Chamber Building (981 H Street, Crescent City, CA 95531);
2. Fortuna – Tuesday, September 27, 2011 from 6:30 to 8:00 pm. To be held at the Fortuna River Lodge (1800 Riverwalk Dr., Fortuna, CA 95540);
3. Fort Bragg – Wednesday, September 28, 2011 from 6:30 to 8:00 pm. To be held at the Dana Grey Elementary School (1197 Chestnut St., Fort Bragg, CA 95437); and
4. Sacramento – Tuesday, October 4, 2011 from 6:30 to 8:00 pm. To be held at the Sacramento Department of Health Care Services and Department of Health Building (1500 Capital Avenue, Sacramento, CA 95814)

Also note that the scoping meeting information published in local newspapers had the correct dates.

Your response relative to the scope of the environmental document must be sent at the earliest possible date, but postmarked no later than 5:00 p.m. on October 14, 2011 in order for your comments to be considered in the environmental document.

Please send responses to this Notice of Preparation to:

"MLPA North Coast CEQA Scoping Comments"
California Department of Fish and Game
c/o Horizon Water and Environment
P.O. Box 2727
Oakland, CA 94602

Comments may also be submitted via email to: MLPAcomments@HorizonWater.com or simply "reply" to this email.

Your comments should include your name, address, and daytime telephone number so a representative of the Department can contact you if clarifications regarding your comments are required.

We look forward to receiving your input on the environmental analysis of the proposed project.

Sincerely,
Horizon Water and Environment, LLC on behalf of the Department of Fish and Game

Appendix A4

SCOPING MEETING NEWSPAPER ADS

Join us for a
CEQA scoping meeting
on the
Marine Life Protection Act
North Coast Study Region EIR

On September 12th 2011, the California Department of Fish and Game filed a Notice of Preparation of an Environmental Impact Report (EIR) for the Marine Life Protection Act North Coast Study Region. The purpose of these scoping meetings is to solicit input on the range of actions, alternatives, significant environmental effects and mitigations to be discussed in the draft EIR.

There will be four meetings, as follows:

Monday September 26th ❖ 6:30 p.m.
Del Norte County Board Chamber Building
981 H Street
Crescent City, CA 95531

Tuesday September 27th ❖ 6:30 p.m.
Fortuna River Lodge
1800 Riverwalk Dr.
Fortuna, CA 95540

Wednesday September 28th ❖ 6:30 p.m.
Dana Grey Elementary School
1197 East Chestnut Street
Ft. Bragg, CA 95437

Tuesday October 4th ❖ 6:30 p.m.
Sacramento Department of Health Care Services and
Department of Public Health Building
1500 Capitol Avenue
Sacramento, CA 95814

Website: <http://www.dfg.ca.gov/mlpa>

Will you need an accommodation in order to attend and/or participate in this event? If so, please contact Horizon Water and Environment at (510) 986-1850. Auxiliary aides and services are available to individuals with disabilities upon request.

Newspaper Ad Proof of Publication

PROOF OF PUBLICATION

(2015.5 C.C.P.)

STATE OF CALIFORNIA

County of Sonoma

I am a citizen of the United States and a resident of the county aforesaid: I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of The Press Democrat, a newspaper of general circulation, printed and published DAILY IN THE City of Santa Rosa, County of Sonoma; and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Sonoma, State of California, under the date of November 29, 1951, Case number 34831, that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates to wit:

The Press Democrat - Legal Notices
9/13 1x - 09/13/2011

I certify (or declare) under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Dated at Santa Rosa, California, on

09/13/2011



SIGNATURE

This space for County Clerk's Filing Stamp

Proof of Publication of

Join us for a CEQA scoping meeting on the Marine Life Protection Act North Coast Study Region EIR

On September 12th 2011, the California Department of Fish and Game filed a Notice of Preparation of an Environmental Impact Report (EIR) for the Marine Life Protection Act North Coast Study Region. The purpose of these scoping meetings is to solicit input on the range of actions, alternatives, significant environmental effects and mitigations to be discussed in the draft EIR.

There will be four meetings, as follows:

Monday September 26th • 6:30 p.m.
Del Norte County Board Chamber Building
981 H Street
Crescent City, CA 95531

Tuesday September 27th • 6:30 p.m.
Fortuna River Lodge
1800 Riverwalk Dr.
Fortuna, CA 95540

Wednesday September 28th • 6:30 p.m.
Dana Gray Elementary School
1197 East Chestnut Street
Ft. Bragg, CA 95437

Tuesday October 4th • 6:30 p.m.
Sacramento Department of Health Care Services and Department of Public Health Building
1500 Capitol Avenue
Sacramento, CA 95814

Website: <http://www.dfg.ca.gov/mlpa>

Will you need an accommodation in order to attend and/or participate in this event? If so, please contact Horizon Water and Environment at (916) 986-1850. Auxiliary aides and services are available to individuals with disabilities upon request.

2552305 - Pub. Sep. 13, 2011 TH.

The Sacramento Bee

P.O. Box 15779 • 2100 Q Street • Sacramento, CA 95852

**HORIZON WATER & ENV
1330 BROADWAY #424
OAKLAND, CA 94612**

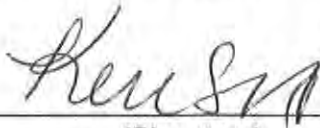
DECLARATION OF PUBLICATION
(C.C.P. 2015.5)

COUNTY OF SACRAMENTO
STATE OF CALIFORNIA

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interest ed in the above entitled matter. I am the printer and principal clerk of the publisher of The Sacramento Bee, printed and published in the City of Sacramento, County of Sacramento, State of California, daily, for which said newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Sacramento, State of California, under the date of September 26, 1994, Action No. 379071; that the notice of which the annexed is a printed copy, has been published in each issue thereof and not in any supplement thereof on the following dates, to wit:

September 12, 2011

I certify (or declare) under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Sacramento, California, on **September 12, 2011**



(Signature)

NO 491 PUBLIC NOTICE

Join us for a
CEQA scoping meeting
on the
Marine Life Protection Act
North Coast Study Region EIR

On September 12th 2011, the California Department of Fish and Game filed a Notice of Preparation of an Environmental Impact Report (EIR) for the Marine Life Protection Act North Coast Study Region. The purpose of these scoping meetings is to solicit input on the range of actions, alternatives, significant environmental effects and mitigations to be discussed in the draft EIR.

There will be four meetings, as follows:

Monday September 26th
6:30 p.m.
Del Norte County Board
Chamber Building
951 H Street
Crescent City, CA 95531

Tuesday September 27th
6:30 p.m.
Fortuna River Lodge
1800 Riverwalk Dr.
Fortuna, CA 95540

Wednesday September 28th
6:30 p.m.
Dana Grey Elementary School
1197 East Chestnut Street
Ft. Bragg, CA 95437

Tuesday October 4th 6:30 p.m.
Sacramento Department of Health
Care Services and
Department of Public Health
Building
1500 Capitol Avenue
Sacramento, CA 95814

Website:
<http://www.dfg.ca.gov/mlpa>

Will you need an accommodation in order to attend and/or participate in this event? If so, please contact Horizon Water and Environment at (510) 986-1850. Auxiliary aides and services are available to individuals with disabilities upon request.

Affidavit of Publication

STATE OF CALIFORNIA, COUNTY OF DEL NORTE

I, **Debra Brown**, a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years, and not party to or interested in the above-entitled matter. I am the principal clerk of the printer of

The Triplicate

a daily newspaper of general circulation, printed and published in the City of Crescent City, County of Del Norte, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Del Norte, State of California, under the date of March 21, 1952, case number 7594; that the notice of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published and not in any supplement thereof on the following dates, to-wit:

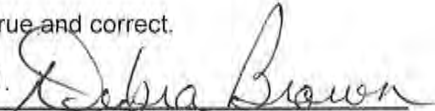
Acct Name: HORIZON WATER AND ENVIRONMENT

Legal Description: Join us for a
CEQA scoping meeting
on the
Marine Life Protection Act

09/13/2011

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated at Crescent City, California, this 13 day of September, 2011.


Signature

Join us for a
CEQA scoping meeting
on the
**Marine Life Protection Act
North Coast Study Region EIR**

On September 12th 2011, the California Department of Fish and Game filed a Notice of Preparation of an Environmental Impact Report (EIR) for the Marine Life Protection Act North Coast Study Region. The purpose of these scoping meetings is to solicit input on the range of actions, alternatives, significant environmental effects and mitigations to be discussed in the draft EIR.

There will be four meetings, as follows:

Monday September 26th " 6:30 p.m.
Del Norte County Board Chamber Building
981 H Street
Crescent City, CA 95531

Tuesday September 27th " 6:30 p.m.
Fortuna River Lodge
1800 Riverwalk Dr.
Fortuna, CA 95540

Wednesday September 28th " 6:30 p.m.
Dana Gray Elementary School
1197 East Chestnut Street
Ft. Bragg, CA 95437

Tuesday October 4th " 6:30 p.m.
Sacramento Department of Health Care Services
and Department of Public Health Building
1500 Capitol Avenue
Sacramento, CA 95814

Website: <http://www.dfg.ca.gov/mpa>

Will you need an accommodation in order to attend and/or participate in this event? If so, please contact Horizon Water and Environment at (510) 986-1850. Auxiliary aides and services are available to individuals with disabilities upon request.
Publish: September 13,, 2011. Ad#70189307.

AFFIDAVIT OF PUBLICATION

Filed _____

By _____

From the Office of _____

Attorney for _____

Fort Bragg Advocate-News

450 N. Franklin Street
PO Box 1188
Fort Bragg, California 95437
707-964-5642

Horizon Water and Environment
1330 Broadway, Suite 424
Oakland CA 94612

PROOF OF PUBLICATION (2015.5 C.C.P.)

STATE OF CALIFORNIA COUNTY OF MENDOCINO

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the Office Clerk of the Fort Bragg Advocate-News, a newspaper of general circulation by the Superior Court of the County of Mendocino, State of California under the date of May 9, 1952 - Case Number 9151, that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been printed in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates:

09/15/2011

I certify (or declare) under penalty or perjury that the foregoing is true and correct.

Dated at Fort Bragg, California,
September 15, 2011



SANDI MOSDEN, CLERK

Legal No. 0004156212

PUBLIC NOTICE

**Join us for a
CEQA scoping
meeting on the
Marine Life
Protection Act
North Coast
Study Region
EIR**

On September 12, 2011, the California Department of Fish and Game filed a Notice of Preparation of an Environmental Impact Report (EIR) for the Marine Life Protection Act North Coast Study Region. The purpose of these scoping meetings is to solicit input on the range of actions, alternatives, significant environmental effects and mitigations to be discussed in the draft EIR. There will be four meetings, as follows:

**Monday
September 26th
- 6:30 p.m.
Del Norte
County Board
Chamber
Building,
981 H Street,
Crescent City,
CA 95531**

**Tuesday
September 27th
- 6:30 p.m.
Fortuna River
Lodge, 1800
Riverwalk Dr.,
Fortuna,
CA 95540**

**Wednesday
September 28th
- 6:30 p.m.
Dana Gray
Elementary
School, 1197
East Chestnut
Street,
Fort Bragg,
CA 95437**

**Tuesday
October 4th -
6:30 p.m.**

**Sacramento
Department of
Health Care
Services and
Department of
Public Health
Building, 1500
Capitol Avenue,
Sacramento,
CA 95484**

**Website:
[http://www.dfg
.ca.gov/mlpa](http://www.dfg.ca.gov/mlpa)**

Will you need an accommodation in order to attend and/or participate in this event? If so, please contact Horizon Water and Environment at (510) 986-1850. Auxiliary aides and services are available to individuals with disabilities upon request.
Publish:
09/15/2011

The Humboldt Beacon

PO Box 3580
Eureka, CA 95502
707-441-0571
legals@times-standard.com

Horizon Water and Environment
1330 Broadway, Suite 424
Oakland CA 94612

PROOF OF PUBLICATION (2015.5 C.C.P.)

STATE OF CALIFORNIA County of Humboldt

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-mentioned matter. I am the principal clerk of the printer and publisher of The Humboldt Beacon, a newspaper of general circulation, printed and published weekly in the City of Fortuna, County of Humboldt, and which newspaper has been adjudged a newspaper of general circulation as defined by the laws of the State of California by the Superior Court of the County of Humboldt, State of California, under the date of July 11, 1952, Case Number 27011. That the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit,

9/15/2011

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated at Fortuna, California,
September 15th, 2011

Signature



This space is for the County Clerk's Filing Stamp

Legal No.

0004155976

Join us for a CEQA scoping meeting on the Marine Life Pro- tection Act North Coast Study Region EIR

On September 12th 2011, the California Department of Fish and Game filed a Notice of Preparation of an Environmental Impact Report (EIR) for the Marine Life Protection Act North Coast Study Region. The purpose of these scoping meetings is to solicit input on the range of actions, alternatives, significant environmental effects and mitigations to be discussed in the draft EIR.

There will be four meetings, as follows:

**Monday
September 26th
• 6:30 p.m.
Del Norte County
Board Chamber
Building
981 H Street
Crescent City, CA
95531**

**Tuesday
September 27th
• 6:30 p.m.
Fortuna River
Lodge
1800 Riverwalk Dr.
Fortuna, CA 95540**

**Wednesday
September 28th
• 6:30 p.m.
Dana Grey
Elementary School
1197 East Chestnut
Street
Ft. Bragg, CA 95437**

**Tuesday
October 4th
• 6:30 p.m.
Sacramento
Department of
Health Care
Services and
Department of
Public Health
Building
1500 Capitol
Avenue
Sacramento, CA
95814**

**Website:
<http://www.dfg.ca.gov/mlpa>**

Will you need an accommodation in order to attend and/or participate in this event? If so, please contact Horizon Water and Environment at (510) 986-1850. Auxiliary aides and services are available to individuals with disabilities upon request.
9/15

The Times-Standard

PO Box 3580
Eureka, CA 95502
707-441-0571
legals@times-standard.com

Horizon Water and Environment
1330 Broadway, Suite 424
Oakland CA 94612

PROOF OF PUBLICATION (2015.5 C.C.P.)

STATE OF CALIFORNIA County of Humboldt


I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-mentioned matter. I am the principal clerk of the printer of THE TIMES-STANDARD, a newspaper of general circulation, printed and published daily in the City of Eureka, County of Humboldt, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Humboldt, State of California, under the date of June 15, 1967, Consolidated Case Numbers 27009 and 27010; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit,

9/12/2011

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated at Eureka, California,
This 12th day of September, 2011

Signature



This space is for the County Clerk's Filing Stamp

Legal No.

0004155971

Join us for a CEQA scoping meeting on the Marine Life Pro- tection Act North Coast Study Region EIR

On September 12th 2011, the California Department of Fish and Game filed a Notice of Preparation of an Environmental Impact Report (EIR) for the Marine Life Protection Act North Coast Study Region. The purpose of these scoping meetings is to solicit input on the range of actions, alternatives, significant environmental effects and mitigations to be discussed in the draft EIR.

There will be four meetings, as follows:

Monday
September 26th
• 6:30 p.m.
Del Norte County
Board Chamber
Building
981 H Street
Crescent City, CA
95531

Tuesday
September 27th
• 6:30 p.m.
Fortuna River
Lodge
1800 Riverwalk Dr.
Fortuna, CA 95540

Wednesday
September 28th
• 6:30 p.m.
Dana Grey
Elementary School
1197 East Chestnut
Street
Ft. Bragg, CA 95437

Tuesday
October 4th
• 6:30 p.m.
Sacramento
Department of
Health Care
Services and
Department of
Public Health
Building
1500 Capitol
Avenue
Sacramento, CA
95814

Website:
<http://www.dfg.ca.gov/mlpa>

Will you need an accommodation in order to attend and/or participate in this event? If so, please contact Horizon Water and Environment at (510) 986-1850. Auxiliary aides and services are available to individuals with disabilities upon request.
9/12

Appendix A5

SCOPING MEETING MATERIALS

**CALIFORNIA FISH AND GAME COMMISSION AND
DEPARTMENT OF FISH AND GAME**

**MARINE LIFE PROTECTION ACT
NORTH COAST STUDY REGION**

CEQA Scoping

Public input is a valued and important component of the California Environmental Quality Act (CEQA) process. Please provide input on the scope and content of the environmental impact analysis. Scoping comments should be substantive and focused on the CEQA analysis, and can include information on:

- ✓ Potential environmental issues
- ✓ Potential mitigation measures
- ✓ Characteristics of the existing environment
- ✓ Resources that may be cumulatively affected

All comments received will be considered in the Draft EIR and summarized in a report included with the EIR document.

COMMENTS DUE:

5:00 pm on Friday, October 14, 2011

MAIL WRITTEN COMMENTS TO:

MLPA North Coast CEQA Scoping Comments
California Department of Fish and Game
c/o: Horizon Water and Environment
P.O. Box 2727
Oakland, CA 94602

OR EMAIL COMMENTS TO:

MLPAcomments@horizonwater.com

Include your name, address, contact number, and email address for future correspondence related to this CEQA process

Visit our website: www.dfg.ca.gov/mlpa



**CDFG MLPA North Coast Region EIR Scoping
Speaker Card**

Name: _____ **Date:** _____

Please indicate if you are an Elected Official or Representative of a Tribal Government **Yes**

Comment(s):

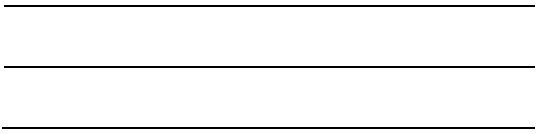


**CDFG MLPA North Coast Region EIR Scoping
Speaker Card**

Name: _____ **Date:** _____

Please indicate if you are an Elected Official or Representative of a Tribal Government **Yes**

Comment(s):



Place
Stamp
Here

MLPA North Coast CEQA Scoping Comments
California Department of Fish and Game
c/o: Horizon Water and Environment
P.O. Box 2727
Oakland, CA 94602

(fold here)

Tape
Here-
Do not
staple

Appendix A6

SCOPING MEETING POSTERS



WELCOME TO

**MARINE LIFE PROTECTION ACT
NORTH COAST STUDY REGION EIR**

CEQA SCOPING MEETING



SIGN-IN & ORIENTATION

- ▶ **ALL GUESTS SIGN-IN HERE**
- ▶ **INFORMATION, HANDOUTS, AND COMMENT CARDS FOR TONIGHT'S MEETING**



PUBLIC REVIEW PROCESS



MARINE LIFE PROTECTION ACT NORTH COAST STUDY REGION EIR COMMENTS

Please provide input regarding the EIR on the comment cards provided.

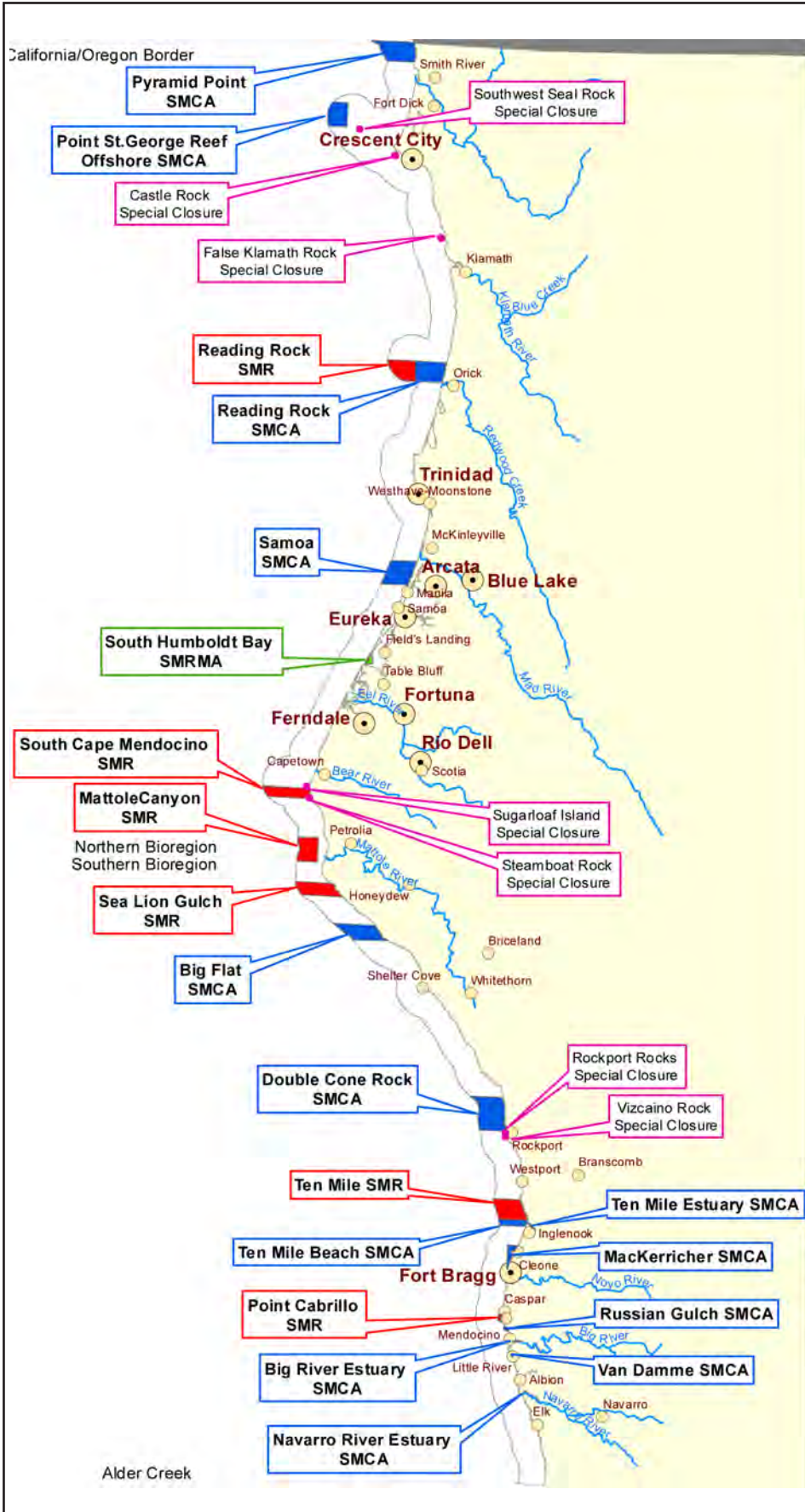
Or mail your comment card before the deadline:

**California Department of Fish and Game
c/o: Horizon Water and Environment
MLPA North Coast CEQA Scoping Comments
P.O. Box 2727
Oakland, CA 94602**

Or Email your comments to: MLPAcomments@HorizonWater.com

Visit the Program Website: www.dfg.ca.gov/mlpa

COMMENTS DUE OCTOBER 14th

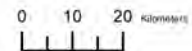
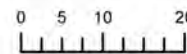
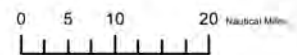


Proposed Marine Protected Areas (MPAs) in the California Marine Life Protection Act (MLPA) North Coast Study Region



Legend

- Proposed State Marine Conservation Area (SMCA)
- Proposed State Marine Park (SMP)
- Proposed State Marine Reserve (SMR)
- Proposed State Marine Recreational Management Area (SMRMA)
- Proposed Special Closure
- North Coast Study Region



Created by CDFG Marine Region GIS

Date: 11 July 2011

For more information, visit:
<http://www.northcoast.marinemap.org>
 and
http://www.dfg.ca.gov/mlpa/mpaproposals_nc.asp

Disclaimer

This map represents the Marine Protected Area (MPA) proposal selected by the California Fish and Game Commission on June 29, 2011 as its preferred alternative for inclusion in the environmental review process and rule making package for the North Coast Study Region. Additional information is available on the MLPA website (see above).

Appendix A7

SCOPING MEETING PRESENTATION

Marine Life Protection Act North Coast Study Region Environmental Impact Report



CEQA Scoping Meetings

September 26, 2011 - Crescent City

September 27, 2011 - Fortuna

September 28, 2011 - Fort Bragg

October 4, 2011 - Sacramento



Welcome and Opening Remarks



Crescent City, CA

Meeting Agenda

1. Meeting Purpose and Ground Rules
2. Marine Life Protection Act (MLPA) Overview
3. North Coast Study Region Overview
4. California Environmental Quality Act (CEQA) Process Overview
5. Receive Public Input

Meeting Purpose – CEQA Scoping

Purpose of Scoping: To allow the public and agencies to provide input on the scope and content of the environmental impact analysis.

The scoping period provides 30 days to receive public input.

Scoping comments can include information on:

- ✓ Potential environmental issues
- ✓ Potential mitigation measures
- ✓ Characteristics of the existing environment
- ✓ Resources that may be cumulatively affected

Meeting Ground Rules

- Please silence all cell phones and pagers.
- One person speaks at a time; please do not interrupt a speaker.
- Make clear and succinct comments in order for us to effectively capture the comment in notes.
- Be respectful of each other and of differing points of view.

Marine Life Protection Act (MLPA) Overview



Fort Bragg Harbor, CA

The Legislation

Marine Life Protection Act (1999)

- Signed into California State law in 1999
- Requires improving the design and management of marine protected areas (MPAs) in state waters
- Focuses on protection of marine ecosystems and habitats

The Legislation

Marine Life Protection Act (1999)

- Signed into California State law in 1999
- Mandates improving the design and management of marine protected areas (MPAs) in state waters
- Focuses on protection of marine ecosystems and habitats
- **Requires**
 - Master plan for MPAs
 - Use of “best readily available science”
 - Input from stakeholders, other interested parties
 - Fish & Game Commission adopt program

The Legislation

Marine Life Protection Act (1999)

- Signed into California State law in 1999
- Requires improving the design and management of marine protected areas (MPAs) in state waters
- Focuses on protection of marine ecosystems and habitats
- **Requires**
 - Master plan for MPAs
 - Use of “best readily available science”
 - Input from stakeholders, other interested parties
 - Fish & Game Commission adopt program

Marine Managed Areas Improvement Act (2000)

- Created six new classifications

MLPA Goals

- **Protect diversity, abundance & function**

MLPA Goals

- **Protect diversity, abundance & function**
- **Sustain, conserve & rebuild populations**

MLPA Goals

- **Protect diversity, abundance & function**
- **Sustain, conserve & rebuild populations**
- **Improve recreation, education & study**

MLPA Goals

- **Protect diversity, abundance & function**
- **Sustain, conserve & rebuild populations**
- **Improve recreation, education & study**
- **Protect habitats for their intrinsic values**

MLPA Goals

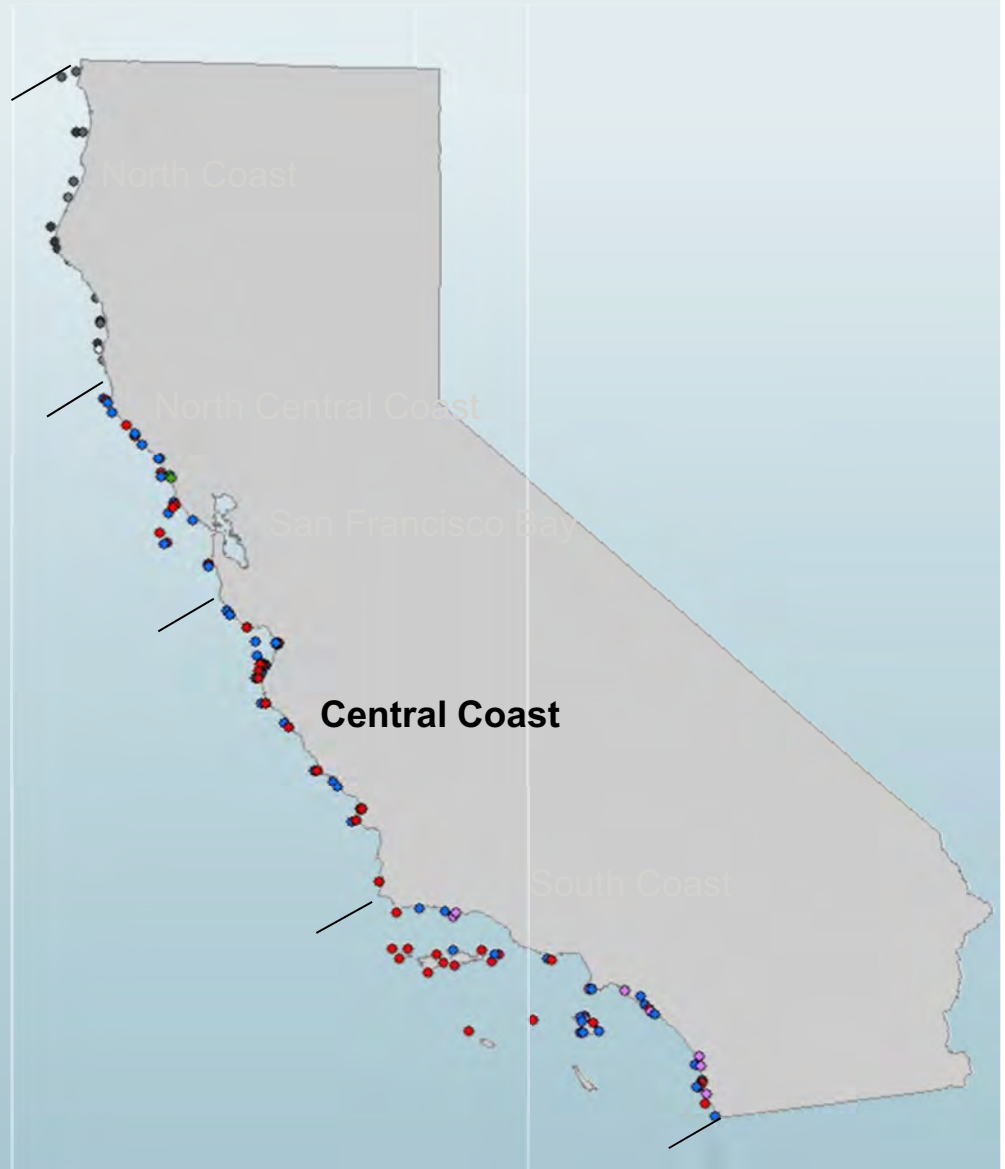
- **Protect diversity, abundance & function**
- **Sustain, conserve & rebuild populations**
- **Improve recreation, education & study**
- **Protect habitats for their intrinsic values**
- **Ensure management, enforcement & basis in science**

MLPA Goals

- **Protect diversity, abundance & function**
- **Sustain, conserve & rebuild populations**
- **Improve recreation, education & study**
- **Protect habitats for their intrinsic values**
- **Ensure management, enforcement & basis in science**
- **Ensure MPAs are designed and managed as a network**

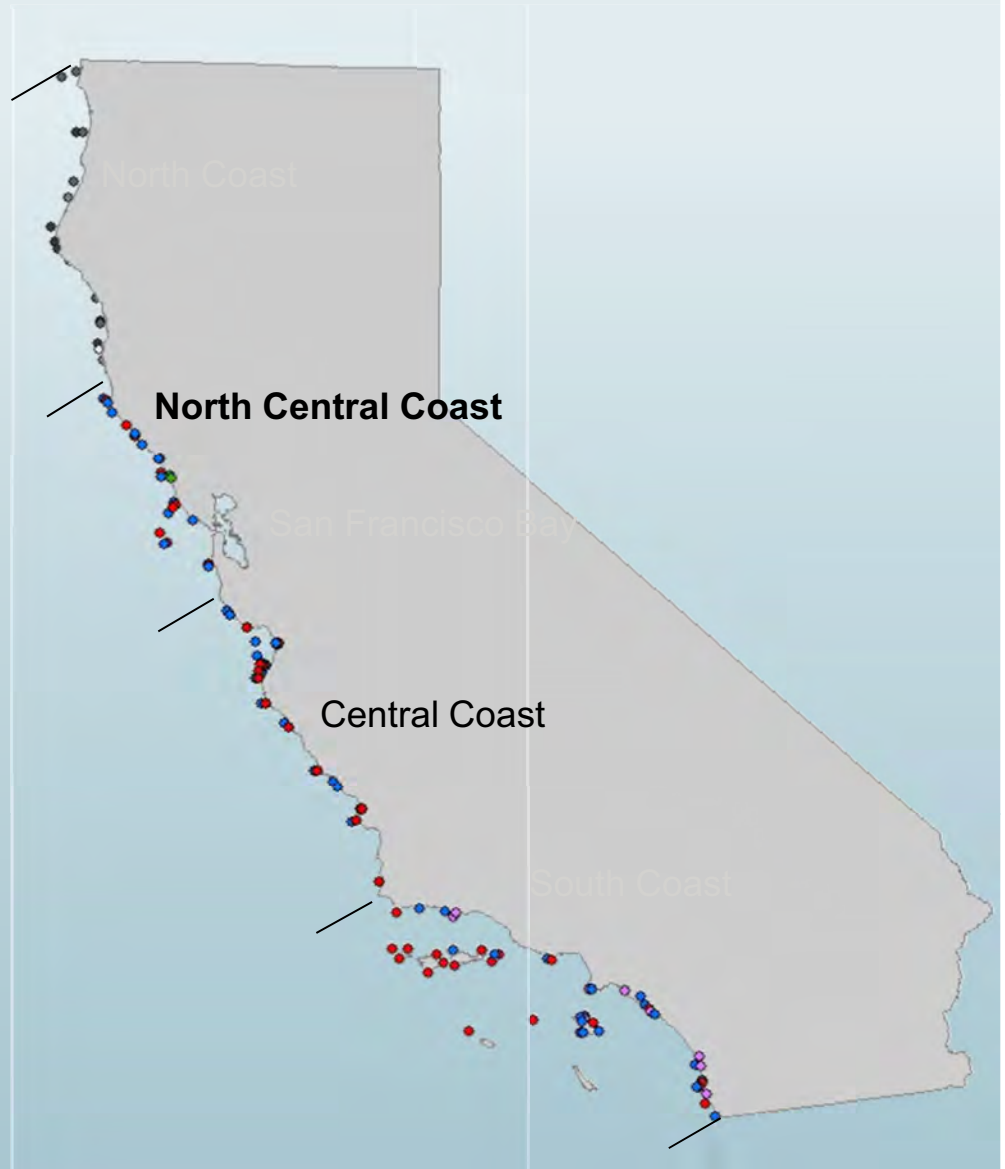
MLPA Initiative Regional Planning

- **Central Coast – Implemented** (September 2007)
- **North Central Coast – Implemented** (May 2010)
- **South Coast – Adopted** (December 2010)
- **North Coast – In Commission process** (February 2011)
- **San Francisco Bay**
 - *Process design under way*



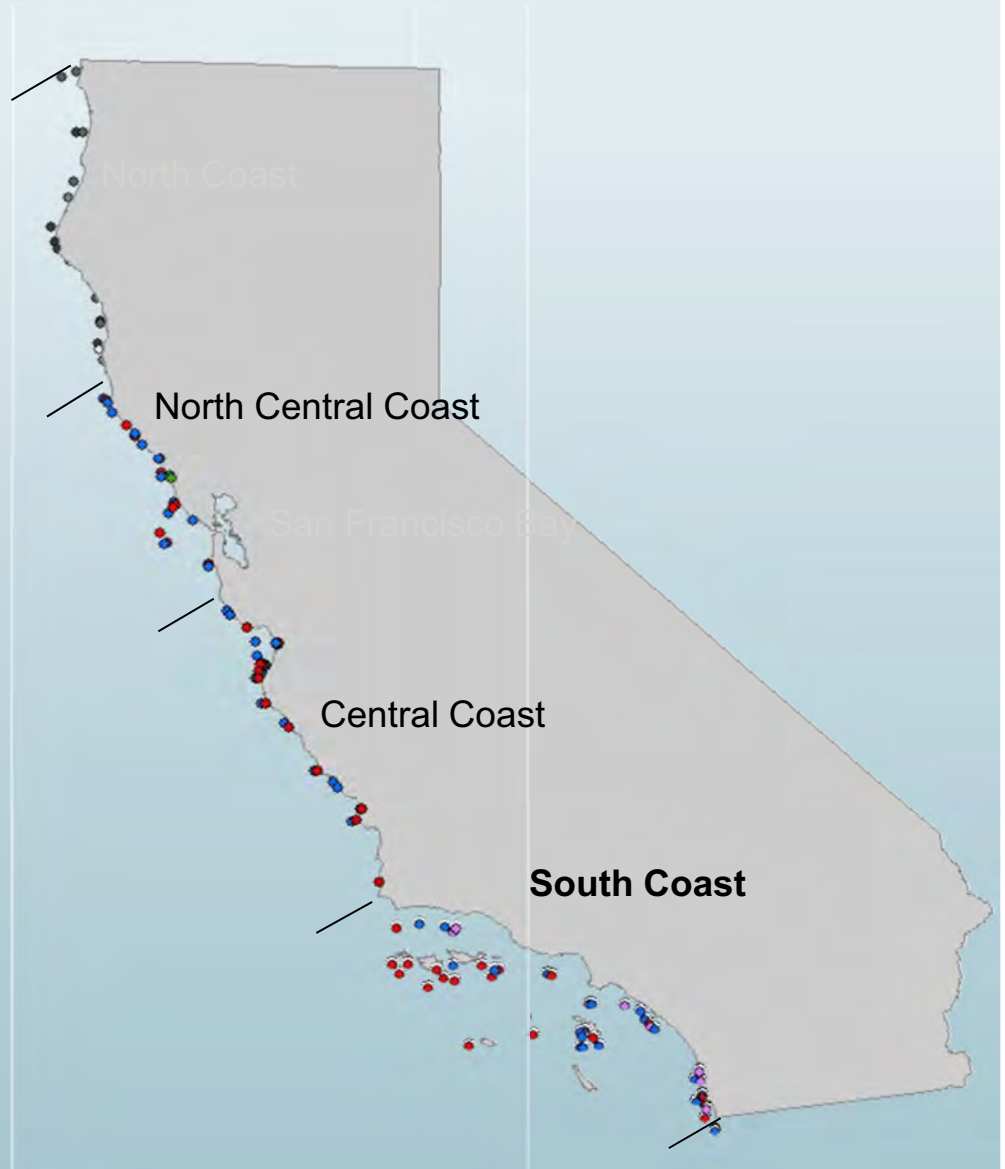
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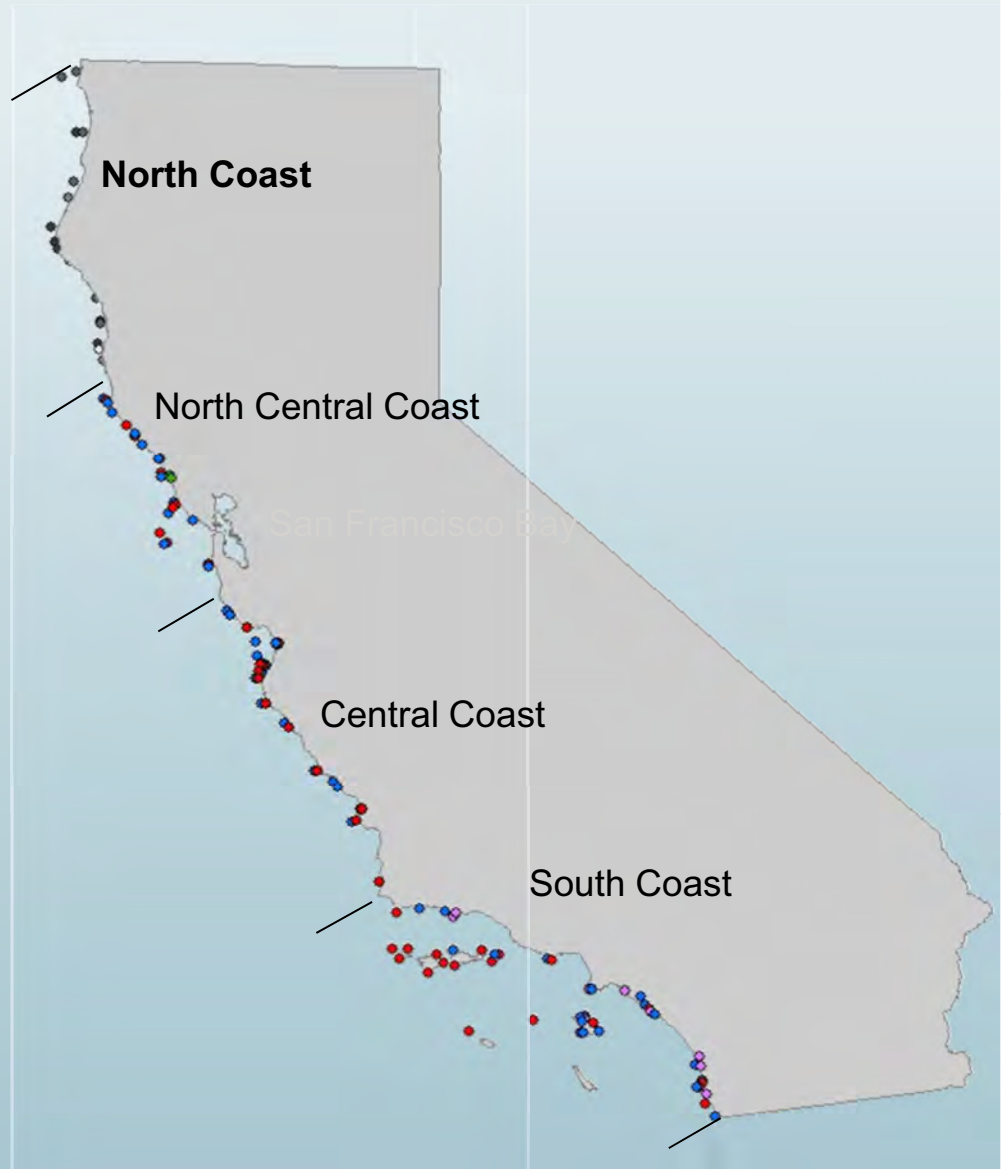
MLPA Initiative Regional Planning

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- **San Francisco Bay**
– *Process design under way*



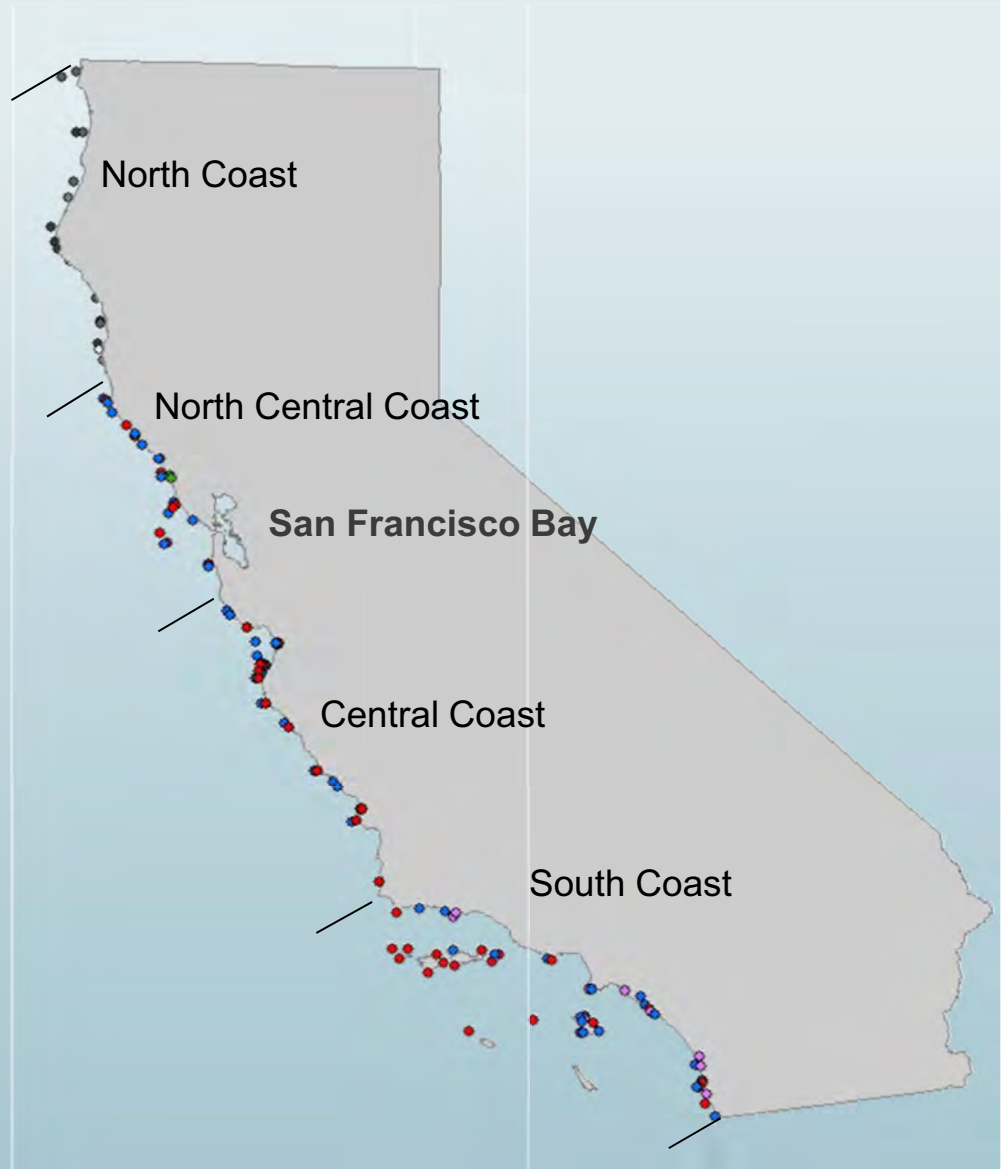
MLPA Initiative Regional Planning

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- **North Coast** – *In Commission process* (February 2011)
- **San Francisco Bay**
 - *Process design under way*



North Coast Study Region Overview



Westport-Union Landing State Beach, CA

North Coast MLPA Initiative Process

- **Three rounds of MPA design & evaluation (Jun 2009-Feb 2011)**
- **Input and guidance during each round from:**
 - Members of the Public, Tribes and Tribal Communities
 - Regional Initiative Planning Groups
 - Regional Stakeholder Group (RSG)
 - Blue Ribbon Task Force (BRTF)
 - Master Plan Science Advisory Team (SAT)
 - Department of Fish and Game and State Parks
 - MLPA Initiative contract staff

North Coast MLPA Initiative Process

Round 1:

- **Self-organized community groups proposed MPA arrays**

North Coast MLPA Initiative Process

Round 1:

- Self-organized community groups proposed 8 MPA networks

Round 2:

- **North Coast Regional Stakeholder Group (NCRSG) considered community group proposals & existing MPAs**
- **NCRSG submitted several draft arrays for evaluation**

North Coast MLPA Initiative Process

Round 1:

- Self-organized community groups proposed 8 MPA networks

Round 2:

- North Coast Regional Stakeholder Group (NCRSG) considered community group proposals & existing MPAs
- NCRSG submitted several draft arrays for evaluation

Round 3:

- **NCRSG submitted a single array to BRTF**

North Coast MPA Proposals

- BRTF forwarded two alternatives to Fish & Game Commission:
 - ✓ NCRSG MPA Proposal (RNCP)
 - ✓ BRTF Enhanced Compliance Alternative (ECA)

North Coast MPA Proposals

- BRTF forwarded two alternatives to Fish & Game Commission:
 - ✓ NCRSG MPA Proposal (RNCP)
 - ✓ BRTF Enhanced Compliance Alternative (ECA)
- **F&G Commission selected a preferred alternative for regulatory notice and CEQA analysis:**
 - ✓ **Based on RNCP**
 - ✓ **Select additions based on agency and public input**
 - ✓ **Provides for tribal harvest ("Tribal Gathering Option 1" defined in NOP) in SMCAs**

Types of MPAs

State Marine Reserve (SMR)

- Prohibits all extractive activities

State Marine Park (SMP)

- Prohibits all commercial extraction
- Recreational take may be allowed

State Marine Conservation Area (SMCA)

- Limited commercial and recreational extractive activities may be allowed



Other Types Included

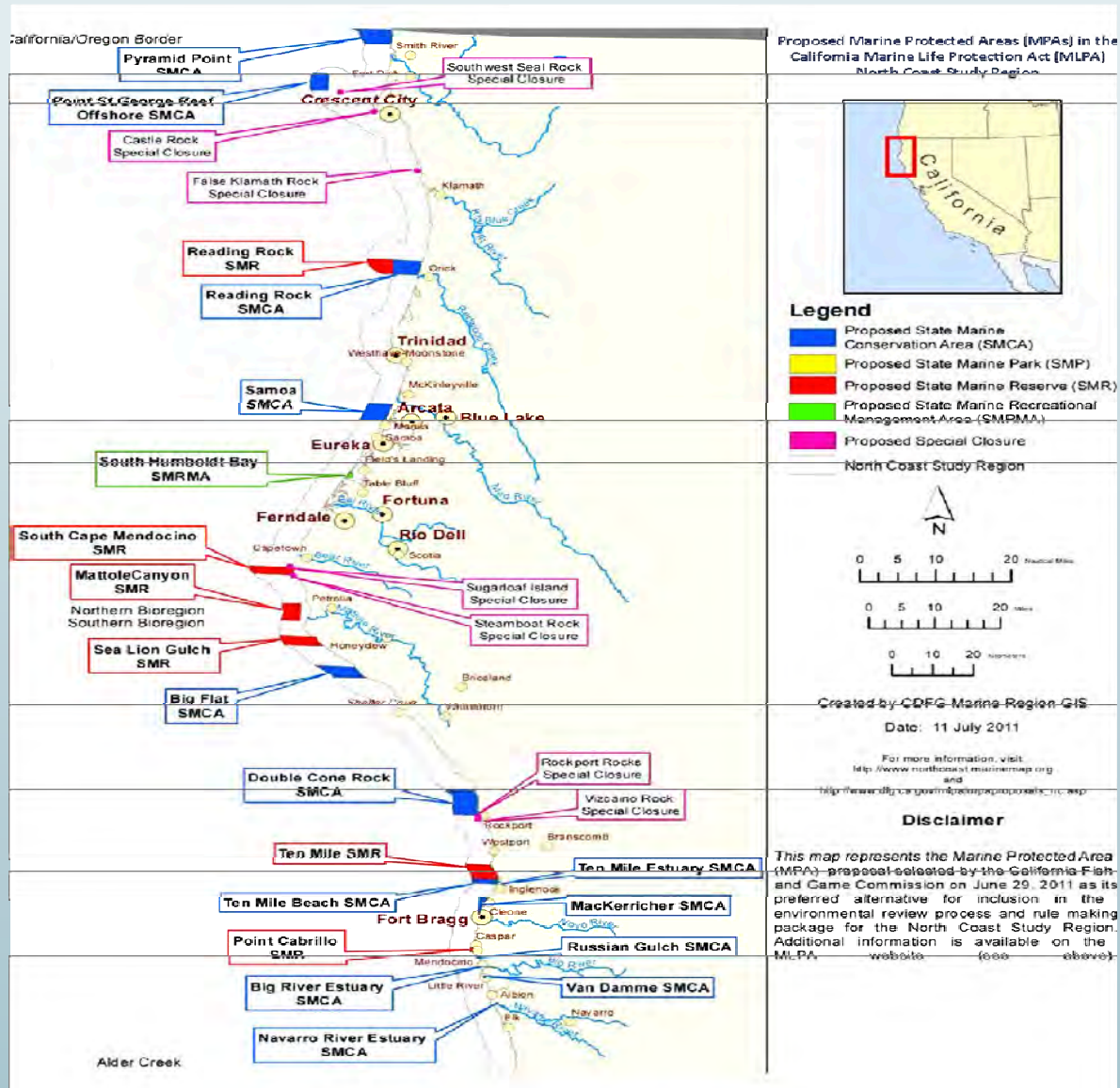
State Marine Recreational Management Area (SMRMA)

- Another type of marine managed area designation
- Recreational opportunities may be protected, enhanced, or restricted
- In estuarine areas, hunting of waterfowl allowed, but take of subtidal living species may be restricted

Special Closures

- Geographically-defined areas approved by the Fish and Game Commission
- Generally smaller than an MPA
- Provides localized protection of nesting, breeding, rookeries, and/or haul-out locations for sea birds or marine mammals
- May restrict all access seasonally or year-round; other restrictions may apply.

North Coast Commission Preferred Alternative MPAs



CEQA Process Overview



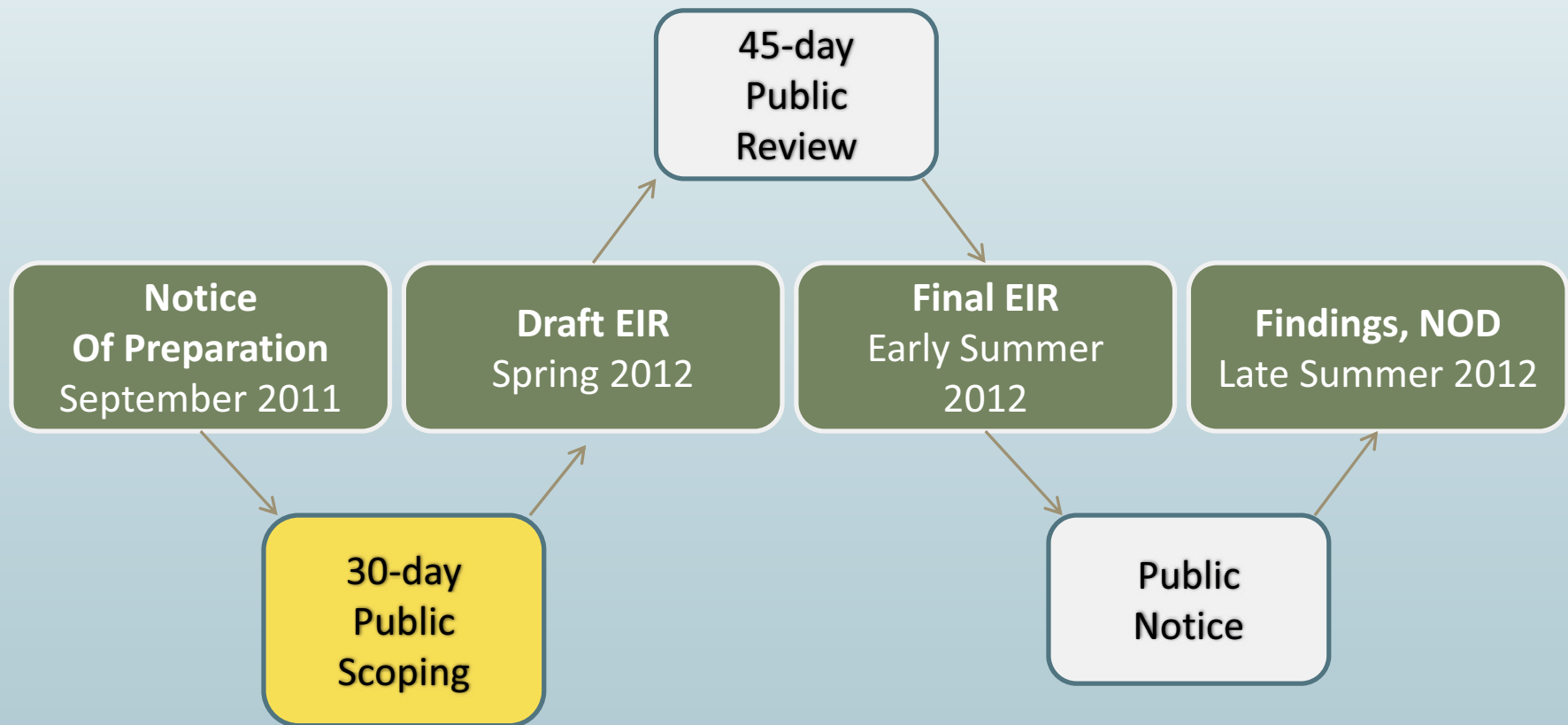
Crescent City Harbor, CA

CEQA Requirements

California Environmental Quality Act (CEQA) requires:

- Environmental review and public disclosure for discretionary actions conducted by public agencies
- Disclosure of potential environmental impacts
- Identification of mitigation measures and project alternatives to potentially reduce or avoid these impacts

CEQA Process and Schedule



Purpose of Scoping

To provide the public and agencies an opportunity to provide input into the scope and content of the EIR.

Scoping comments can include information on:

- ✓ Potential environmental issues
- ✓ Potential mitigation measures
- ✓ Characteristics of the existing environment
- ✓ Resources that may be cumulatively affected

Effective Commenting

- Public input is valued and important
- Comments will be considered throughout the CEQA process
- Keep comments substantive and focused on the CEQA analysis
- Comments may be given orally today (use speaker cards), in writing on comment forms, or in writing at any time during the scoping period (to Oct 14)
- Comments received will be summarized in the scoping report

How to Comment After Today

- Comments due:

5:00 pm on Friday, October 14, 2011

- Send written comments to:

California Department of Fish and Game

c/o: Horizon Water and Environment

PO Box 2727

Oakland, CA 94602

Email: MLPAcomments@HorizonWater.com

Subject Line: MLPA North Coast CEQA Scoping Comments

- Include name, address, contact number, and email address for future correspondence related to this CEQA process

More Information on Proposed Project

www.dfg.ca.gov/mlpa

We will now take your
comments...



Appendix A8

SCOPING MEETING ATTENDEES AND COMMENTS RECEIVED AT SCOPING MEETINGS

Sign-In Sheets

**MLPA North Coast Study Region
 EIR Scoping Meeting Sign In Sheet
 September 26, 2011 – Crescent City, CA**

Name	Address	Email Address	Organization (optional)	Phone Number (optional)
Tom Weseloh	710 E Street Suite 150 Eureka, CA 95501	tom.weseloh@asm.ca.gov	Assemblyman Chesbro	707 445-7014
Russ Crabtree	140 Rocky CRK Smith River, OR	russ.crabtree@towawagon.com	SMITH RIVER TOWAWAGON RANCHERIA	707-487-9855
Steve Gannon	1111 Second St Crescent City CA		NPS	707-465-7301
MARSHALL NEEDLE	1111 Second St Crescent City, CA		NPS	707-465-7302
Zack Larson	200 Douglas Park Rd. Crescent City, CA 95531	zack_larson@yahoo.com		707-954-1085

MLPA North Coast Study Region
EIR Scoping Meeting Sign In Sheet
September 26, 2011 – Crescent City, CA

Name	Address	Email Address	Organization (optional)	Phone Number (optional)
Rosie Clayburn	PO Box 1077 Klamath CA ⁹⁵⁵⁴⁸	rclayburn@ klamathtribe yuroktribe-nsn.us	YUROL Tribe	707 482-1350
NATHAN VOEGELI	"	nvoegeli@yuroktribe-nsn.us	Yurok TRIBE	707 482-1350

**MLPA North Coast Study Region
EIR Scoping Meeting Sign In Sheet
September 27 – Fortuna, CA**

Name	Address	Email Address	Organization (optional)	Phone Number (optional)
Tim Klassen	6934 Seaview Eureka McKinleyville	reelsteel@humboldt.com	Humboldt Area Saltwater Anglers Hum. Area	707-499-5509
Tom Marking	1456 Whitmire Ave	Tommarking@sbcglobal.net	Saltwater Angler Humboldt Area	707-839-2073
MARY MARKING	1456 Whitmire Ave	tmmarking@sbcglobal.net	Saltwater Angler	707-839-2073
Nick Angeloff	1000 Hwy.	niyot.ceo@gmail.com	Wiyot Tribe	707-407-6205
ARROW NEWMAN	3150 "F" Street Eureka ca. 95503	Kay6V71@aol.com	H.F.M.A.	707-496-5158
Beth Werner	217 E St Eureka	beth@humboldtBaykeeper.org	humboldt Baykeeper	268- 0664
JENNIFER SAVAGE	1500 PENINSULA MANILA	jsavage@oceanconservancy.org	Ocean Conservancy	477-8283
Tom Weseloh				

**MLPA North Coast Study Region
EIR Scoping Meeting Sign In Sheet
September 28, 2011 – Fort Bragg, CA**

Name	Address	Email Address	Organization (optional)	Phone Number (optional)
RICHARD CHARTER	6947 Cliff Ave Bodega Bay 94923	waterway@ monitor.net		707 875-2345
Mike Schaver	PO Box 1580 Nile CA 95464	mschaver@ robinsonrancheria.org	Robinson Rancheria Tribe	(707) 275 0205
Linda Perkins	Po Box 467 Albion CA 95410	lperkins@mcn.org	Sierra Club	707-937-0903
Sonny Elliott	PO Box 1271 Laytonville CA 95454	environmental@ cabto.org	Cabto Tribe	(707) 421 0540
LARRY KNOWLES	PO # 1683 Menocino CA 95460	LKNOWLES@MCN.ORG	SEKAWA STEWARTSLIP ISLAND	707- 464-5507

**MLPA North Coast Study Region
EIR Scoping Meeting Sign In Sheet
September 28, 2011 – Fort Bragg, CA**

Name	Address	Email Address	Organization (optional)	Phone Number (optional)
Russ Adeline	140 Rowdy Creek Smith River, CA	russ.adeline@tolowa.com	SMITH RIVER RANCHERIA	707-218-7727
Bill Heil	P.O. Box 67 Albion 95410			
Robert Bell	POB 51 Laytonville	hiyaahhiyaah@yahoo.com	Cahoto Tribe	367 8750
Richard Smith	Laytonville PO Box 1523	vice.chairman@cahto.org	Cahoto tribe	(707) 984-6197
Hawk ROSALES	UKATE CA 95482		Inter Tribal Sustainable Wilderness Council	707 468 9500

Speaker Cards

CDFG MLPA North Coast Region EIR Scoping

Speaker Card

Name: Nick Angeloff CEO Wiyot Tribe Date: 9/27/11

Please indicate if you are an Elected Official or Representative of a Tribal Government Yes

Comment(s): As consultants there should be an open and ongoing interface with the Wiyot Tribe THPO (Tribal Historic Preservation Officer); in addition, ongoing government to government consultation should be facilitated by the contractor and THPO to preserve the state to tribal government relationship regarding MLPA that has been developed through substantial dedication of time and effort from both Gov't's representatives. Refer to the factual record submitted to the Fish and game Commission for detailed reference on Wiyot tribal uses.

CDFG MLPA North Coast Region EIR Scoping
Speaker Card

Name: HAWK ROSACES Date: 9/28/11

Please indicate if you are an Elected Official or Representative of a Tribal Government Yes

Comment(s): ~~will read prepared~~
Tribal use in the North Coast

CDFG MLPA North Coast Region EIR Scoping
Speaker Card

Name: Mike Schaver Date: 9-28-11

Please indicate if you are an Elected Official or Representative of a Tribal Government Yes

Comment(s): Environmental Director with
Robinson Rancheria of Pomo Indians

Tribal gathering practices are an act
of stewardship that should not be
considered a ^{negative} impact but rather a
benefit to the coastal resource
management goals.

Comments Submitted at Meetings

Testimony of Richard Charter on the Notice of Preparation for the Marine Life Protection Act North Coast Study Region EIR:

My name is Richard Charter, and I thank you for coming to the North Coast this evening to hear from the public in response to the Notice of Preparation for the Marine Life Protection Act North Coast Study Region EIR.

I am here tonight to speak in support of Alternative Two, the Preferred Alternative for the Proposed Project, inclusive of the adopted Tribal Gathering Option and also inclusive of the important Special Closures also identified in the Preferred Alternative.

Very extensive stakeholder participation and thoughtful public input has led us to the Preferred Option, and as the Scoping Process for the EIR now begins, I believe that the identification of “impacts not likely to occur” has appropriately identified issues not needing evaluation in the EIR. There is one minor error on page 12 of the NOP that I might point out, in which the NOP states that “There has been a federal moratorium on new outer continental shelf oil and gas leasing activities off of the California coast since 1982” and further states that this protection is based on “Annual appropriations bans”. The referenced federal offshore drilling

moratorium, has, in fact, been allowed by Congress to lapse. While a separate and more fragile “Executive Deferral” on new federal offshore oil and gas leasing has been put in place by the present Administration and we hope it will last at least until the promised date of 2017, any future Administration can remove this protection at any time.

We believe that the NOP properly identifies the key “Environmental Topics to be Evaluated” and that the extensive evaluation and avoidance of short-term socioeconomic impacts that has characterized the consultive process with stakeholders to date will help to assure that the long-term

benefits of improved ecosystem health and the minimal short-term costs have now been wisely balanced in this region.

I look forward to submitting more extensive written comments on the NOP for the EIR, and on reviewing the Final EIR once it has been completed.

Thank you for your time.

Statement of Hawk Rosales

Scoping Meeting on Notice of Preparation of Environmental Document Marine Life Protection Act North Coast Region Fort Bragg, California

September 28, 2011

My name is Hawk Rosales. I am Executive Director of the InterTribal Sinkyone Wilderness Council, and I am representing that organization here today. The Sinkyone Council is a consortium of ten federally-recognized Tribes in Mendocino and Lake Counties. Our member Tribes include: Cahto, Coyote Valley, Hopland, Pinoleville, Potter Valley, Redwood Valley, Robinson, Round Valley, Scotts Valley, and Sherwood Valley. Our member Tribes' ancestral territories include the coastlines and marine waters of Mendocino and Humboldt Counties. The Sinkyone Council has participated in the North Coast MLPA process from the beginning. We took a leading role in development of the Tribal Use Option 1 that was adopted by the Fish and Game Commission on June 29 as the preferred alternative. The development of a regulation to implement that option has already begun. The Sinkyone Council submitted to the Commission a substantial body of evidence that establishes our member Tribes' historic and current uses of six proposed SMCAs in the southern bioregion of the North Coast Study Region.

The Sinkyone Council will submit written comments on the scope of the environmental review before the October 14 deadline. We are committed to

working with Horizon Water and Environment and the Fish and Game Commission to ensure that the environmental review of the proposed Marine Protected Areas in the North Coast Region complies with CEQA. In particular, care must be taken to ensure that the descriptions of the environmental setting, cultural resources, historical setting, and physical setting fully take into account the significant historic and current connections of federally-recognized Indian Tribes to the North Coast Region and the areas proposed for MPAs. The analysis of adverse effects should recognize that the proposed network of MPAs for the North Coast will have little or no effect on Tribal cultural resources and historic properties if Tribal Option 1 is adopted as the preferred alternative. If that option is not adopted, the analysis of adverse effects will be significantly different.

Finally, we note that an environmental justice analysis will be conducted as part of the environmental review. The premise of that analysis should be that Tribal Option 1 does not create legal classifications based on race. The status of Indian Tribes as sovereigns is based on the legal principle that the relationship between the Tribes and the United States is political, and not racial, in nature. As a result, California's formal recognition of Tribal uses in the proposed MPAs is not preferential treatment based on race. Tribal Option 1 is fair and equitable and does not treat people separately on the basis of race.

We look forward to working with you to develop an EIR that fully complies with CEQA. Thank you.

Appendix A9

WRITTEN COMMENTS RECEIVED

Table A9-1. Written Comments Received

Date Received	Commenter	Transmit Type	Page Number
10/13/2011	Hawk Rosales, InterTribal Sinkyone Wilderness Council	Letter	A-148
10/14/2011	Larry Knowles, Rising Tide Sea Vegetables	Email	A-153
10/14/2011	Jennifer Savage, Multiple Associations	Email	A-155
10/14/2011	Cy Oggins, California State Lands Commission	Letter	A-158
10/18/2011	Kendall Smith, Mendocino County Board of Supervisors	Letter	A-164
9/23/2011	Shelly Woods, Elk Valley Rancheria	Email	A-167
10/12/2011	Jeanine Pfeiffer, MLPAI Coordinator Mendo Co.	Letter	A-171
10/14/2011	Patricia Tyson, Humboldt Bay Harbor, Recreation and Conservation District	Email/Letter	A-174
10/14/2011	Alicia McQuillen, Yurok Tribe	Email	A-178
10/14/2011	Richard Charter	Email/Letter	A-183
10/4/2011	Mark Lovelace, Humboldt County Board of Supervisors	Email	A-187
9/14/2011	Mark Nicks	Email	A-188
9/22/2011	Mark Hennelly, California Outdoor Heritage Alliance	Email	A-189
10/3/2011	Sue Sack, Shelter Cove Mosquito Fleet	Letter	A-190
10/4/2011	Hawk Rosales, InterTribal Sinkyone Wilderness Council	Email	A-191
10/13/2011	Jennifer Savage, Ocean Conservancy	Email	A-196
10/14/2011	Lisa Shikany, City of Eureka	Email	A-202
10/14/2011	Anna Kimber, Smith River Rancheria	Email	A-206
10/14/2011	Jacque Hostler, Trinidad Rancheria	Email	A-235
10/25/2011	Lance Ignatowicz	Email	A-240

Subject: FW: Sinkyone Council Scoping Comments-North Coast MLPA
Date: Friday, October 14, 2011 9:32:08 AM
Attachments: [Sinkyone Council CEQA Scoping Comments 10.13.11.pdf](#)
[ATT00001.htm](#)

From: Hawk Rosales [director@sinkyone.org]
Sent: Thursday, October 13, 2011 7:44 PM
To: MLPA CEQA
Cc: Sonke Mastrup; Director@dfg.ca.gov
Subject: Sinkyone Council Scoping Comments-North Coast MLPA

Dear Ms. Vojkovich:

Attached is the InterTribal Sinkyone Wilderness Council's CEQA Scoping Comments on Draft EIR for MLPA—North Coast Study Region.

Please email or call me if you have any questions.

Sincerely,
Hawk Rosales, Executive Director
InterTribal Sinkyone Wilderness Council
P.O. Box 1523
Ukiah, CA 95482
Phone: (707) 468-9500
Fax: (707) 462-6787



InterTribal Sinkyone Wilderness Council

P.O. Box 1523 Ukiah, CA 95482 Phone (707) 468-9500

InterTribal Cultural Conservation for Sinkyone Indian Lands



October 13, 2011

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By email: MLPAcomments@HorizonWater.com

Marija Vojkovich
Regional Manager
Marine Region
MLPA North Coast Scoping Comments
California Department of Fish and Game
c/o Horizon Water and Environment
P.O. Box 2727
Oakland, CA 94602

Re: CEQA Scoping Comments on Draft EIR for MLPA—North Coast Study Region

Dear Ms. Vojkovich:

These comments are submitted by the InterTribal Sinkyone Wilderness Council in response to the Notice of Preparation of environmental document regarding marine protected areas (MPAs) in the North Coast region pursuant to the Marine Life Protection Act (MLPA). The InterTribal Sinkyone Wilderness Council is a consortium of ten federally-recognized California Indian Tribes in Mendocino and Lake Counties. Our member Tribes include: Cahto; Coyote Valley; Hopland; Pinoleville; Potter Valley; Redwood Valley; Robinson; Round Valley; Scotts Valley; and Sherwood Valley. Because our member Tribes have since time immemorial gathered and harvested marine resources in the areas proposed for MPAs in the North Coast Region, we have participated in the MLPA process in this region from its beginning. Our goal has been to ensure that these non-commercial cultural practices are allowed to continue consistently with the ocean conservation goals of the MLPA. The network of MPAs and Tribal use protections which constitute the Project under review were designed to achieve the conservation and environmental protection goals of the MLPA. As a result, we do not expect the analysis of potential effects on the environment from the proposed Project will show significant adverse environmental impacts under the California Environmental Quality Act (CEQA).

Nevertheless, to ensure that the environmental review of the proposed project fully complies with CEQA, we offer the following comments on the Notice of Preparation:

1. As the Notice observes, the Fish and Game Commission adopted as its preferred alternative, Tribal Option 1. However, the description of Tribal Option 1 in the Notice is incorrect and incomplete. Two aspects of this description should be corrected. First, the Notice describes the option as aimed at allowing “traditional tribal gathering.” The Motion by which the Fish and Game Commission adopted Tribal Option 1 as the preferred alternative plainly shows that the Commission intended to include Tribal harvesting, as well as Tribal gathering, among the uses that would be permitted. *See Fish*

InterTribal Sinkyone Wilderness Council is a Nonprofit Consortium of California Indian Tribes

● *Cultural Conservation* ● *Native Stewardship* ● *Watershed Rehabilitation* ● *Cultural Ecology Education*

and Game Commission Staff Summary, Meeting of June 29-30, 2011 at page 4 (noting conditions for Tribal use that include “tribal member harvesting”). For the sake of completeness and accuracy, the environmental document should analyze both Tribal gathering and harvesting.

Second, the Notice describes the factual record that must be developed to support Tribal uses as limited to “ancestral take in a specific SMCA”. Yet, the description of the proposed take regulation also says the requirement is to be satisfied with evidence of “historic and current uses.” As to the Notice, this description is incomplete. As to the proposed take regulation, the description is inaccurate. The Motion adopted by the Commission, which incorporated recommendations from MLPA Initiative staff provided on June 16, 2011, indicates that the factual record requirement may be met by submitting evidence of ancestral take *or* current tribal gathering and harvesting. *See Fish and Game Commission Staff Summary, Meeting of June 29-30, 2011* at page 4 (“Federally recognized tribes to submit factual record with sufficient documentation confirming current or historical use in specified geographies to DFG within 60 days.”) (emphasis added). The use of the disjunctive strongly suggests that evidence of either historic use or current use will be sufficient to satisfy the requirement. The Sinkyone Council in fact submitted evidence of both kinds of use. The environmental document to be prepared should reflect this option.

2. To the extent possible, background information on each federally-recognized Indian Tribe in the North Coast Region (specifically, the Tribes of Mendocino, Lake, Humboldt, and Del Norte Counties) with historic or current ties to the marine environment should be included in the environmental setting section of the environmental document. Specifically, information about the ancestral territory of each Tribe; the history of each Tribe before the arrival of Europeans, the cultural practices of each Tribe, as related to their use of marine resources; the history of each Tribe with regard to relations with Europeans and the State of California; and the values of each Tribe with regard to the stewardship and conservation of marine resources. The background information should also include the fact that North Coast Tribes since time immemorial have relied on marine resources in these areas for their health and welfare. The background information should be specific to different Tribes, as they do not represent a monolithic group of people. Much of this information was submitted to the MLPA Initiative in the form of Tribal Profiles, and additional information was included in the documentation of their marine uses that the Tribes submitted to satisfy the factual record requirement. The background information should reflect the facts that the stewardship practices of North Coast California Indian Tribes are a principal reason why there are marine resources still left to conserve through the MLPA process and that the Tribes have had no role in the decline experienced by marine species over the past 150 years since Euro-American settlement in the North Coast. The background information should also include the fact that Tribal gathering and harvesting has had no adverse impact on the health and welfare of marine species and ecosystems, and that in fact these practices have been, and continue to be, beneficial to marine species and ecosystems. Additionally, it should be stated that Tribal gathering and harvesting in contemporary times is *de minimis*, and that these practices currently as well as in the future, will result in no negative impacts to marine species and ecosystems. Finally, the background information should recognize the fact that the Tribes regard their cultural gathering and harvesting practices and areas as cultural resources entitled to

protection under the law, regardless of whether they are formally acknowledged as Traditional Cultural Properties or historic resources under the applicable historic preservation laws.

3. The description of the California Regulatory Setting should include the legal basis for Tribal Option 1 as the preferred alternative adopted by the Fish and Game Commission. It should also note that the Department of Fish and Game has on numerous prior occasions granted gathering and harvesting privileges to the members of federally-recognized California Indian Tribes in State waters outside their Reservations. Further, the Regulatory Setting should note that the preferred alternative for Tribal uses (Tribal Option 1) requires Tribal members who are gathering and harvesting to possess a Tribal identification card as evidence of their enrollment in a federally-recognized North Coast Tribe and a valid California fishing license for persons over 16 years of age; and that all gathering and harvesting must be consistent with existing regulations of season and take.

4. The discussion of alternatives should explain that the Tribal use option developed by the North Coast Regional Stakeholder Group (NCRSG) will not be analyzed because it is not feasible or practical to implement. The NCRSG option is number 2 in the section of the Notice of Preparation labeled Options for Tribal Gathering. The range of alternatives to be analyzed in the environmental document is reasonable without inclusion of the NCRSG option. That option is not feasible because the Tribes in the North Coast Region strongly and consistently objected to the premise of the option that Tribal uses could be appropriately categorized as a subset of “recreational uses.” Because of the unique cultural bases of Tribal gathering and harvesting in the proposed marine protected areas, the Tribes could not accept the classification of such uses as being recreational in nature. Further, it is not necessary to analyze this option because Tribal Option 1 as adopted by the Fish and Game Commission fully implements the intent of the North Coast Regional Stakeholder Group that Tribal uses be allowed to continue in those areas where they historically have been, and today continue to be, carried out. Moreover, the NCRSG option does not achieve one of the principal goals of the Project: to fully protect Tribal non-commercial gathering and harvesting in proposed MPAs as separate and distinct uses. Finally, the range of options available to the NCRSG was limited by uncertainty with regard to the legal basis for addressing Tribal uses in proposed MPAs. That legal uncertainty has since been clarified, so the NCRSG option may be regarded as infeasible and does not need to be analyzed.

5. The analysis of Alternative 2 should include the following considerations: First, under Alternative 2, Tribal take in the offshore SMCAs would be allowed only for species assigned a high or moderate-high Level of Protection. This would greatly curtail Tribal uses in those areas and would frustrate the purpose of the Project to allow the full scope of Tribal uses throughout MPAs. Second, the feasibility analysis should note the strong Tribal objection to having Tribal uses conflated with recreational uses, for the reasons stated above in point 4. Third, the feasibility analysis should also discuss the practical difficulty in enforcing take regulations under a geographically bifurcated SMCA network, where one set of regulations applies to the near shore area and a separate set applies to the offshore area. Fourth, the discussion should consider whether the adverse impacts to Tribal uses in the offshore area meet the legal criterion for significance under CEQA. If the adverse impacts are considered to be significant, Tribal Option 1 would be

the most appropriate and effectual mitigation measure. Tribal Option 1 is feasible, practical and effective.

6. The Environmental Justice analysis should include the fact that the preferred alternative, Tribal Option 1, does not result in preferential treatment for Indian Tribes on the basis of race. The sovereign legal status of federally-recognized Indian Tribes, which is the basis of their government-to-government relationship to the United States and the State of California, means that laws and regulations addressing those Tribes' interests constitute political classifications, rather than racial classifications.

We appreciate this opportunity to comment on the Notice of Preparation and we thank you for your consideration of them. If you have questions or need additional clarification regarding these comments, please contact Hawk Rosales, Executive Director, at the number listed at the top of the first page of this letter.

Sincerely yours,



Priscilla Hunter
Chairwoman

cc: Charlton Bonham, Director, California Department of Fish and Game
Sonke Mastrup, Executive Director, California Fish and Game Commission

From: [MLPA CEQA](#)
To: [Pam Rittelmeyer; Caitlin Gilleran;](#)
Subject: FW: Regarding options for North Coast MPAs
Date: Friday, October 14, 2011 3:43:31 PM
Attachments: [CEQU Letter10-14-11.doc](#)
[ATT00001.htm](#)

From: Larry Knowles [lknowles@mcn.org]
Sent: Friday, October 14, 2011 3:20 PM
To: Andrea Shea; MLPA CEQA
Cc: Susan Ashcraft; Steve Wertz; Kendall Smith; Doug Hammerstrom
Subject: Regarding options for North Coast MPAs

Hello Andrea and Horizon Water,

Please include the attached letter in the CEQA document

Please include the attached letter in the Fish and Game Commission meeting packet for the October 19th meeting in Monterey

Please call or email me with any questions.

Regards, Larry Knowles, NCRSG member
Owner, Rising Tide Sea Vegetables
Home Office 707-964-5507

October 14, 2011

California Fish and Game Commission

MLPA North Coast CEQA Scoping Comments
California Department of Fish and Game
c/o Horizon Water and Environment

Dear F&G Commisioners,

Thank you for the opportunity to comment on the proposed scope of the environmental document regarding the establishment of a network of Marine Protected Areas on the North Coast of California.

The Edible Seaweed industry has a problem with the restricted take of bull kelp in the Mc Kerricher, Russian Gulch and Van Damm SMCAs.

As a result of months of direction from F and G and MLP AI staff to simplify our array for feasibility reasons the Regional Stakeholder Group these three SMCAs. State Parks failed to convey their interest in keeping these SMCAs while the stake holders deliberated for months coming toward a final Array design. During the last NCRSG meeting the day before the RSG was to finalize our Unified Array, State Parks expressed their "dismay" that we had not included these SMCAs in our Unified Array. State Parks then reinserted these SMCAs after the Stake Holder process including take restrictions on bull kelp and giant kelp only. There is no biological justification for these arbitrary restrictions provided by State Parks.

In order to eliminate conflict with the Edible Seaweed industry I propose that the Fish and Game Commission *restrict take on Giant Kelp only in the these SMCAs for two reasons:*

1. Biological rationale: There are very small Quantities of Giant kelp in each of these three SMCAs so there is more biological rationale for restricting take. In theory the resource would be much more likely impacted than Bull kelp (which occurs in truly massive quantities and the take of bull kelp is restricted in DFG regulations to a few thousand pounds north of San Francisco).
2. Industry conflict; This would eliminate the conflict with the established sustainable commercial harvest that currently occasionally takes small quantities of Bull Kelp only in some of these areas. There is no one to my knowledge planning to harvest Giant Kelp in these areas.

I am available to discuss these matters and come to a workable solution to this issue.

Thanks again for your consideration.
Larry Knowles, Owner Rising Tide Sea Vegetables,
Member NCRSG
PO #1683 Mendocino CA 95460 / 707-964-5507

From: [MLPA CEQA](#)
To: [Pam Rittelmeyer; Caitlin Gilleran;](#)
Subject: FW: Comments WRT NC MLPA CEQA DEIR
Date: Friday, October 14, 2011 3:45:09 PM
Attachments: [letter of support FGC final \(1\).pdf](#)

From: jenniferelizabethsavage@gmail.com [jenniferelizabethsavage@gmail.com]
On Behalf Of Jennifer Savage [jsavage@oceanconservancy.org]
Sent: Friday, October 14, 2011 6:32 PM
To: MLPA CEQA
Subject: Comments WRT NC MLPA CEQA DEIR

Please accept our comments regarding the NCSR MPLA CEQA.
(Please note: this is a separate submission than the one emailed yesterday, Oct. 13, 2011.)
Thank you,
Jennifer Savage
North Coast Coordinator, Pacific Programs
Ocean Conservancy



MLPA North Coast CEQA Scoping Comments
 California Department of Fish and Game
 c/o: Horizon Water and Environment
 P.O. Box 2727
 Oakland, CA 94602

Re: CEQA Scoping Comments for MLPA North Coast Project

To Whom It May Concern:

Please accept the following comments on behalf of the undersigned organizations. We are writing today to urge continued support for advancing the North Coast Regional Stakeholder Group’s Marine Protected Area unified proposal as your preferred alternative. We appreciate the time and dedication the California Fish & Game Commission has devoted to the North Coast region of the Marine Life Protection Act (MLPA) over the past several months and for your service to the State of California.

The preferred alternative unified proposal, along with Tribal Option 1:

- Represents our best concerted effort to meet the goals of the Marine Life Protection Act, including enhancing recreation, education, and research opportunities, as well as protecting key heritage sites in northern California;
- Allows for traditional tribal gathering within State Marine Conservation Areas (SMCAs);
- Offers improved protection at biodiversity hotspots like Reading Rock, Humboldt Bay, Cape Mendocino, the Mattole Canyon, and Vizcaino, which provide critical habitat for sea life and are popular with divers, kayakers, and birders;
- Finds consensus and balance in a coastal community with MPAs that can be supported by all ocean users;
- Would enhance stewardship of MPAs based on the fact that the North Coast community designed the protections;
- Has the support of a wide range of interests, including local residents, scientists, conservationists, commercial and recreational fishermen and recreational users.

Marine protected areas, especially fully protected marine reserves, are an investment in the future health of our coastal waters. We understand that under the California Environmental Quality Act (CEQA) a Draft Environmental Impact Report (DEIR) will be undertaken. The DEIR should note

the superiority of the unified proposal as well as include a comprehensive discussion of cultural uses as traditionally practiced by North Coast tribes.

Thank you for your attention to our concerns.

Sincerely,



William Weaver, PhD
Board of Directors President, Friends of the Dunes



Beth Werner
Executive Director, Humboldt Baykeeper



Jennifer Savage
North Coast Coordinator, Pacific Programs



Gary Hughes
Executive Director, Environmental Protection Information Center



Rain Ananael
Executive Director, Northcoast Environmental Center

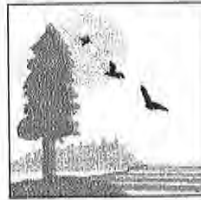
_____/s/_____

Chet Ogan
Boardmember, Redwood Region Audubon Society



Karen Garrison
Co-Director, NRDC Oceans Program

CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202



CURTIS L. FOSSUM, Executive Officer
(916) 574-1800 FAX (916) 574-1810
California Relay Service From TDD Phone 1-800-735-2929
from Voice Phone 1-800-735-2922

Contact Phone: (916) 574-1890
Contact FAX: (916) 574-1885

October 14, 2011

File Ref: SCH # 2011092029

Sonke Mastrup
Fish and Game Commission
PO Box 944209
Sacramento, CA 94244

**Subject: Notice of Preparation (NOP) for an Environmental Impact Report (EIR)
for the Marine Life Protection Act North Coast Study Region, Del Norte,
Humboldt and Mendocino Counties**

Dear Mr. Mastrup,

The California State Lands Commission (CSLC) staff has reviewed the subject NOP for an EIR for the Marine Life Protection Act (MLPA) North Coast Study Region (Project), which is being prepared by the Department of Fish and Game (CDFG) on behalf of the Fish and Game Commission (CFGC). CFGC, because of its intent to amend regulations related to Marine Protected Areas (MPAs) pursuant to authority established through passage of the MLPA (Stats. 1999, Ch. 1015), is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). The CSLC will act as a trustee agency because of its trust responsibility for projects that could directly or indirectly affect sovereign lands, their accompanying Public Trust resources or uses, and the public easement in navigable waters. Additionally, because the Project involves sovereign lands, the CSLC may act as a responsible agency.

CSLC Jurisdiction and Public Trust Lands

The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The CSLC also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code, §§ 6301, 6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the Common Law Public Trust.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership

extends landward to the mean high tide line (MHTL), except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court. Such boundaries may not be readily apparent from present day site inspections.

All of the submerged lands waterward of the MHTL in the Project area are sovereign lands. CSLC staff has had discussions with staff of the MLPA Initiative, the CDFG, and the Department of Parks and Recreation about the use of sovereign land as part of the MLPA process. Some areas proposed as MPAs may have existing leases with the CSLC that could conflict with certain MPA designations or may be under the jurisdiction of local grantees. CSLC staff has sent existing lease information in the form of Geographic Information Systems (GIS) data, and expects to deliver material soon to MLPA staff on the locations of existing land grants in the Project area; information on existing uses of those granted lands must be obtained from the individual grantees. CSLC staff looks forward to working together during the Draft EIR process to identify and avoid potential land use conflicts.

Project Description

The NOP indicates that CDFG intends to prepare a Draft EIR to review the northern California coast component of a statewide network of MPAs, as required by the MLPA, and other marine managed areas and Special Closures determined appropriate to help fulfill the MLPA. Specifically, this review area includes state waters between the California-Oregon border (Del Norte County) and Alder Creek, near Point Arena (Mendocino County). CDFG is proposing changes and additions to the State's system of MPAs to meet the objectives of the MLPA as follows:

- Protect the natural diversity and abundance of marine life, and the structure, function and integrity of marine ecosystems;
- Help sustain, conserve and protect marine life populations, including those of economic value, and rebuild those that are depleted;
- Improve recreational, educational and study opportunities provided by marine ecosystems that are subject to minimal human disturbance, and to manage these uses in a manner consistent with protecting biodiversity;
- Protect marine natural heritage, including protection of representative and unique marine life habitats in California waters for their intrinsic values;
- Ensure California's MPAs have clearly defined objectives, effective management measures and adequate enforcement and are based on sound scientific guidelines; and
- Ensure the State's MPAs are designed and managed, to the extent possible, as a network.

CSLC staff understands that the proposed regulations that comprise the Project would:

- Establish 15 new MPAs and one new marine managed area (MMA) in both the Northern and Southern Bioregions of the Project area;
- Retain and modify four existing MPAs in the Southern Bioregion; and

- Replace the existing Punta Gorda State Marine Reserve (SMR) with new MPAs in the vicinity.

Each of the new and modified MPAs and MMA will have particular use restrictions depending on its MPA designation and its particular resources of concern.

Environmental Review

CSLC staff requests that the following potential impacts be analyzed in the Draft EIR:

Air Quality

1. Non-Fishing Traffic: On page 16, the Project NOP notes that "prohibiting certain uses within the MPAs may indirectly impact existing travel patterns within the study region, even if vessel traffic is not directly prohibited." Because increased congestion and disruption of non-fishing vessel traffic within and around the proposed MPAs may have impacts on emissions of greenhouse gases (GHGs) and other pollutants beyond those that would result solely from changed fishing boat travel patterns, the Draft EIR should consider impacts from changes in fishing *and* non-fishing vessel movement.

Biological Resources

2. Invasive Species: The Draft EIR should evaluate the potential for the new MPAs to exacerbate or accelerate the introduction or spreading of existing nonindigenous species within the MPAs. Pathways for such an unintended consequence would include increased recreational traffic to these protected areas (e.g., for purposes of diving), and changes in community dynamics that would favor nonindigenous species (such as through restricting take of certain species).
3. Community Resiliency: The Draft EIR should evaluate the effects of reduced take or no take areas on biodiversity and the ability of the potentially more diverse communities to better guard against invasion by nonindigenous species. (See Stachowicz et al. 2002. *Ecology* 83(9): 2575-2590 and Stachowicz & Byrnes 2006. *Marine Ecology Progress Series* 311: 251-262.)
4. Vessels as Vectors: The Draft EIR should evaluate the potential for the new MPAs to concentrate impacts from fishing and from the spreading of nonindigenous species on areas adjacent to MPAs. For example, should the regions north and south of Rockport and Westport become protected as a MPA, then fishing vessels may visit the waters in between the proposed Double Cone Rock SMCA and Ten Mile SMR in a greater concentration than prior to the establishment of MPAs. The potential for greater concentration of vessel traffic outside the MPAs could impact the fisheries, and result in the introduction, establishment and/or increased population of nonindigenous species to that area.

Climate Change

5. General: The Draft EIR should evaluate the potential effects of climate change (e.g., sea level rise, GHGs, ocean acidification, etc.) when evaluating the proposed MPAs, and how changes in water temperature and chemistry and coastal erosion may impact the proposed MPAs and the key resources they are designed to protect.
6. Greenhouse Gases: A GHG emissions analysis consistent with the California Global Warming Solutions Act (AB 32) and required by section 15064.4 of the State CEQA Guidelines¹ should be included in the Draft EIR. This analysis should identify a threshold for significance for GHG emissions, calculate the level of GHGs that will be emitted as a result of the Project, determine the significance of the impacts of those emissions, and, if impacts are significant, identify mitigation measures that would reduce or minimize them. The analysis should pay particular attention to the possibility of cumulative impacts of GHG emissions.

Cultural Resources

7. Submerged Resources: The Draft EIR should evaluate the possibility of submerged cultural resources in the Project area. The CSLC maintains a shipwrecks database, available at <http://shipwrecks.slc.ca.gov>, that can assist with this analysis. The database includes known and potential vessels located on the State's tide and submerged lands; however, the locations of many shipwrecks remain unknown. Please note that any submerged archaeological site or submerged historic resource that has remained in state waters for more than 50 years is presumed to be significant.
8. State Title: The Draft EIR should mention that the title to all abandoned shipwrecks, archaeological sites, and historic or cultural resources on or in the tide and submerged lands of California is vested in the State and under the jurisdiction of the CSLC. CSLC staff requests that CFGC consult with CSLC staff, should any cultural resources be discovered during surveys conducted to support the Project.

Land Use

9. Existing and Future CSLC Leases: The NOP notes that the EIR will consider the Project's conflicts with existing CSLC permits and leases. Please ensure that this evaluation considers maintenance and repairs that may be required for leased structures and activities as well their operations. The Draft EIR should also contain a discussion on the proposed MPA designations' possible

¹ The State "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

interference with the CSLC's ability to approve future leases in areas designated as MPAs. This consideration necessarily requires a balance between the MLPA's specific directive to improve the effectiveness of the MPA network in order to protect the marine ecosystem, a goal supported by the CSLC and consistent with the Public Trust, and the need for the CSLC to preserve its ability to exercise its discretionary authority to balance Public Trust uses when approving leases on state lands. CSLC staff therefore recommends that Land Use discussions in the Draft EIR encompass both present and future projects rather than just existing projects.

Recreation

10. Public Access: As public access and recreation on State lands are key concerns of the Public Trust, CSLC staff requests that the Draft EIR analyze the Project's proposed land use restrictions short-term and long-term impacts on recreational resources. Any significant impacts will require mitigation measures that minimize, reduce, or compensate for the impacts to public access.
11. Fishing, Access and Navigation: There are constitutional rights to fishing, access, and navigation on the public lands and the waters of California. CSLC staff recommends that the CFGC consult with counsel when considering restrictions on fishing, access, and navigation. CSLC staff would like to participate in any discussions about restricting public access, fishing, navigation, and vessel traffic.

Other

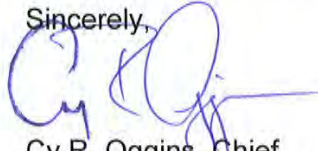
12. Adequate Mitigation: To avoid the improper deferral of mitigation, mitigation measures should either be presented as specific, feasible, enforceable obligations, or should be presented as formulas containing "performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way" (State CEQA Guidelines, § 15126.4, subd. (a)(1)(B)).

Thank you for the opportunity to comment on the NOP for the Project. As a trustee and, potentially, responsible agency, the CSLC may need to rely on the Final EIR for the issuance of any new lease as specified above and, therefore, we request that you consider our comments prior to adoption of the EIR. Please send additional information on the Project to the CSLC staff listed below as plans become finalized.

Please send copies of future Project-related documents or refer questions concerning environmental review to Sarah Sugar, Environmental Scientist, at (916) 574-2274 or via e-mail at Sarah.Sugar@slc.ca.gov. For questions concerning archaeological or historic resources under CSLC jurisdiction, please contact Senior Staff Counsel Pam Griggs at (916) 574-1854 or via email at Pamela.Griggs@slc.ca.gov. For questions concerning

CSLC leasing jurisdiction, please contact Mary Hays, Northern California Land Manager, at (916) 574-1812, or via email at Mary.Hays@slc.ca.gov.

Sincerely,



Cy R. Oggins, Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
Mary Hays, LMD, CSLC
Sarah Sugar, DEPM, CSLC
Pam Griggs, Legal, CSLC

CARMEL J. ANGELO
Chief Executive Officer
Clerk of the Board



**COUNTY OF MENDOCINO
BOARD OF SUPERVISORS**

CONTACT INFORMATION
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Web: www.co.mendocino.ca.us/bos

October 18, 2011

Marija Vojkovich
Regional Manager, Marine Region, California Department of Fish and Game

MLPA North Coast CEQA Scoping Comments
California Department of Fish and Game
c/o Horizon Water and Environment
P.O. Box 2727
Oakland, CA 94602

Dear Regional Manager Vojkovich,

Thank you for the opportunity to comment on the proposed scope of the environmental document regarding the establishment of a network of Marine Protected Areas (MPAs) on the North Coast of California.

As an active participant in the Tri-County Working Group (for Mendocino, Humboldt, and Del Norte Counties, also known as the *North Coast Local Agency Coastal Coordination Committee*), I am pleased to see that the current Proposed Project is largely based on the proposal that was developed by the North Coast Regional Stakeholders Group (NCRSG). The substantial effort of diverse local stakeholders to develop a single proposal that the entire NCRSG could support was a singular accomplishment, and it is rewarding to see that these efforts were not in vain, but instead were given the due respect and consideration of the Blue Ribbon Task Force (BRTF) and the Commission.

The 'environmental topics to be evaluated' outlined in the Notice of Preparation, appear to broadly cover the range of issues that many of us support being addressed in the Draft Environmental Impact Report (DEIR). I would like to take this opportunity to emphasize some specific issues that were raised in the work of the NCRSG and we believe should be discussed in detail in the DEIR.

Biological Resources:

- The potential effects on ecosystem services and fisheries resources of increasing fishing pressure on areas that will remain open via displacement of effort ("effort shift") from areas that will be closed as part of the project. This discussion should take into account the highly uneven distribution of fishing pressure across the study region, which is likely to increase further after Project implementation, and should be based on spatial analysis of specific benthic habitat and fish assemblages in relation to ports and harbors.

THE BOARD OF SUPERVISORS

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Fourth District

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Fifth District

- Due to the lack of significant natural urchin predator populations in the North Coast, the potential for the creation of 'urchin barrens' as a result of removing fishing pressure on urchins in proposed MPAs where urchin fishing now takes place is very high, and has already occurred in the Pt. Cabrillo reserve. If this does occur, the resulting loss of important kelp forest habitat and its associated species diversity and abundance – especially for threatened populations of abalone – could represent a significant environmental impact, as well as being counter to the goals of the Marine Life Protection Act (MLPA). In addition to assessing the potential for this impact, we believe the monitoring and adaptive management component of the proposed project should explicitly address how this will be assessed, the potential adaptive regulatory changes that could result if monitoring does identify a problem, and how those changes could be implemented.
- The Levels of Protection (LOP) model used to assess the potential benefits to inclusion, or negative impacts from exclusion in marine protected areas, has yet to incorporate the specific conditions and realities of the North Coast Study Region. The model is based on a dichotomous (“yes/no”) decision-making tree, and is limited to localized biological and ecological determinants (no economic, cultural, social, policy, or larger contextual questions are incorporated into the model). The model assumes that all potential uses are limitless and exploitative to the maximum extent, access is unimpeded, and all activities take place in isolation from any other activity. The model sets as both its baseline, and its goal, an “unharvested system” [i.e., a state marine reserve], ostensibly with no anthropogenic disturbance by humans. The model does not yet incorporate the cultural ecology of the region, i.e., thousands of years of traditional indigenous use and stewardship.

The model's current assumptions result in LOPs that are incongruent with current realities along the Northern California coast. For example, the model assigns a low LOP to hand-harvested species such as edible seaweed and mussels, historically and currently harvested sustainably by artisanal seaweed harvesters, subsistence gatherers, and tribal members. The model assigns a high LOP to culturally important pelagic species such as salmon (citing their highly mobile nature), despite environmental realities that currently negatively impact salmon found within MPAs at different points in their life cycle (e.g., water diversions, farmed salmon, plastics contaminants).

Consumptive Uses and Environmental Justice

- The North Coast Study Region contains a disproportionate segment of its population that can be considered economically disadvantaged. Large portions of our region's population are dependent on wild-harvested coastal resources to augment their livelihoods and diets. Additionally, compared to the other MLPA Initiative Study Regions, the North Coast Study Region has relatively high economic dependence on fishing yet relatively low landings¹. Del Norte County, Crescent City, Fort Bragg and Eureka have been identified as “vulnerable” to potentially constraining regulatory changes due largely to a high degree of community isolation and rurality, limited industry diversification, and high unemployment and poverty rates, with the Counties of Humboldt and Mendocino identified as being “most vulnerable.”² The NOP briefly mentions socioeconomic considerations under the heading of Consumptive Uses. While not an expressly covered issue in the California Environmental Quality Act (CEQA), this is an issue of significant importance and concern to North Coast government agencies, residents, and businesses.

¹ Petterson J.S., E.W. Glazier, A. Wagschal, C. Pomeroy, L. Madge, L. Stanley, R. Scalf, J. Stevens, P. Godde and M. Stevens. December 2010. North Coast Pre-MLPA Community Based Socioeconomic Characterization and Risk Assessment. Final Report. Impact Assessment, 2066 Avenida de la Playa, Suite F, La Jolla, CA 92037. Funding provided by the Humboldt County Headwaters Fund, Eureka, CA.

² Pacific Fishery Management Council (PFMC) and National Marine Fisheries Service (NMFS). 2006. Proposed Acceptable Biological Catch and Optimum Yield Specifications and Management Measures for the 2007-2008 Pacific Coast Groundfish Fishery, and Amendment 16-4: Rebuilding Plans for Seven Depleted Pacific Groundfish Species; Final Environmental Impact Statement including Regulatory Impact Review and Initial Regulatory Flexibility Analysis. Pacific Fishery Management Council, Portland, Oregon.

Public Services and Utilities

- The Notice of Project (NOP) correctly identifies the increased resources needed for enforcement of the MPA regulations as a potential impact on Public Services. This discussion in the DEIR should directly address a) the very limited resources available to the CDFG Law Enforcement Division (Wardens), which is currently staffed at the lowest levels in the Nation by area served; b) estimates of the cost and staffing needed for basic enforcement of the Proposed Project; and c) the potential biological impacts of the loss of enforcement capacity that may be an unavoidable result of adding significantly to the workload of the Wardens; e.g. Wardens on patrol enforcing the MPA regulations are not available to address poaching, trafficking, and water pollution.

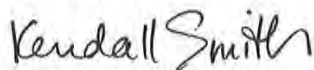
Cultural Resources

- The entire North Coast is effectively a traditional cultural property³ for one, or several of the tribes and tribal communities who have inhabited the region for millennia. The Tri-County Working Group and the NCRSG supports the efforts of the tribes and the Commission to work together to find a solution that ensures that the Proposed Project does not impact the diverse and culturally important traditional tribal use and gathering practices taking place on ancestral territories throughout the North Coast Region. The result of this ongoing effort will need to be addressed in the DEIR for its potential impact on biological resources, potential challenges it may pose to enforcement (see Public Services above) as well as a discussion of impacts to traditional cultural practices.

The Tri-County Working Group is following the recent action by the Office of Administrative Law disapproving the Commission's MLPA action in the South Coast Region, as well as the related lawsuits challenging the CEQA process followed in other MPA Regions, the application of the Administrative Procedure Act to the MPA process, and the underlying statutory basis for the Commission's actions. In light of these ongoing actions, I, and many others, respectfully encourage the Commission to proceed judiciously throughout the remainder of this process to ensure the letter and spirit of the law is followed, the opportunities for public input are maximized, and that input receives the detailed response that the public deserves.

Thank you for taking these comments into consideration,

Respectfully,



Kendall Smith, Chair
Mendocino County Board of Supervisors

cc: Sonke Mastrup, Executive Director, California Department of Fish & Game Commission
California Assembly Member Wes Chesbro

³ Per Criteria (A) - (D) as stipulated in the National Park Service Bulletin 38, *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (revised 1998).

From: [MLPA CEQA](#)

Subject: FW: North Coast Region Notice of Preparation; Elk Valley Rancheria, California's Response

Date: Thursday, October 13, 2011 2:54:33 PM

Attachments: [Ltr to MLPA North Coast Re North Coast Region Notice of Preparation EVR's Response 09-23-11.pdf](#)

From: Shelly Woods [swoods@elk-valley.com]

Sent: Friday, September 23, 2011 4:33 PM

To: MLPA CEQA

Subject: North Coast Region Notice of Preparation; Elk Valley Rancheria, California's Response

From the Desk of Chairman Dale A. Miller, Tribal Chairman
Elk Valley Rancheria, California

Elk Valley
Rancheria,
California



2332 Howland Hill Road
Crescent City, CA 95531

Phone 707.464.4680
Fax: 707.465.2638
www.elk-valley.com

September 23, 2011

VIA POSTAL SERVICE & E-MAIL

MLPAcomments@HorizonWater.com

MLPA North Coast CEQA Scoping Comments
California Department of Fish and Game
c/o Horizon Water & Environment
Post Office Box 2727
Oakland, California 94602

Re: North Coast Region Notice of Preparation; Elk Valley Rancheria, California's
Response

To Whom It May Concern:

The Elk Valley Rancheria, California, a federally recognized Indian tribe (the "Tribe"), is the beneficial owner of its reservation located near Crescent City, Del Norte County, California. In response to the September 12, 2011 Notice of Preparation of Environmental Document Regarding Marine Protected Areas in the Northern California Region Pursuant to the Marine Life Protection Act, the Tribe hereby submits the following comments.

The Tribe understands that the project objectives "are to help protect, maintain, restore, enhance, and manage living marine resources by developing this portion of the MLPA-required network of MPAs." The Tribe understands there are three main types of marine protected areas: 1) State Marine Parks, which prohibit commercial fishing, but allow recreational fishing; 2) State Marine Conservation Areas, which allow limited commercial and recreational fishing; and 3) Marine Reserves, which completely prohibit the harvest of marine life and alteration of marine habitats. The result of the establishment of the Marine Protected Areas would be a prohibition against or restriction of take of "finfish, marine plants and/or invertebrates."

As you are aware, the Tribe has submitted comments and participated in the on-going MLPA dialogue to date and most recently submitted its documentation to the Fish and Game

Commission supporting the Tribe's historical and on-going traditional cultural practices in accordance with the Fish and Game Commission's Tribal Gathering Option 1.

The Tribe requests that the EIR address all required topics under the California Environmental Quality Act ("CEQA") including, but not limited to:

- Environmental Justice, especially on tribal communities;
- Socio-economic impacts, especially on tribal communities;
- Historic resources protection, including cultural landscapes;
- Blight;
- Tribal cultural impacts;
- Cumulative impacts (direct and indirect);
- Federal nexus and National Environmental Policy Act compliance; and
- Consumptive uses.

The Tribe requests that the lead agency determine the baseline, existing conditions in detail, especially with regard to Tribal traditional and cultural practices within the potentially affected areas in order to determine the project's potential changes to the environment. As the project will potentially alter, e.g., otherwise prohibit tribal traditional uses and cultural practices, the Environmental Impact Report must examine the incremental effect of the proposed change against the existing activities baseline as well as appropriate mitigation measures.

Those measures should include active consultation with federally recognized Indian tribes in the North Coast Region. *See* Executive Order B-10-11 ("IT IS FURTHER ORDERED that it is the policy of this Administration that every state agency and department subject to my executive control shall encourage communication and consultation with California Indian Tribes. Agencies and departments shall permit elected officials and other representatives of tribal governments to provide meaningful input into the development of legislation, regulations, rules, and policies on matters that may affect tribal communities.") (emphasis added).

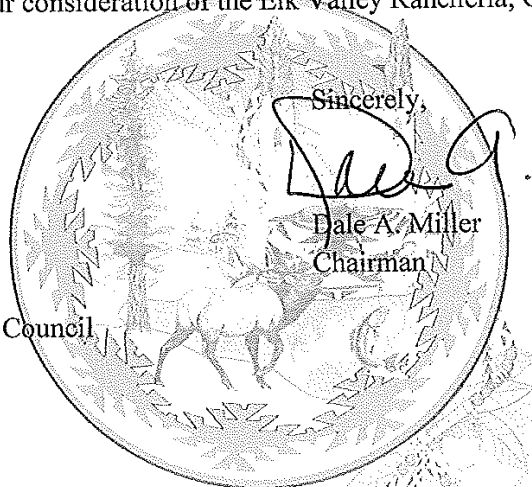
MLPA Scoping Comments.
September 23, 2011
Page 3

Please ensure that the following individuals are provided all CEQA and project-related notices and activities regarding the Marine Life Protection Act implementation for the North Coast Region:

Chairman
Elk Valley Rancheria, California
2332 Howland Hill Road
Crescent City, California 95531
dmiller@elk-valley.com

General Counsel
Elk Valley Rancheria, California
2332 Howland Hill Road
Crescent City, California 95531
bdownes@elk-valley.com

Thank you for your consideration of the Elk Valley Rancheria, California's comments regarding scoping.



Dale A. Miller

cc: Elk Valley Tribal Council
General Counsel

October 12, 2011

Marija Vojkovich
Regional Manager, Marine Region, California Department of Fish and Game

MLPA North Coast CEQA Scoping Comments
California Department of Fish and Game
c/o Horizon Water and Environment
P.O. Box 2727
Oakland, CA 94602

Dear Regional Manager Vojkovich,

Thank you for the opportunity to comment on the proposed scope of the environmental document regarding the establishment of a network of Marine Protected Areas on the North Coast of California.

As an active participant in the Tri-County Working Group (for Mendocino, Humboldt, and Del Norte Counties, also known as the *North Coast Local Agency Coastal Coordination Committee*), I am pleased to see that the current Proposed Project is largely based on the proposal that was developed by the NCRSG. The substantial effort of diverse local stakeholders to develop a single proposal that the entire NCRSG could support was a singular accomplishment, and it is rewarding to see that these efforts were not in vain, but instead were given the due respect and consideration of the BRTF and the Commission.

The 'environmental topics to be evaluated' outlined in the Notice of Preparation, appear to broadly cover the range of issues that many of us support being addressed in the Draft Environmental Impact Report (DEIR). I would like to take this opportunity to emphasize some specific issues that were raised in the work of the NCRSG and we believe should be discussed in detail in the DEIR.

Biological Resources:

- The potential effects on ecosystem services and fisheries resources of increasing fishing pressure on areas that will remain open via displacement of effort ("effort shift") from areas that will be closed as part of the project. This discussion should take into account the highly uneven distribution of fishing pressure across the study region, which is likely to increase further after Project implementation, and should be based on spatial analysis of specific benthic habitat and fish assemblages in relation to ports and harbors.
- Due to the lack of significant natural urchin predator populations in the North Coast, the potential for the creation of 'urchin barrens' as a result of removing fishing pressure on urchins in proposed MPAs where urchin fishing now takes place is very high, and has already occurred in the Pt. Cabrillo reserve. If this does occur, the resulting loss of important kelp forest habitat and its associated species diversity and abundance – especially for threatened populations of abalone – could represent a significant environmental impact, as well as being counter to the goals of the MLPA. In addition to assessing the potential for this impact, we believe the monitoring and adaptive management component of the proposed project should explicitly address how this will be assessed, the potential adaptive regulatory changes that could result if monitoring does identify a problem, and how those changes could be implemented.
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determinants (no economic, cultural, social, policy, or larger contextual questions are incorporated into the model). The model assumes that all potential uses are limitless and exploitative to the maximum extent, access is unimpeded, and all activities take place in isolation from any other activity. The model sets as both its baseline, and its goal, an “unharvested system” [i.e., a state marine reserve], ostensibly with no anthropogenic disturbance by humans. The model does not yet incorporate the cultural ecology of the region, i.e., thousands of years of traditional indigenous use and stewardship.

The model’s current assumptions result in LOPs that are incongruent with current realities along the Northern California coast. For example, the model assigns a low LOP to hand-harvested species such as edible seaweed and mussels, historically and currently harvested sustainably by artisanal seaweed harvesters, subsistence gatherers, and tribal members. The model assigns a high LOP to culturally important pelagic species such as salmon (citing their highly mobile nature), despite environmental realities that currently negatively impact salmon found within MPAs at different points in their life cycle (e.g., water diversions, farmed salmon, plastics contaminants).

Consumptive Uses and Environmental Justice

- The North Coast Study Region contains a disproportionate segment of its population that can be considered economically disadvantaged. Large portions of our region’s population are dependent on wild-harvested coastal resources to augment their livelihoods and diets. Additionally, compared to the other MLPA Initiative Study Regions, the North Coast Study Region has relatively high economic dependence on fishing yet relatively low landings¹. Del Norte County, Crescent City, Fort Bragg and Eureka have been identified as “vulnerable” to potentially constraining regulatory changes due largely to a high degree of community isolation and rurality, limited industry diversification, and high unemployment and poverty rates, with the Counties of Humboldt and Mendocino identified as being “most vulnerable.”² The NOP briefly mentions socioeconomic considerations under the heading of Consumptive Uses. While not an expressly covered issue in CEQA, this is an issue of significant importance and concern to North Coast government agencies, residents, and businesses.

Public Services and Utilities

- The NOP correctly identifies the increased resources needed for enforcement of the MPA regulations as a potential impact on Public Services. This discussion in the DEIR should directly address a) the very limited resources available to the CDFG Law Enforcement Division (Wardens), which is currently staffed at the lowest levels in the Nation by area served; b) estimates of the cost and staffing needed for basic enforcement of the Proposed Project; and c) the potential biological impacts of the loss of enforcement capacity that may be an unavoidable result of adding significantly to the workload of the Wardens; e.g. Wardens on patrol enforcing the MPA regulations are not available to address poaching, trafficking, and water pollution.

¹ Petterson J.S., E.W. Glazier, A. Wagschal, C. Pomeroy, L. Madge, L. Stanley, R. Scalf, J. Stevens, P. Godde and M. Stevens. December 2010. North Coast Pre-MLPA Community Based Socioeconomic Characterization and Risk Assessment. Final Report. Impact Assessment, 2066 Avenida de la Playa, Suite F, La Jolla, CA 92037. Funding provided by the Humboldt County Headwaters Fund, Eureka, CA.

² Pacific Fishery Management Council (PFMC) and National Marine Fisheries Service (NMFS). 2006. Proposed Acceptable Biological Catch and Optimum Yield Specifications and Management Measures for the 2007-2008 Pacific Coast Groundfish Fishery, and Amendment 16-4: Rebuilding Plans for Seven Depleted Pacific Groundfish Species; Final Environmental Impact Statement including Regulatory Impact Review and Initial Regulatory Flexibility Analysis. Pacific Fishery Management Council, Portland, Oregon.

Cultural Resources

- The entire North Coast is effectively a traditional cultural property³ for one, or several of the tribes and tribal communities who have inhabited the region for millennia. The Tri-County Working Group and the NCRSG supports the efforts of the tribes and the Commission to work together to find a solution that ensures that the Proposed Project does not impact the diverse and culturally important traditional tribal use and gathering practices taking place on ancestral territories throughout the North Coast Region. The result of this ongoing effort will need to be addressed in the DEIR for its potential impact on biological resources, potential challenges it may pose to enforcement (see Public Services above) as well as a discussion of impacts to traditional cultural practices.

The Tri-County Working Group is following the recent action by the Office of Administrative Law disapproving the Commission's MLPA action in the South Coast Region, as well as the related lawsuits challenging the CEQA process followed in other MPA Regions, the application of the Administrative Procedure Act to the MPA process, and the underlying statutory basis for the Commission's actions. In light of these ongoing actions, I, and many others, respectfully encourage the Commission to proceed judiciously throughout the remainder of this process to ensure the letter and spirit of the law is followed, the opportunities for public input are maximized, and that input receives the detailed response that the public deserves.

Thank you for taking these comments into consideration,

Respectfully,

Jeanine Pfeiffer, PhD
MLPAI Coordinator for Mendocino County

cc: Sonke Mastrup, Executive Director, California Department of Fish & Game Commission
California Assembly Member Wes Chesbro
Mendocino County Board of Supervisors

³ Per Criteria (A) – (D) as stipulated in the National Park Service Bulletin 38, *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (revised 1998).

Subject: FW: MLPA North Coast CEQA Scoping Comments
Date: Friday, October 14, 2011 9:32:21 AM
Attachments: [image001.png](#)
[HBHRCD comments on MLPA NOP.PDF](#)

From: Patti Tyson [ptyson@portofhumboldtby.org]
Sent: Friday, October 14, 2011 11:58 AM
To: MLPA CEQA
Subject: FW: MLPA North Coast CEQA Scoping Comments

Please accept the attached MLPA North Coast CEQA Scoping Comments from the Humboldt Bay Harbor, Recreation and Conservation District.
Thank you,

Patricia L. Tyson
Interim Chief Executive Officer
Humboldt Bay Harbor, Recreation and Conservation District
P O Box 1030; Eureka, CA 95502-1030
phone (707) 443-0801; fax (707) 443-0800

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**HUMBOLDT BAY
HARBOR, RECREATION, AND CONSERVATION
DISTRICT**
(707) 443-0801
P.O. Box 1030
Eureka, California 95502-1030



October 14, 2011

Marija Vojkovich
Regional Manager
Marine Region
California Department of Fish and Game

MLPA North Coast CEQA Scoping Comments
California Department of Fish and Game
c/o Horizon Water and Environment
P.O. Box 2727
Oakland, CA 94602

Dear Regional Manager Vojkovich,

Thank you for the opportunity to comment on the proposed scope of the CEQA equivalent draft environmental document, referred to in the Notice of Preparation as an Environmental Impact Report (EIR) regarding the establishment of a network of Marine Protected Areas on the North Coast of California.

As active participants in the North Coast Regional Stakeholder Group (NCRSG), the Humboldt Bay Harbor, Recreation and Conservation District is pleased to see that the current Proposed Project is largely based on the Unified MPA Array proposal that was developed by the NCRSG. The substantial effort of diverse local stakeholders to develop a single proposal that had the support of the entire NCRSG was a singular accomplishment, and it is rewarding to see that these efforts were not in vain, but instead were given the due respect and consideration of the BRTF and the Commission.

The 'environmental topics to be evaluated' outlined in the Notice of Preparation, appear to broadly cover the range of issues that we believe need to be addressed in the Draft Environmental Impact Report (DEIR). However we would like to take this opportunity to emphasize some specific issues that were raised in the work of the NCRSG and we believe should be discussed in detail in the DEIR.

Biological Resources:

- The potential effects on ecosystem services and fisheries resources of increasing fishing pressure on areas that will remain open via displacement of effort from areas

that will be closed should be addressed in the DEIR. This discussion should take into account the highly uneven distribution of fishing pressure across the study region, which is likely to become more uneven after project implementation, and should be based on spatial analysis of specific benthic habitat and fish assemblages in relation to the locations of ports and harbors. The monitoring and adaptive management component of the project may be appropriate to help address this issue.

- The potential for the creation of ‘urchin barrens’ as a result of removing fishing pressure on urchins in proposed MPAs where urchin fishing now takes place should be addressed in the DEIR. If this does occur, the resulting loss of important kelp forest habitat and its associated species diversity and abundance could represent a significant environmental impact, as well as being counter to the goals of the MLPA. In addition to assessing the potential for this impact, we believe the monitoring and adaptive management component of the proposed project should explicitly include monitoring for this potential effect, the adaptive regulatory changes that could result if monitoring does identify a problem, and how those changes could be implemented.

Socioeconomic Resources

- The NOP briefly mentions socioeconomic considerations under the headings of Consumptive Uses and Environmental Justice. While not an expressly covered issue in CEQA, this is an issue of significant importance and concern to North Coast residents and businesses. Compared to the other MLPA Initiative Study Regions, the North Coast Study Region has relatively high economic dependence on fishing yet relatively low landings¹. Indeed, Del Norte County, Crescent City, Fort Bragg and Eureka have been identified as “vulnerable” to potentially constraining regulatory changes due largely to their high degree of community isolation and rural nature, limited industry diversification, and high unemployment and poverty rates, with the Counties of Humboldt and Mendocino identified as being “most vulnerable.”² Given this context we request that the DEIR evaluate and consider the potential socioeconomic impacts of the Proposed Project and alternatives, and that these issues be included in the monitoring and adaptive management component of the project.

Public Services and Utilities

- The NOP correctly identifies the increased resources needed for enforcement of the MPA regulations as a potential impact on Public Services. This discussion in the DEIR should directly address a) the very limited resources available to the CDFG

¹ Petterson J.S., E.W. Glazier, A. Wagschal, C. Pomeroy, L. Madge, L. Stanley, R. Scalf, J. Stevens, P. Godde and M. Stevens. December 2010. North Coast Pre-MLPA Community Based Socioeconomic Characterization and Risk Assessment. Final Report. Impact Assessment, 2066 Avenida de la Playa, Suite F, La Jolla, CA 92037. Funding provided by the Humboldt County Headwaters Fund, Eureka, CA.

² Pacific Fishery Management Council (PFMC) and National Marine Fisheries Service (NMFS). 2006. Proposed Acceptable Biological Catch and Optimum Yield Specifications and Management Measures for the 2007-2008 Pacific Coast Groundfish Fishery, and Amendment 16-4: Rebuilding Plans for Seven Depleted Pacific Groundfish Species; Final Environmental Impact Statement including Regulatory Impact Review and Initial Regulatory Flexibility Analysis. Pacific Fishery Management Council, Portland, Oregon.

Law Enforcement Division (Wardens), which is currently staffed at the lowest levels in the Nation by area served; b) estimates of the cost and staffing needed for basic enforcement of the Proposed Project; and c) the potential biological impacts of the loss of enforcement capacity that may be an unavoidable result of adding significantly to the workload of the Wardens; e.g. Wardens on patrol enforcing the MPA regulations are not available to address poaching, trafficking, water pollution, and other resource protection issues.

- Partnering with local agencies and stakeholders to assist with education and implementation of the MLPA may be an effective way to partially address the limited resources available for enforcement. The DEIR should identify this type of cooperative management as an important strategy to be pursued.

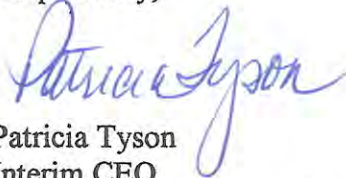
Cultural Resources

- The NCRSG supports the continuing efforts of the tribes and the Commission to work together to find a solution that ensures that the Proposed Project does not impact the diverse and culturally important traditional tribal gathering practices found throughout the North Coast Region. The result of this ongoing effort will need to be addressed in the DEIR for its potential impact on biological resources, potential challenges it may pose to enforcement (see Public Services above) as well as a discussion of impacts to traditional cultural practices.

The Harbor District and other members of the NCRSG are following the recent action by the Office of Administrative Law disapproving the Commission's MLPA action in the South Coast Region, as well as the related lawsuits challenging the CEQA process followed in other MPA Regions, the application of the Administrative Procedure Act to the MPA process, and the underlying statutory basis for the Commission's actions. In light of these ongoing actions, we respectfully encourage the Commission to proceed judiciously throughout the remainder of this process to ensure the letter and spirit of the law is followed, the opportunities for public input are maximized, and that input receives the detailed response that the public deserves.

Thank you for taking these comments into consideration, we look forward to reviewing the Draft Environmental Impact Report when it becomes available.

Respectfully,



Patricia Tyson
Interim CEO

Humboldt Bay Harbor, Recreation and Conservation District

From: [MLPA CEQA](#)
To: [Pam Rittelmeyer; Caitlin Gilleran;](#)
Subject: FW: Yurok Tribe Response to MLPA North Coast Region Notice of Preparation
Date: Friday, October 14, 2011 4:43:31 PM
Attachments: [Yurok Tribe Response to MLPA North Coast Region Notice of Preparation.pdf](#)

From: Alicia McQuillen [amcquillen1@gmail.com]
Sent: Friday, October 14, 2011 6:49 PM
To: MLPA CEQA; johnc@yuroktribe.nsn.us; amcquillen@yuroktribe.nsn.us; rwright@yuroktribe.nsn.us; bota@dfg.ca.gov; nvoegeli@yuroktribe.nsn.us; ksloan@yuroktribe.nsn.us; buffy@yuroktribe.nsn.us; torourke@yuroktribe.nsn.us; jkinney@yuroktribe.nsn.us; smastrup@fgc.ca.gov; tom.weseloh@asm.ca.gov
Subject: Yurok Tribe Response to MLPA North Coast Region Notice of Preparation

To whom it may concern:

Please see the attached response from the Yurok Tribe to the Notice of Preparation prepared for the MLPA's North Coast Region.

If you have any questions please contact the Yurok Tribe Office of the Tribal Attorney at (707) 482-1350 or Alicia McQuillen at amcquillen@yuroktribe.nsn.us <<mailto:amcquillen@yuroktribe.nsn.us>>.

Respectfully,

Alicia McQuillen
Yurok Tribe Marine Life Protection Act Coordinator



YUROK TRIBE

190 Klamath Boulevard • Post Office Box 1027 • Klamath, CA 95548
Phone: 707-482-1350 • Fax: 707-482-1377

October 14, 2011

MLPA North Coast CEQA Scoping Comments
California Department of Fish and Game
c/o Horizon Water and Environment
P.O. Box 2727
Oakland, CA 94602

To Whom It May Concern:

At the Fish and Game Commission's June 29-30, 2011 meeting in Stockton California the Commission authorized staff to go to notice to amend Section 632, Title 14, California Code of Regulations (CCR) regarding North Coast Study Region Marine Protection Areas (MPA). The proposed regulation is based on the Revised Round 3 Marine Life Protection Act (MLPA) North Coast Regional Stakeholder Group "Unified" MPA Proposal. The Commission included within the preferred project Tribal Option 1. The Yurok Tribe requests the adoption of Tribal Option 1 and concurrence with the implementation of the Yurok Marine Resource Plan. We further request that the Commission adopt as the preferred CEQA project a State Marine Conservation Area (SMCA) designation for the entirety of Redding Rock, an area which holds tremendous religious, ceremonial and cultural significance to Yuroks. However, for legal reasons, all alternatives should be reviewed in the Environmental Impact Report (EIR) as required by CEQA.

The project area defined by the Marine Life Protection Act as the North Coast Region is unique in many respects when compared to other regions of California. These factors include, but certainly aren't limited to, extreme weather, limited access to the marine environment and minimal population who utilize the resources. Northern California is also home to many Tribes which have existed since time immemorial and continue to thrive today. Tribal traditional, religious and ceremonial gathering have been developed from time immemorial to work in synchronization with this environment.

California Tribes, mentioned in the Notice of Preparation briefly in the past tense, are in fact vibrant communities with cultural, ceremonial and religious practices which are conducted on a continual basis. Tribal activities involve taking of resources in a sustainable manner consistent with traditional Tribal law and Tribal ordinance. The EIR should use as a factual base the Tribal Profiles and submittal of uses presented by the Tribes to the Fish and Game Commission. The Government to Government relationship of joint management of marine resources should be noted and that the as defined by federal law membership in a Tribe is a citizenship not racial designation needs to be carefully reviewed.

The proposed project area overlaps with the Ancestral Territory of the Yurok Tribe which spans eighty-three miles along the Pacific Coast from the mouth of Wilson Creek from the North, to Little River to the South, East to the confluence of the Trinity and Klamath River, and west to the horizon line. This project area within Yurok Ancestral Territory includes sites of prehistoric, historic and present-day traditional significance to the beliefs and practices of the Yurok Tribe and others. The cultural, religious and ceremonial significance is associated with the marine environment cannot be isolated to one location, but includes the entire landscape and seascape of Yurok Ancestral Territory and traditional gathering sites encompassed within the proposed project area of MLPA. These project area sites are designated by the Marine Life Protection Act as:

- Pyramid Point SMCA
- Point St. George SMCA
- Southwest Seal Rock Special Closure
- Castle Rock Special Closure
- False Klamath Rock Special Closure
- Reading Rock SMCA/SMR

A detailed description of the immense cultural significance of these areas is enunciated in the *Yurok Tribe MLPA and Marine Resource Plan Factual Record of Marine Resource Use* presented to the California Fish and Game Commission September 15, 2011. The Yurok Tribe holds that any limitation or prohibition of traditional tribal gathering will have a substantial adverse effect on our ability to conduct ceremonial and religious activity. Any limitation of access to the marine environment and Tribal traditional gathering areas along the California coast will result in adverse effects on Tribal member citizen health. Limiting access to healthy traditional food sources has been directly linked to an increase in diseases such as diabetes and obesity in Native American populations. Studies showing this correlation will be submitted for your review.

There are many significant cultural, religious and ceremonial sites within the proposed project options which are eligible for listing under the Eligibility Criteria of the National Register of Historic Places (NRHP) as Traditional Cultural Properties (TCPs). The National Parks Service has issued Management Policies, which provide some useful guidance. The negative impact of a reserve or conservation harvest restrictions on site specific ceremonial, religious, cultural, and subsistence needs to be analyzed.

Incorporation of tribal traditional uses into regulations by the State of California must be done with individual Tribes in order to ensure that information is accurately and appropriately recorded in the Environmental Impact Report. The mutually beneficial affects to both parties and the resource need to be noted in the Environmental Impact Report. Our goal is to implement the goals of the Marine Life Protection Act in a manner which avoids substantial effects to the cultural landscape and to preserve its cultural significance to the Yurok Tribe and many others. The cultural uses which make up the landscape significant must be protected in order to protect the integrity of the landscape.

The Yurok Tribe encourages the Department of Fish and Game and Horizon Water and Environment to make the following findings in the Environmental Impact Report (EIR):

1. Tribal uses are consistent with the goals of the Marine Life Protection Act.
2. Coordination of planning, implementation and management efforts with the Yurok Marine Resource Program restoration efforts.
3. Tribes have demonstrated there are ceremonial, religious and cultural aspects to their subsistence gathering within the designated Marine Protected Areas (MPAs).
4. Tribal uses are an intrinsic part of the marine environment.
5. No evidence has been introduced that Yurok gathering has had an adverse effect on the Marine environment.
6. Traditional harvest methods preserve and enhance the marine species output
7. The State of California needs cultural support and local buy-in to sustain successful implementation of the Marine Life Protection Act. Failure to do so will result in adverse effects on the marine environment including widespread poaching and insufficient enforcement capability. Such capacity can only be provided by the Tribes,
8. The quantity of monitoring and scientific research will be enhanced by supplemental Tribal resources and cooperation. The positive environmental impacts of such cooperation need to be noted and defined in the Environmental Impact Report.

The Yurok Tribe requests that some of the Environmental Impact Report hearings be heard at one of the Tribal headquarters. This will serve to increase public participation including Native American participation and will reflect the significant role of Indian Governments in Northern California. Technical data driven Scientific Reports submitted by the Yurok Tribe showing no harm from environmental harvesting that are submitted in the due course of the Environmental Impact Report preparation need to be considered.

The Yurok Tribe requests that the Department of Fish and Game and Horizon Water and Environment to engage in formal consultation with us and other sovereign nations in this region who will be impacted by the implementation of the Marine Life Protection Act. The Yurok Tribe hereby incorporates into our response as though set out in full all the responses of the Native American Tribes and the Tri County Working Group submittal.

If you have any questions please contact the Yurok Tribe's Office of the Tribal Attorney at (707) 482-1350.

Respectfully submitted,

Alicia McQuillen
Marine Life Protection Act Coordinator
Yurok Tribe

/S/

Cc: Sonke Mastrup, Executive Director Fish and Game Commission
Becky Ota, Marine Habitat Conservation Manager
Jon K. Fischer, Deputy Executive Director Fish and Game Commission
Susan Ashcraft, Sr. Marine Biologist Supervisor Department of Fish and Game
Adrianna Shae, Deputy Executive Director, External Affairs and Special Advisor
to the Commissioners

Testimony of Richard Charter on the Notice of Preparation for the Marine Life Protection Act North Coast Study Region EIR:

My name is Richard Charter, and I thank you for coming to the North Coast this evening to hear from the public in response to the Notice of Preparation for the Marine Life Protection Act North Coast Study Region EIR.

I am here tonight to speak in support of Alternative Two, the Preferred Alternative for the Proposed Project, inclusive of the adopted Tribal Gathering Option and also inclusive of the important Special Closures also identified in the Preferred Alternative.

Very extensive stakeholder participation and thoughtful public input has led us to the Preferred Option, and as the Scoping Process for the EIR now begins, I believe that the identification of “impacts not likely to occur” has appropriately identified issues not needing evaluation in the EIR. There is one minor error on page 12 of the NOP that I might point out, in which the NOP states that “There has been a federal moratorium on new outer continental shelf oil and gas leasing activities off of the California coast since 1982” and further states that this protection is based on “Annual appropriations bans”. The referenced federal offshore drilling

moratorium, has, in fact, been allowed by Congress to lapse. While a separate and more fragile “Executive Deferral” on new federal offshore oil and gas leasing has been put in place by the present Administration and we hope it will last at least until the promised date of 2017, any future Administration can remove this protection at any time.

We believe that the NOP properly identifies the key “Environmental Topics to be Evaluated” and that the extensive evaluation and avoidance of short-term socioeconomic impacts that has characterized the consultive process with stakeholders to date will help to assure that the long-term

benefits of improved ecosystem health and the minimal short-term costs have now been wisely balanced in this region.

I look forward to submitting more extensive written comments on the NOP for the EIR, and on reviewing the Final EIR once it has been completed.

Thank you for your time.



BOARD OF SUPERVISORS

COUNTY OF HUMBOLDT

825 5TH STREET

EUREKA, CALIFORNIA 95501-1153 PHONE (707) 476-2390 FAX (707) 445-7299

October 4, 2011

MLPA North Coast CEQA Scoping Comments
California Department of Fish and Game
c/o: Horizon Water and Environment
P.O. Box 2727
Oakland, CA 94602

Dear Review Committee,

The Humboldt County Board of Supervisors would like to reaffirm its support for the North Coast Study Regions Unified Array. A very diverse group of Stakeholders came together to generate a Marine Protected Area proposal for Northern California. The Regional Stakeholder Group (RSG) and the Blue Ribbon Task Force have recommended adoption of that document. The Humboldt County Board of Supervisors supported that array earlier in the process.

The Board is respectfully requesting that the same array be included in the draft EIR comments without deviation. We appreciate the opportunity to comment on this important subject.

Sincerely,

Mark Lovelace
Chairman
Humboldt County Board of Supervisors

ML/nt

Cc: Senator Noreen Evans
Assemblyman Wes Chesbro
Humboldt Bay Harbor Recreation and Conservation District

From: [MLPA CEQA](#)
Subject: FW: The MLPA is already a failure
Date: Thursday, October 13, 2011 2:53:52 PM

From: Mark Nicks F&G #13180 [thaifurn@aol.com]
Sent: Wednesday, September 14, 2011 8:28 PM
To: MLPA CEQA
Subject: The MLPA is already a failure

Having just spent four months sea urchin diving in Albion, the repercussions of closing so much of the best fishing grounds in the Point Arena area are being felt. In a very negative way. The fishing pressure between Mendocino and Manchester has doubled, and the landings are dropping precipitously. It will only get worse. If the intent of this legislation is to make fishing less/unprofitable, it will work. Please make sure we can all qualify for welfare, as in the very near future the fisheries will collapse. This is a direct result of the MLPA implementation to an already properly managed fisheries... Mr Nicks f&g # 13180 918-704-5200

From: [MLPA CEQA](#)
Subject: FW: Waterfowl Hunting at Proposed Big River SMCA (North Coast MPA)
Date: Thursday, October 13, 2011 2:54:13 PM

From: Mark Hennelly [Mark@outdoorheritage.org]
Sent: Thursday, September 22, 2011 6:50 PM
To: MLPA CEQA
Cc: Ted Romo; Bill Gaines; drichards@cbc inlandempire.com; jimk@uanet.org; jcarlson@calwaterfowl.org; Fred Todd; Jon Fischer
Subject: Waterfowl Hunting at Proposed Big River SMCA (North Coast MPA)

On page 8 of the Notice of Preparation (NOP), why isn't waterfowl hunting included as an allowable use under the "Proposed Take Regulations" for Big River SMCA?

At the F&G Commission's June 29-30 meeting in Stockton, the Commissioners effectively stated that waterfowl hunting should continue to be permitted in this area and three others (South Humboldt Bay, Navarro River, Ten Mile). Also, on page 16 of the "Options Regarding Marine Protected Areas for the MLPA North Coast Study Region" <http://www.dfg.ca.gov/mlpa/pdfs/northcoastoptions060911.pdf> both sub-options included waterfowl hunting at Big River, so shouldn't that use also be specifically mentioned in the NOP's Proposed Take Regulations for Big River SMCA?

Mark Hennelly, Vice President
[cid:image003.gif@01CC793E.EF755880]

1600 Sacramento Inn Way, Suite 232
Sacramento, CA 95815
ph. 916-643-4607
fax 916-643-4682

Do your part to promote wildlife conservation and protect our hunting heritage... become a member of the California Outdoor Heritage Alliance.
www.outdoorheritage.org<BLOCKED:::http://www.outdoorheritage.org/>

From: [MLPA CEQA](#)

Subject: FW: MLPA Comment from small independent hook and line fishing family on EIRs
Date: Thursday, October 13, 2011 2:54:53 PM

From: Sue Sack [sue@sheltercove-ca.gov]
Sent: Monday, October 03, 2011 2:30 PM
To: MLPA CEQA
Subject: MLPA Comment from small independent hook and line fishing family on EIRs

To whom it may concern:

Who is doing an environmental impact report on the unsustainable trawling industry, the industry causing the systematical collapse of fish species world wide? The latest species to collapse this year on the West Coast is the petrale sole. The trawlers want to be able to supplement their catch and make up for losses such as these by obtaining an exempted fishery permit that allows them to intermittently switch over to hook and line and pot to take the fish away from the small traditional independents. These LARGE boats employ very few people as they are heavily mechanized, still, prices of fish at the store from this fishery are exorbitant. When will the SMALL independent traditional hook and line fisherman who use day boats have representation and market share in this madness. Put LOCAL small hook and liners back to work. We are the ecological fishery. We need to expand LOCAL employment in our fishing communities by encouraging more people to own small boats and giving back some of the over 90% of the trawler allocated fish. Until the maximum yield %s are redistributed giving ecological fisheries priority in the equation we are always going to see fishery collapses. MPAs will not halt this trend. EIRs do not address the large picture of the fishing industry and its basic flaws but look at isolated effects of one particular "project".

We need to ask who is behind funding of EIRs on the MPAs. MPAs are just another tool that the trawlers are using to limit access of their competitors and the general public to the ocean and later, once in place, access to these areas will be used for payoff to "special groups".

The Shelter Cove mosquito fleet of small traditional hook and line day boats.

From: [MLPA CEQA](#)
Subject: FW: Public Comments
Date: Thursday, October 13, 2011 2:55:06 PM
Attachments: [Statement of Hawk Rosales EIR Scoping Meeting-FINAL.pdf](#)
[ATT00001.htm](#)
[Hawk Additional CEQA Comments-9.28.11.pdf](#)
[ATT00002.htm](#)

From: Hawk Rosales [director@sinkyone.org]
Sent: Tuesday, October 04, 2011 10:52 PM
To: MLPA CEQA
Subject: Public Comments

Dear Horizon,

Thank you for your presentation at and coordination of the September 28 CEQA scoping meeting in Fort Bragg.

We look forward to assisting in the CEQA scoping process, and to providing you with additional information on Tribal uses and potential impacts.

The InterTribal Sinkyone Wilderness Council would like to receive copies of Horizon's transcripts of all the statements made during the public comment periods at the four public scoping meetings as soon as you are able to email them to us. Additionally, we also would like to receive copies of all the written comments that you receive.

We will be providing you with the Sinkyone Council's written comments by or before the October 14 deadline.

If you have any questions or need additional information, please contact me.

Attached for your records are pdf files of the written statement I read at the 9/28/11 meeting, and the additional comments I made after reading my initial statement.

Sincerely,
Hawk

Hawk Rosales, Executive Director
InterTribal Sinkyone Wilderness Council
P.O. Box 1523
Ukiah, CA 95482

Phone: (707) 468-9500

Fax: (707) 462-6787

Statement of Hawk Rosales

Scoping Meeting on Notice of Preparation of Environmental Document Marine Life Protection Act North Coast Region Fort Bragg, California

September 28, 2011

My name is Hawk Rosales. I am Executive Director of the InterTribal Sinkyone Wilderness Council, and I am representing that organization here today. The Sinkyone Council is a consortium of ten federally-recognized Tribes in Mendocino and Lake Counties. Our member Tribes include: Cahto, Coyote Valley, Hopland, Pinoleville, Potter Valley, Redwood Valley, Robinson, Round Valley, Scotts Valley, and Sherwood Valley. Our member Tribes' ancestral territories include the coastlines and marine waters of Mendocino and Humboldt Counties. The Sinkyone Council has participated in the North Coast MLPA process from the beginning. We took a leading role in development of the Tribal Use Option 1 that was adopted by the Fish and Game Commission on June 29 as the preferred alternative. The development of a regulation to implement that option has already begun. The Sinkyone Council submitted to the Commission a substantial body of evidence that establishes our member Tribes' historic and current uses of six proposed SMCAs in the southern bioregion of the North Coast Study Region.

The Sinkyone Council will submit written comments on the scope of the environmental review before the October 14 deadline. We are committed to

working with Horizon Water and Environment and the Fish and Game Commission to ensure that the environmental review of the proposed Marine Protected Areas in the North Coast Region complies with CEQA. In particular, care must be taken to ensure that the descriptions of the environmental setting, cultural resources, historical setting, and physical setting fully take into account the significant historic and current connections of federally-recognized Indian Tribes to the North Coast Region and the areas proposed for MPAs. The analysis of adverse effects should recognize that the proposed network of MPAs for the North Coast will have little or no effect on Tribal cultural resources and historic properties if Tribal Option 1 is adopted as the preferred alternative. If that option is not adopted, the analysis of adverse effects will be significantly different.

Finally, we note that an environmental justice analysis will be conducted as part of the environmental review. The premise of that analysis should be that Tribal Option 1 does not create legal classifications based on race. The status of Indian Tribes as sovereigns is based on the legal principle that the relationship between the Tribes and the United States is political, and not racial, in nature. As a result, California's formal recognition of Tribal uses in the proposed MPAs is not preferential treatment based on race. Tribal Option 1 is fair and equitable and does not treat people separately on the basis of race.

We look forward to working with you to develop an EIR that fully complies with CEQA. Thank you.

Additional statements by Hawk Rosales

**MLPA Scoping Meeting on Notice of Preparation of Environmental Document
Marine Life Protection Act North Coast Region
Fort Bragg, California**

September 28, 2011

Hawk Rosales made the following statements for the record after reading his written statement.

I want to thank the Tribal leadership for attending the meeting today. Tribal representatives from Mendocino County to the Oregon border are here to participate. This is consistent with Tribal participation throughout the MLPA process in the North Coast.

Regarding the Special Closures and the State Marine Reserves proposed for the southern bioregion, the Sinkyone Council and the Tribes of this region will address Tribal concerns about these areas in separate discussions with the Department of Fish and Game and the Fish and Game Commission, as necessary but not as part of this CEQA process.

There are seven other federally recognized Tribes in Mendocino and Lake counties that are not members of the InterTribal Sinkyone Wilderness Council. The assertions that we've made on behalf of our ten member Tribes apply equally to these seven Tribes because they have similar historic and contemporary use of these marine areas.

I will conclude by saying that the Tribes' connections to the six SMCAs in the southern bioregion are ancient, enduring, and irrefutable.

Thank you.

Subject: FW: MLPA NCSR comments for consideration
Date: Friday, October 14, 2011 10:38:30 AM
Attachments: [10 13 11 NC scoping OC NRDC BK.pdf](#)

From: Jennifer Savage [jsavage@oceanconservancy.org]
Sent: Thursday, October 13, 2011 6:34 PM
To: MLPA CEQA
Subject: MLPA NCSR comments for consideration

Please accept the attached document containing comments relative to the scope of the CEQA-equivalent draft environmental document to be prepared for the Marine Life Protection Act Proposed Project in the North Coast Study Region.

Thank you,
Jennifer Savage
North Coast Coordinator, Pacific Programs
Ocean Conservancy

1500 Peninsula Dr.
Manila CA 95521

(707) 477-8283



October 13, 2011

MLPA North Coast CEQA Scoping Comments
California Department of Fish and Game
c/o: Horizon Water and Environment
P.O. Box 2727
Oakland, CA 94602

Re: CEQA Scoping Comments for MLPA North Coast Project

To Whom It May Concern:

Please accept the following comments on behalf of Ocean Conservancy, Natural Resources Defense Council and Humboldt Baykeeper, in response to the notice of preparation of an environmental document for the Marine Life Protection Act (MLPA) North Coast marine protected area (MPA) project.

Our organizations have a longstanding interest in the protection of California's coast and ocean and have played a significant role in implementing the Marine Life Protection Act statewide since its adoption in 1999. In addition to sitting on stakeholder groups for the Central, North Central and South Coast, our organizations have been deeply involved in the entire span of the North Coast MLPA process. We served on the Regional Stakeholder Group, helped design the region's proposed MPAs and have attended all meetings related to the implementation of the MLPA on the North Coast. As a result, we are intimately familiar with the details of the Fish and Game Commission's Proposed Project.

Given that the MLPA is designed to achieve conservation goals, we do not expect that the Proposed Project or its alternatives (except the No Action alternative) will result in significant adverse environmental impacts under the California Environmental Quality Act (CEQA). However, we respectfully request that several key issues be addressed in the North Coast Draft Environmental Impact Report (DEIR).

Introduction

Chapter One of the DEIR, the Introduction, should include a background discussion of ecological trends in California, generally, as well as a specific discussion of the distinct ecological trends, oceanography and communities of the North Coast. The unique characteristics of the North Coast are directly relevant to the MPA designs proposed for this final coastal region and explain the differences in proposed MPA coverage in this region vis-à-vis other regions of the state.

While most ocean species in California waters remain unassessed, many fisheries have experienced steady declines in recent decades. For example, the number of commercial fishing vessels has declined by about 70% statewide between 1990 and 2008, and revenues have declined by 54% over

the same period.¹ Similarly, from 1999 to 2008, North Coast commercial fishermen have dwindled from around 820 to 350 individuals, and fishing vessels have declined by 50 percent from 600 to just over 300 vessels.² Value of commercial landings across all North Coast fisheries and ports has varied from \$30 million in 1999, up to \$50 million in 2003 and back down to \$16 million in 2008.³ In 2006, a federal socioeconomic study listed some ports in the North Coast study region as “most vulnerable” with high levels of dependence on commercial fishing and low levels of resilience.⁴ In other words, the baseline condition of fisheries in the North Coast is a history of declining participation and declining landings. The MPAs proposed for the North Coast under the MLPA are intended to help maintain and restore ocean health in this region.

The North Coast’s geography and oceanography make large sections of its coastline nearly inaccessible, due to few ports and harbors in the region, a lack of roads or publicly accessible paths, and harsh weather. For example, along the Lost Coast, nearly 80 miles of the 225 miles of coastline within the North Coast Study Region is essentially roadless and accessible only by foot or by sea, requiring a long trip down from Eureka or up from Fort Bragg. And according to NOAA data collected over the course of 2009, North Coast wind speeds exceeded 20 knots and/or wave heights exceed two meters more than 50% of the time.⁵ By contrast these conditions occurred at data collection sites in the South Coast less than 5% of the time.⁶ The result of these physical conditions is that large areas of the North Coast are unfished much of the year, providing a higher degree of natural refuge from the impacts of fishing than is typical for other regions of the state.

The North Coast study region is also sparsely populated, especially in contrast to the rest of the state, where the North Coast’s population is 1% that of the South Coast and a mere 13% of the next least populous region (the Central Coast).

	Population	Population Density (people/mi)
Central Coast	2,000,000 ⁷	557
North Central Coast	2,400,000 ⁸	3800
South Coast	18,000,000 ⁹	1422
North Coast	258,000 ¹⁰	30

The variability and instability of North Coast commercial fisheries, as well as unique oceanographic and weather patterns and small populations, were key factors contributing to a modified North Coast MLPA process. While these considerations and the importance of fishing to the region’s economy make the case for an MPA network that can help protect and add resiliency to local fisheries, this variability also highlights the importance of creating a single broadly supported proposal that leaves key fishing spots open.

¹ Pacific States Marine Fisheries Commission Pacfin Database

² North Coast Regional Profile (April 2010), page 82.

³ *Id* at 88.

⁴ *Id* at 80.

⁵ http://www.ndbc.noaa.gov/station_page.php?station=46022

⁶ http://www.ndbc.noaa.gov/station_page.php?station=46025

⁷ Central Coast Regional Profile (September 2005), page 54

⁸ North Central Coast Regional Profile (October 2007), page 69, 70

⁹ South Coast Regional Profile (June 2009), page 84

¹⁰ North Coast Regional Profile, page 70

The Introduction should generally discuss the science of marine reserves and MPA network design, and acknowledge the benefits of MPAs. These include: restoring and maintaining a more natural size range of depleted species, increasing productivity, species diversity and biomass relative to fished areas, protecting habitats and natural heritage, and providing insurance in the face of uncertainty. This section should also specifically identify special status and other species that will benefit from MPAs on the North Coast. For example, overfished species such as bocaccio, canary and yelloweye rockfishes commonly occur in the North Coast study region¹¹ and can lend relevant context to the need for and potential capabilities of a regional MPA network.

Finally, Chapter One of the DEIR should also include a discussion of regional tribes. The North Coast study region has the largest population of indigenous peoples and the greatest number of Native American tribes of any of the MLPA study regions. Unlike other parts of the California coastline, several North Coast tribes own land along the coastline or along the study region boundary.¹²

The North Coast Regional Profile and North Coast Tribal Profiles provide extensive information about the special characteristics of the North Coast and its people and could be referenced in the environmental review documents.

Project Background/Description

Chapter Two, the Project Background or Project Description, should contain a table showing all of the public meetings held during the MLPA North Coast planning effort.

The section of this chapter that discusses regional design considerations and North Coast MLPA implementation should contain a brief explanation of the modified North Coast process, which was ultimately used to achieve a single unified stakeholder proposal.

The ecological trends, oceanographic patterns and significant tribal population on the North Coast are major reasons for the modifications made to the MLPA process for the North Coast, and contributed greatly to the development of a single MPA network proposal and the unique approach to tribal use inside proposed MPAs. As a result, these factors and the North Coast-specific MLPA process should be acknowledged explicitly in this section.

Consumptive Uses and Socioeconomic Considerations

This chapter of the DEIR should acknowledge that the North Coast MLPA design process facilitated creation of a single, unified MPA proposal that all 33 appointed stakeholders and countless organizations support, including tribes, boards of supervisors in all three coastal counties in the region, and commercial and recreational fishermen. For this reason, potential negative socioeconomic impacts are very unlikely to be significant. This is consistent with Ecotrust's predicted worst-case commercial impacts of 3% or \$278,177¹³ across all North Coast fisheries and all

¹¹ *Id* at 70.

¹² *Id* at 72.

¹³ MLPA Master Plan Science Advisory Team. PowerPoint Presentation: Potential Commercial and Recreational Fishery Impacts of the Round 3 NCRSG MPA Proposal. California Marine Life Protection Act Initiative; 10/11/2010. [Cited 2011 October 12]. Available from: <http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=24110>

ports, less than half the percentage impact for the North Central adopted MPA network and nearly one-quarter of the percentage impact for the South Coast approved MPA network.

A substantial amount of economic analysis has already been conducted as part of the MLPA planning process. That said, the socioeconomic discussion in the DEIR does not need to go beyond what is required under CEQA. The DEIR should explicitly acknowledge that CEQA does not require the consideration of direct economic or social factors in its impact analyses and note that economic or social effects shall not be treated as significant effects on the environment. CEQA specifically says that an EIR,

may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes caused in turn by the economic or social changes. The intermediate economic or social changes need not be analyzed in any detail greater than necessary to trace the chain of cause and effect. The focus of the analysis shall be on the physical changes.¹⁴

The DEIR should acknowledge the extent to which all alternatives minimize negative socioeconomic impacts by leaving open most of the biologically productive and highly popular fishing locations (e.g.: Wilson Rock, False Cape and Albion). Furthermore, any losses related to fishing areas being included in new MPAs are likely to be offset by increased biomass and aggregate harvests within fishing locations outside MPAs, as was acknowledged in DEIRs from previous MLPA study regions. A growing number of scientific studies conclude that well-designed MPAs can result in net increases in yield. This literature should be acknowledged in the report.¹⁵

Biological Resources

This chapter of the DEIR should include a detailed discussion of state and federal special status species found in the North Coast study region, as well as other species likely to benefit from MPAs. This is the only appropriate chapter for possible inclusion of a discussion on displacement. In addition to specific comments given above, this section should state that congestion outside MPA boundaries as a result of MPA network implementation has not been documented in other areas and should cite specific worldwide examples showing that benefits of MPAs vastly outweigh any “displacement effect.” The DEIR should also include the Channel Islands as a specific example to show that the concentration of fishermen outside MPA boundaries has not had a detrimental effect on unprotected marine populations and habitats.

¹⁴ California Environmental Quality Act Guidelines, § 15131(a).

¹⁵ Gaylord B., S.D. Gaines, Siegel and M.A. Carr. 2005. Marine reserves exploit population structure and life history in potentially improving fisheries yields. *Ecological Applications* 15: 2180–2191.

Morgan, L.E. and L.W. Botsford. 2001. Managing with reserves: modeling uncertainty in larval dispersal for a sea urchin fishery. In: *Proceedings of the Symposium on Spatial Processes and Management of Marine Populations*. University of Alaska Sea Grant, pp 667–684.

Apostolaki P., E.J. Milner-Gulland, M.K. McAllister and G.P. Kirkwood. 2002. Modeling the effects of establishing a marinereserve for mobile fish species. *Canadian Journal of Fisheries and Aquatic Sciences* 59: 405–415.

Gell, F.R. and C.M. Roberts. 2003. Benefits beyond boundaries: the fishery effects of marine reserves. *Trends in Ecology and Evolution*. 18: 448–454.

Gaines, S.D., C. White, M.H. Carr, S.R. Palumbi. 2010. Designing marine reserve networks for both conservation and fisheries management. *Proceedings of the National Academy of Science of the United States*.

This chapter should find that the Proposed Project and its alternatives (except the No Action alternative) have a less than significant negative impact on biological resources. Finally, in its discussion on beneficial impacts to biological resources, this chapter should acknowledge the unique attributes of the North Coast that contributed to a Proposed Project with less overall protection within MPAs, as compared to other study regions in the state. It should ultimately find that all proposed North Coast MPA alternatives have beneficial impacts, when compared to the No Action alternative.

Social Resources

Numerous tribes reside on the North Coast; several representatives participated in the North Coast Regional Stakeholder Group and many others contributed via public comment or community and staff meetings. This chapter should include a detailed discussion of traditional, cultural and subsistence tribal uses along the North Coast and should specifically discuss individual tribes in the section detailing the ethnographic and prehistoric setting, as well as in the discussion of historical and present use. This discussion should include information submitted by North Coast tribes and tribal communities relevant to establishing traditional tribal use and should note that North Coast tribes have continued to harvest and extract marine resources into present times.

Conclusion

We appreciate this opportunity to comment on the scope of the North Coast Draft Environmental Impact Report. We support the efforts of the Department of Fish and Game in producing this environmental document and look forward to continued collaboration on the design and implementation of California's network of marine protected areas.

Sincerely,



Karen Garrison
Co-Director, NRDC Oceans Program



Beth Werner
Executive Director, Humboldt Baykeeper



Jennifer Savage
North Coast Coordinator, Pacific Programs

From: [MLPA CEQA](#)
To: [Caitlin Gilleran;](#)
cc: [Pam Rittelmeyer;](#)
Subject: FW: North Coast MPA DEIR NOP Comments
Date: Friday, October 14, 2011 3:44:16 PM
Attachments: [image001.png](#)
[Eureka MLPA DEIR NOP Comments.pdf](#)

From: Lisa Shikany [Ishikany@ci.eureka.ca.gov]
Sent: Friday, October 14, 2011 4:18 PM
To: MLPA CEQA
Subject: North Coast MPA DEIR NOP Comments

Attached please find comments from the City of Eureka responding to the Notice of Preparation for the North Coast MPA Draft EIR. Feel free to contact me, should you have any questions.

Lisa D. Shikany

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[cid:image001.png@01CC8A73.D2EFE130]



CITY OF EUREKA

COMMUNITY
DEVELOPMENT DEPARTMENT

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October 13, 2011

MLPA North Coast CEQA Scoping Comments
California Department of Fish and Game
c/o Horizon Water and Environment
P.O. Box 2727
Oakland, CA 94602

Attn: Marija Vojkovich, Regional Manager
Marine Region, California Department of Fish and Game

Dear Ms. Vojkovich,

Thank you for the opportunity to comment on the proposed scope of the CEQA equivalent draft environmental document, referred to in the Notice of Preparation as an Environmental Impact Report (EIR), regarding the establishment of a network of Marine Protected Areas on the North Coast of California.

The City of Eureka is pleased to see that the current Proposed Project is largely based on the Unified MPA Array proposal that was developed by the North Coast Regional Stakeholder Group (NCRSG) and supported by the City. The substantial effort of diverse local stakeholders to develop a single proposal that the entire NCRSG could support was a singular accomplishment, and it is rewarding to see that these efforts were not in vain, but instead were given the due respect and consideration of the Blue Ribbon Task Force (BRTF) and the California Fish and Game Commission (Commission).

The 'environmental topics to be evaluated' outlined in the Notice of Preparation appear to broadly cover the range of issues that we believe need to be addressed in the Draft Environmental Impact Report (DEIR). However we would like to take this opportunity to emphasize some specific issues that were raised in the work of the NCRSG and we believe should be discussed in detail in the DEIR.

Biological Resources

- The potential effects on ecosystem services and fisheries resources resulting from increased fishing pressure on areas that will remain open via displacement of effort from areas that will be closed should be assessed in the DEIR. This discussion should take into account the

highly uneven distribution of fishing pressure across the study region, which is likely to become more uneven after project implementation, and should be based on spatial analysis of specific benthic habitat and fish assemblages in relation to ports and harbors. The monitoring and adaptive management component of the project may be appropriate to help address this issue.

- The potential for the creation of ‘urchin barrens’ as a result of removing fishing pressure on urchins in proposed MPAs where urchin fishing now takes place should be addressed in the DEIR. If this does occur, the resulting loss of important kelp forest habitat and its associated species diversity and abundance could represent a significant environmental impact, as well as being counter to the goals of the MLPA. In addition to assessing the potential for this impact, the monitoring and adaptive management component of the proposed project should explicitly include monitoring for this potential effect, the adaptive regulatory changes that could result if monitoring does identify a problem, and how those changes could be implemented.

Socioeconomic Resources

- The NOP briefly mentions socioeconomic considerations under the headings of Consumptive Uses and Environmental Justice. While not an expressly covered issue in CEQA, this is an issue of significant importance and concern to North Coast residents and businesses. In fact, this is such a significant concern that Humboldt County Headwaters funding was utilized to prepare the *North Coast Pre-MLPA Community Based Socioeconomic Characterization and Risk Assessment* cited in footnote 1 below and incorporated by reference into these NOP comments. Compared to the other MLPA Initiative Study Regions, the North Coast Study Region has relatively high economic dependence on fishing yet relatively low landings¹. Del Norte County, Crescent City, Fort Bragg and Eureka have been identified as “vulnerable” to potentially constraining regulatory changes due largely to a high degree of community isolation and rurality, limited industry diversification, and high unemployment and poverty rates, with the Counties of Humboldt and Mendocino identified as being “most vulnerable.”² Given this context, and the substantial concerns of many stakeholders, we request that the DEIR evaluate and consider the potential socioeconomic impacts of the Proposed Project and alternatives, and that these issues be included in the monitoring and adaptive management component of the project.

¹ Petterson J.S., E.W. Glazier, A. Wagschal, C. Pomeroy, L. Madge, L. Stanley, R. Scalf, J. Stevens, P. Godde and M. Stevens. December 2010. North Coast Pre-MLPA Community Based Socioeconomic Characterization and Risk Assessment. Final Report. Impact Assessment, 2066 Avenida de la Playa, Suite F, La Jolla, CA 92037. Funding provided by the Humboldt County Headwaters Fund, Eureka, CA. <http://humboldtbay.org/harbordistrict/fisheries/>

² Pacific Fishery Management Council (PFMC) and National Marine Fisheries Service (NMFS). 2006. Proposed Acceptable Biological Catch and Optimum Yield Specifications and Management Measures for the 2007-2008 Pacific Coast Groundfish Fishery, and Amendment 16-4: Rebuilding Plans for Seven Depleted Pacific Groundfish Species; Final Environmental Impact Statement including Regulatory Impact Review and Initial Regulatory Flexibility Analysis. Pacific Fishery Management Council, Portland, Oregon. <http://www.pcouncil.org/groundfish/current-season-management/past-management-cycles/2007-2008-final-environmental-impact-statement/>

Public Services and Utilities

- The NOP correctly identifies the increased resources needed for enforcement of the MPA regulations as a potential impact on Public Services. This discussion in the DEIR should directly address and consider: a) the very limited resources available to the CDFG Law Enforcement Division (Wardens), which is currently staffed at the lowest levels in the Nation by area served; b) estimates of the cost and staffing needed for basic enforcement of the Proposed Project; and c) the potential biological impacts of the loss of enforcement capacity that may be an unavoidable result of adding significantly to the workload of the Wardens, e.g. Wardens on patrol enforcing the MPA regulations are not available to address poaching, trafficking and water pollution.
- Partnering with local agencies and stakeholders to assist with education and implementation of the MLPA may be an effective way to partially address the limited resources available for enforcement. The DEIR should identify this type of cooperative management as an important strategy to be pursued.


Cultural Resources

- The NCRSG supports the continuing efforts of the tribes and the Commission to work together to find a solution that ensures that the Proposed Project does not impact the diverse and culturally important traditional tribal gathering practices found throughout the North Coast Region. The result of this ongoing effort will need to be addressed in the DEIR for its potential impact on biological resources, potential challenges it may pose to enforcement (see Public Services above) as well as a discussion of impacts to traditional cultural practices.

The City is following the recent action by the Office of Administrative Law disapproving the Commission's MLPA action in the South Coast Region, as well as the related lawsuits challenging the CEQA process followed in other MPA Regions, the application of the Administrative Procedure Act to the MPA process, and the underlying statutory basis for the Commission's actions. In light of these ongoing actions, we respectfully encourage the Commission to proceed judiciously throughout the remainder of this process to ensure the letter and spirit of the law is followed, the opportunities for public input are maximized, and that input receives the detailed response that the public deserves.

Thank you for the opportunity to provide NOP comments, and for your anticipated consideration of our comments as you prepare the DEIR.

Sincerely,



Lisa D. Shikany
Environmental Planner

(70) 268-5265

lshikany@ci.eureka.ca.gov

From: [MLPA CEQA](#)
To: [Pam Rittelmeyer; Caitlin Gilleran;](#)
Subject: FW: Smith River Rancheria's Comments to the NOP
Date: Friday, October 14, 2011 3:44:24 PM
Attachments: [SR.MLPA.comments.NOP.10-14-11.pdf](#)
[SR.MLPA.factualrecord.final.08-29-11.pdf](#)

From: Sports111@aol.com [Sports111@aol.com]
Sent: Friday, October 14, 2011 5:41 PM
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Cc: SMAstrup@fgc.ca.gov; bota@dfg.ca.gov; rcrabtree@tolowa.com; sports111@aol.com
Subject: Smith River Rancheria's Comments to the NOP

Please see the attached documents. Feel free to call if you have any questions.
Anna Kimber

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Via E-Mail Only

October 14, 2011

MLPA North Coast CEQA Scoping Comments
California Department of Fish & Game
c/o Horizon Water & Environment
P.O. Box 2727
Oakland, CA 94602
MLPAcomments@HorizonWater.com

Re: Smith River Rancheria's Comments to the North Coast Regional Notice of Preparation

To Whom It May Concern:

I have been authorized on behalf of the Tribal Council of the Smith River Rancheria ("Tribe") to submit the following comments in response to the September 12, 2011 Notice of Preparation of Environmental Document Regarding Marine Protected Areas in the North Coast Region Pursuant to the Marine Life Protection Act ("MLPA").

The Tolowa Dee-ni' of the Smith River Rancheria is a federally recognized Indian Tribe, whose reservation lies along the coast within the County of Del Norte. The Tolowa Dee-ni' have lived since ancient times in the area stretching from Wilson Creek in California to the South, the Sixes River in Oregon to the North, to the watershed on the Coastal Range to the East, and to Point Saint George to the West. Within the geographic boundaries of California, the ancestral territory of the Tolowa Dee-ni' encompasses 955.1 square miles, with thirty-two (32) miles along the coast, and thirty-five (35) miles along the Smith River.

The goal of the MLPA is "to help protect, maintain, restore, enhance, and manage living marine resources." The means by which the MLPA intends to fulfill this goal is with the development of a network of Marine Protected Areas ("MPAs") with varying levels of limits, and in some cases prohibitions, with respect to the commercial and recreational take of various marine resources, generally "finfish, marine plants and/or invertebrates."

Although the Tribe supports the goal of the MLPA, the Tribe has remained steadfast in its opposition to the means by which this goal is to be met. The Tribe continues to maintain that it has never ceded its traditional fishing and gathering rights which they have maintained along the coast since time immemorial. In order to protect its interests, the Tribe has actively participated in the North Coast Region MLPA process since its inception. Russ Crabtree, the Tribal

Administrator for the Smith River Rancheria, represented the Tribe as a member of the North Coast Regional Stakeholders Group (“NCRSG”).

Since its initial participation in the MLPA process, the Tribe has submitted comments and participated in the ongoing MLPA dialogue in an effort to protect its traditional fishing and gathering rights by and through a collaborative process with State representatives. Most recently, the Tribe has submitted to the Commission a factual record which supports the Tribe’s historical and ongoing traditional cultural practices in accordance with the Fish and Game Commission’s adoption of Tribal Gathering Option One as the preferred alternative within the proposed State Marine Conservation Areas (“SMCAs”). A copy of the Tribe’s factual record will be sent along with this letter as a separate document, and is to be incorporated by reference to these comments.

According to the Commission staff summary of the June 29, 2011 meeting, “Option One” as adopted by the Commission would allow for traditional tribal gathering to continue within proposed SMCAs by “federally recognized tribes who submit a federal record with sufficient documentation confirming current or historical use within specific geographies to DFG within 60 days.”¹ It has been confirmed the Commission has received the Tribe’s factual record, the sufficiency of which has not been questioned. The Commission staff summary further indicates Tribal Option Three was retained, as well as a no project option as alternatives for CEQA analysis.

“Option Three” would allow for tribal gathering in the nearshore components of open coast MPAs (except State Marine Reserves) by allowing recreational users to take specified species using specified gear types at all levels of protection. This is the option that had been proposed by the North Coast Blue Ribbon Task Force (“BRTF”) (known as the “Enhanced Compliance Alternative” or ECA concept).² The no project option/alternative, or “Option Zero” as it has been called throughout this process, has been characterized as an option whereby no new MPAs are to be established.³

The Smith River Rancheria respectfully requests the Environmental Impact Report (“EIR”), in addition to the necessary analysis of Options One and Three pursuant to CEQA, also analyze Option Two. “Option Two” was the proposal unanimously supported by the RNCP, of which the Smith River Rancheria was a member, and would allow all tribal gathering to continue throughout all open coast MPAs (except SMRs) by allowing all recreational users to take specified species using specified gear types at all levels of protection.

¹ It’s important to note the Notice of Preparation repeatedly suggests that proof of both “historic and current uses” needed to be established. Yet the June 29, 2011 Commission staff report indicates that proof of “current or historical use” was necessary.

² This is also the means by which the Commission addressed the traditional uses of the Kashia Band of Pomo Indians pursuant to regulations, Section 632, Title 14, California Code of Regulations.

³ CEQA analysis will also need to address the “Option Zero” alternative.

In order to thoroughly and accurately evaluate the impacts the proposed regulations will have on the environment, the lead agency needs to identify within the EIR the baseline data with respect to the existing state regulations, from the perspective of what is currently allowed as well as prohibited, and a comparison to the regulations being proposed to address tribal traditional and cultural practices. As the project will potentially alter, e.g., otherwise prohibit tribal traditional uses and cultural practices, the EIR must examine the incremental effect of the proposed changes against the existing activities baseline as well as appropriate mitigation measures.

The EIR must also address all required topics under the California Environmental Quality Act (“CEQA”) including, but not limited to:

- Environmental Justice, especially on tribal communities;
- Socio-economic impacts, especially on tribal communities;
- Consumptive uses and the impacts upon the health of the communities, especially on tribal communities;
- Historic and cultural resources protection, including cultural landscapes and their uses;
- Blight;
- Tribal cultural impacts;
- The impacts co-management agreements between federally recognized tribes and the Department of Fish & Game with respect to management of marine resources;
- Cumulative impacts (direct and indirect); and
- Federal nexus and compliance with the National Environmental Policy Act.

With respect to the proposed Pyramid Point State Marine Conservation Area, the Commission adopted a sub-option that would move the southern boundary, resulting in the inclusion of federal property held in trust for the benefit of the Smith River Rancheria within the proposed MPA. The Tribe has always maintained the position that the State of California cannot assert jurisdiction over federal lands held in trust for the benefit of the Tolowa people. This position has been supported by the Bureau of Indian Affairs in correspondence submitted into the record by the Tribe at the June 29, 2011 hearing.

The Tribe also requests the EIR address Option Zero with respect to the establishment of the Pyramid Point SMCA. Both the BRTF and NCRSG adopted a “policy of avoidance” during the MLPA process, asserting it was their intent to avoid the establishment of MPAs in areas where significant tribal cultural uses were evident. Pyramid Point SMCA encompasses large portions of the historic territory of the Tolowa Dee-ni’; areas which are currently being used today as evidenced by the factual record submitted to the Commission. As an alternative to Option Zero, the Tribe request the EIR address another alternative; moving the Pyramid Point MCA southern boundary north to Cone Rock, as the Tribe has proposed in the past, in order to avoid impacting the fish camps documented within the Tribe’s factual record.

The CEQA process should include active consultation with the federally recognized Indian Tribes of the North Coast Region, pursuant to Executive Order B-10-11 recently executed by Governor Brown (“IT IS FURTHER ORDERED that it is the policy of this Administration that

every state agency and department subject to my executive control shall encourage communication and consultation with California Indian Tribes. Agencies and departments shall permit elected officials and other representatives of tribal governments to provide meaningful input into the development of legislation, regulations, rules, and policies on matters that may affect tribal communities.”) (Emphasis added).

Please provide all CEQA and project-related notices and activities regarding the Marine Life Protection Act implementation to the following:

Russ Crabtree, Tribal Administrator
Smith River Rancheria
140 Rowdy Creek Road
Smith River, CA 95567
rcrabtree@tolowa.com

Anna Kimber, Esq.
Law Office of Anna Kimber
8303 Mount Vernon Street
Lemon Grove, CA 91945
sports111@aol.com

Thank you for your consideration.

Sincerely,

(Submitted electronically)

Anna S. Kimber, Esq.
Attorney, Smith River Rancheria

cc: Smith River Tribal Council
Russ Crabtree, Tribal Administrator

Factual Record of Current and Historical Uses by the Tolowa Dee-ni' of the Smith River Rancheria within the proposed State Marine Conservation Areas and Special Closures of Del Norte County

I. INTRODUCTION

On June 29, 2011, the California Fish & Game Commission, on a 4-1 vote, moved to adopt Tribal Option 1, as presented by the June 9, 2011 joint report prepared by the California Department of Fish & Game and the Marine Life Protection Act Initiative staff.

The Commission adopted Tribal Option 1 as the preferred alternative within the North Coast Study Region, to allow tribal gathering to continue within proposed State Marine Conservation Areas (SMCAs) by federally recognized tribes who, within sixty (60) days, submitted a factual record with sufficient documentation confirming current or historical use within the proposed SMCAs.

In response to the Commission's request, the following factual record has been prepared and is being submitted on behalf of the Tolowa Dee-ni' of the Smith River Rancheria. Given the time constraints, if necessary, the Tribe respectfully requests the opportunity to supplement the record at a later date. Further, although this record is being submitted within the timeframe proposed by the Fish & Game Commission, other federally recognized tribes who are unaware of this process should be afforded the opportunity to provide their submission at a later date.

II. HISTORY, CULTURAL GEOGRAPHY AND HUMAN ECOLOGY OF THE TOLOWA DEE-NI' OF THE SMITH RIVER

Dii-ne nvn-'e lhinlh-sa'-dvn shu'-naa-see-'a~.
This land is at the center of the world in the beginning of time.



Figure 1. California State Historical Marker of a Tolowa Indian Settlement at Pebble Beach, Crescent City (Taa-'at-dvn), California.

A. Historic Documentation of the Tolowa Dee-ni' within the North Coast Study Region

The Tolowa Dee-ni'¹ are the original inhabitants of the region now known as the Del Norte County coastline. The Tolowa derive from Athabascan-speaking people, who have lived since ancient times in the area stretching from Wilson Creek in California to the South, the Sixes River in Oregon to the North, to the watershed on the Coastal Range to the East, and to Point Saint George to the West. (See **Figure 1**) (Driver 1939). Ethnographic and archaeological accounts document thousands of years of coastal fishing, sea mammal hunting, and harvesting within Tolowa ancestral territories, including the fish camp at Dat-Naa-Svt/Yaa-ghii~-a~, and 8,000 years of occupation at Hiouchi on the main course of the Smith River (Tushingham 2009).

The ancestral Tolowa territory within the boundaries of California encompasses 955.1 square miles, with 32 fish-miles along the ocean and 35 fish-miles along the Smith River, a waterway draining a little over 600 square miles, and had spawning runs of silver salmon, king salmon, and steelhead (Baumhoff 1963:179-180, 231). Since ancient times, the Tolowa relied on oceangoing dugout canoes, so their territory can be considered as extending into the open ocean (Drucker 1937, Gould 1968, Hudson 1981, Lightfoot 1993).

After 500 BCE, permanent Tolowa settlements in California flourished. The Tolowa sustained themselves from the vast marine resources available to them, from seal mammal hunting and fishing along the coast from Winchuk River (Duu-srxuu-shi'/Um-sahng-ten) on the California-Oregon boundary, south to Wilson Creek (Daa-gheshl-ts'a' /Tah-gheshl-ten), about eight miles north of the mouth of Klamath River (Baumhoff 1958:225 ; Fagen 2003:239).

The creation story of the Tolowa tells of their emergence from Yan'-daa-k'vt (Yontocket) - the Center of the World - a historical site listed on the National Register of Historic Places, located approximately two miles south of the Tribe's modern day reservation, the Smith River Rancheria. From their genesis to the present, the Tolowa have practiced an intimate, sustained relationship with the ocean, coast, and associated marine resources. Each year the Tolowa perform an ancient World Renewal Ceremony, known as Nee-dash, to bring the earth back in balance (L. Bommelyn, Pers. Comm. 2011). Tolowa Dee-ni' lifeways are inseparable from the marine resources they have stewarded, ritually protected, and subsisted on for millennia.

According to documented reports, the Tolowa possessed such an encyclopedic knowledge of their territory and its biota and abiotic influences (e.g., geology, meteorology), visiting scholars found it impossible to capture the depth and breadth of their expertise². The Tolowa have made a significant contribution to the coastal history. Tolowa ancestral territories are powerful cultural landscapes with ritual, spiritual, social, narrative, and economic associations. The 20th century ethnographer Thomas T. Waterman documented over 700 place-names within southern Tolowa

¹ The original, self-name of the Tolowa is "Huss" meaning people. Tolowa comes from the Yurok name, nitolowo, meaning "I speak Athabascan of the Tolowa variety." (Heizer & Elsasser 1980:22) The Yurok word Tolowo is apparently connected with the town name Tolokwe." (Kroeber 1925:125).

² "It would be well-nigh impossible to include every spot in Tolowa territory which had supernatural associations. One receives the impression that every outcrop of rock, every trickle of water, every little clearing in the brush had power for good or evil, or figured in some event in mythological times." (Drucker 1937:228).

camped while fishing, and a place where the rocks still retain the impression of a whale's body stranded by receding flood waters. There are pits where hunters dove for luck, where dentalia were transplanted, and where sea serpents lived (Ibid.).

B. The Interrelationship between the Tolowa Dee-ni' and other Tribal Communities within the North Coast Region

The North Coast Region has yielded a wealth of ethnographic, sociological and folkloric information related not only to the history of the Tolowa Dee-ni', but numerous other tribes and tribal communities within the region. The coastline is a larger entity of traditional cultural importance, including the importance related to the marine resources for the spiritual, religious, customary and subsistence uses of the tribes and tribal communities. The Tolowa recognize that there was always, and continues to be, traditional subsistence, ceremonial, and customary uses that may be inter-tribal and intra-tribal within a specific geography beyond and/or within those defined boundaries. This may be based on ownership, gathering, hunting, and/or harvesting rights obtained through permission, heredity, marriage, trade, gambling, dowry, and the immediate need for a particular resource. Furthermore, there are areas shared for ceremonial, trade, and other customary purposes. Within the North Coast Study Region, there is a wealth of connections intertwined between California tribes, tribal communities, and individual Indians that is both familial and evident in shared cultural traits. For fishing, some of the similarities in technique and stewardship may be seen in the detailed report prepared by Kroeber and Barrett (1960) specific to northwestern California.

It is also understood that there may be areas of geographic overlap identified amongst the California Tribes. This is a result of the relationships as described above, as well as the individual history unique to each Tribe post-contact. The assertion, negotiation, and claims by each California Tribe of their respective ancestral and/or aboriginal lands and waters are a matter for California Tribes to resolve among ourselves, and not for the State of California to broach in any manner. Nor is it necessary to address or resolve these issues as the Tolowa and the State of California move forward to address matters related to the Marine Life Protection Act process. Rather, this is, and will continue to be, a matter for resolution between California Tribes, Tribal communities, and individual Indians in the future.

C. Tolowa Dee-ni' Traditional Practices and Uses of Marine Resources within the North Coast Region

See naa-svt-dvn xwee-ghathl-ghelh wee na'sr-dvtlh-nvsh
First on-the-beach camp is-worked

Dayn lhvmsr mvn tr'ulh-yymlh.
Someone prays for smelt.



Figure 3. Traditional fish camp, with smelt drying on beach grass. The smelt are caught, processed, and distributed communally amongst the tribe (Drucker 1937, Kroeber & Barrett 1960).

Tolowa traditional tribal practices and use of marine resources are consistent with the goals of the Marine Life Protection Act. Tolowa harvesting, hunting, and fishing practices are sustainable and contribute to the health and resilience of the ecosystem, while simultaneously helping to maintain the health and resilience of the Tolowa culture and way of life.

Traditional Tolowa harvesting of marine resources has never been for individual use or exploitative gain. The Tolowa, now as in the past, hunt, fish, gather, harvest, process, and distribute marine resources communally⁴ (Drucker 1937, Driver 1939, Kroeber & Barrett 1960).

Historically, Tolowa hunting, fishing, gathering, and recovery territories were very tightly circumscribed. For example, beach claims were delineated for whales drifting ashore, and hunting claims were established for sea lions - only certain rich men in major communities could initiate the hunts, and only certain men could participate in the hunt (Gould 1968). According to elders interviewed by Waterman, everyone owned his own rock – “poor people couldn’t fish” (1921-22: 332). The meat of sea mammals was very precisely circumscribed according to social status. The combination of enforced territorial polities with communal distribution of subsistence foods was a powerful incentive to follow tribal regulations and avoid independent, exploitative resource use. Moreover, traditional Tolowa did not consider foods saleable, only edible (Drucker 1973:241).

⁴ “...[T]he economic unit as not the individual, but the entire paternal kin group” (Drucker 1937:241).

Tolowa traditional practices and technological innovations demonstrate stewardship and conservation via specific fishing/harvesting practices that incorporated judicious use of physical techniques [e.g., basketry, traps, etc.], spatial regimes [e.g., harvesting/fishing rights distributed over carefully delimited areas or within specific populations], temporal regimes [e.g., rights associated with a time period, by season, time of day], hydrological regimes [rights associated with a designated water quantity – e.g., at minus tides, or when river has reached a certain level], taxonomic regimes [rights associated with certain taxa or species], morphologic or life-cycle regions and techniques that took into account specific physiological characteristics of the organism and/or its life-cycle [e.g., not catching pregnant females], and demographic regimes [rights associated with a specific user group].

Table 1 outlines the documented historical procurement patterns for marine resources by the Tolowa. **Tables 2** and **3** provide numerous examples of how these different conservation regimes were associated with certain species and historical traditions. **Table 4** identifies the marine resources found within the Tolowa territory, and identifies the cultural importance and historical use of those resources.

Table 1. Historical Procurement Patterns for Marine Resources of Major Dietary Importance

**SEASONAL OCCURRENCE OF MAJOR (STAPLE) TOLOWA INDIAN
PROCUREMENT SYSTEMS**

PROCUREMENT SYSTEM	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1. Large Sea Mammals							///	///				
2. Marine Shellfish	///	///	///	///	///	///	///	///	Poisonous Period	///	///	///
3. Acorns										///		
4. Anadromous Fish		---	---	---	///	---	---	///	///	///	///	---
5. Waterfowl						///	///					
6. Surf Fish							///	///				

(Source: Gould 1975:161)

Table 2. Examples of Traditional Ecological and Social Technologies for Sustaining Marine Resources

Technology	Materials/Methods	Marine Resources
Fish weir	Hazel wickerwork of intertwined shoots ¹	Finfish, lamprey
Gill nets	Gill nets were small, taken up as soon as fish entered. No drifting or seining. This technology kept harvests limited and immediate.	Finfish
Scoop nets	Scoop nets lashed to V-shaped poles and yielded by a single fisherman walking along the shoreline limited catch to the fisherman's individual strength and prowess (late dips into the surf catch no fish).	Smelt (surf fish)
Communal food sharing	"[A]ll seafoods (fish, shellfish, mammals) obtained in canoes were distributed communally to all who stood by when the canoes landed." ¹	All canoe-fished resources
Territorial polities controlled by Headman	The Northern and Southern sides of Sea Lion Rock were controlled by different headman in consultation with the community; no sea lion hunting was allowed outside of the annual hunt, only certain hunters within specific villages were permitted to join the hunt.	Sea lion

Sources: ¹Anderson 2005:233, 247 (see Driver 1939:380). Gould 1968.

**Table 3. Historical Uses and Conservation Regimes Involving Marine Resources
(Partial Listing)**

SO = Socially-based management; SP = Spatial; TM = Temporal; H = Hydrological; T = Taxonomic; M = Morphologic; D = Demographic

Species	Historical tradition	SO	SP	TM	H	T	M	D
Clam Longneck Quahog	Adults collected, juveniles re-seeded into sand Money (naa-set (glycermis), clam shell disks/buttons (ts'vn-daa--k'e)						√	
Crabs	Dungness crab collected in shallow waters (tide pools, estuaries, river mouths, waves)		√			√		
Dentalium	Collected shells washed ashore Money (tetlh-t'as), long ones were especially valued, and carefully guarded in special pouches; kle-ah short ones) Nose bones (mi-sr-me'-sla) of long shells						√	
Mussels	Adults hand-picked, juveniles left behind Hunters tied mussel hairs onto clothing as a rattlesnake deterrent ⁴ .						√	
Olivella shell	Regalia; abandoned shells collected (inhabited shells left untouched)						√	
Salmon	First salmon rite for the Smith River spring influx of king salmon (ha' gucli xa'c renic; salmon-go-out-to-catch) held by "formulist" ² included 5-day fast, basketry "first foods" tray, narrative recital of the world's origins and salmon journey Temporary communal salmon fish weir installation in Smith River and use guided by rites ² ; other fishing areas owned individually; weirs left to be destroyed by high water	√ √	√ √	√		√ √	√	
Sea anemones	Medium-sized anemones gathered (very small ones occasionally gathered and boiled)						√	
Sea Lion	First Sea Lion hunt ³ in July/August on NW & SW Seal Rocks, ≈ 6.5 miles off Point St. George, breeding area for Stellar sea lions. 7 villages participated, each canoe carrying 2-3 sea lions, received ceremonially at the beach, meat distributed according to social dictates, remains returned to the ocean.	√	√	√	√			√
Seaweed	Seasonally collected (beginning with no-frost days through June) during morning low tides; only XXX collected			√	√	√		
Surf fish/smelt	Fished with dip/scoop nets; no drifting or seining Taboo areas on the beach where smelt could not be dried Behavioral strictures on beach protocol guard against disturbing spawning fish (children and dogs told not to play in the waves) [†]	√	√					
Turban snails	Medium-sized snails hand-gathered						√	

Sources: ¹Baumhoff 1958:225-6; ²Blackburn and Anderson 1993:320, also citing DuBois 1932, Barnett 1937, Drucker 1937, Driver 1938; ³Fagen 2003:227-8 also cites Gould 1968; ⁴L. Bommelyn Personal Communication 2011.

[†] Modern transitory visitors (such as surfers and dog-walkers) during spawning season, and their disregard for the surf fish immediately offshore that are disturbed by their activities, are a constant source of distress to the Tolowa.

TABLE 4. Culturally Important Marine Taxa and Historical Use Types (KEY: Subsistence, Ritual, Medicinal, Narrative, Other Customary Uses)

*Given the time constraints, this species and usage list is inclusive, but not exhaustive.

Culturally Important Marine Taxa/Tolowa Translation	SUBSIST	RITUAL	MED	NARR	OTHER CUSTOM USE
Abalone/ <i>lha' -k'wa'sr-t'i</i>	√	√	√	√	√
Anemones/ <i>duu-ma</i>	√			√	
Barnacles/ <i>ch'vtilh-tr'e'</i>	√			√	√
Beach grass/ <i>naa-svt-xvm-shrvn'</i>					√
Chitons/ <i>met-gaa-chu</i>	√	√			
Clams/ <i>met-'e</i>	√	√		√	√
Crabs/ <i>k'a-srvsr</i>	√			√	
Crawfish/ <i>nii~lii~me'-taa-ga-srvsr</i>	√			√	
Dentalium/ <i>naa-gha'sr- detlh-yu'</i>		√	√	√	√
Dolphin/ <i>tee-'vn'-lii~che'</i>	√	√		√	
Eels/ <i>dvsh-xa~</i>	√		√	√	
Finfish	√	√	√	√	√
Groundfish	√			√	
Kelp/ <i>ghvtilh-k'vsh</i>			√	√	√
Lamprey/ <i>dvsh-xa~</i>	√	√		√	
Limpets/ <i>baa-sre-xee-tr'at-lhki</i>		√		√	√
Mussels/ <i>dee-lhat</i>	√	√	√	√	√
Octopus/ <i>k'waa-ne'-lhan</i>	√		√	√	
Oysters	√			√	
Pelagic fish	√			√	
Salmon/ <i>lhuk</i>	√	√	√	√	√
Sand dollars/ <i>shaa-xas-t'ee-mvn</i>		√	√	√	√
Sea birds	√		√	√	√
Sea cucumbers	√				
Sea snails/ <i>dee-nuk</i>	√	√	√	√	√
Sea lion/ <i>ch'an-t'i</i>	√	√		√	√
Seals/ <i>sri'-sree-nvsh</i>	√	√		√	√
Sea urchin/ <i>yaa-'ilh-xvlh-ne</i>	√				
Seaweeds/ <i>lat</i>	√	√	√		
Shrimp	√			√	
Skate				√	√
Starfish/ <i>drintlh-t'i</i>			√	√	√
Sturgeon/ <i>lhvm'-chu</i>	√	√	√	√	√
Surf fish/ <i>Smelt /lhvmsr</i>	√	√	√	√	√
Whales/ <i>tee-la~</i>	√	√	√	√	√

Sources: Goddard 1911, Waterman 1921-22, DuBois 1932, Barnett 1937, Drucker 1937 (who also listed "small unidentified marine forms," p.231), Driver 1939, Hewes 1947, Baumhoff 1958, Kroeber & Barrett 1960, Gould 1966 and 1975, Losey & Yang 2007, L. Bommelyn Pers. Comm. 2011, M. Scott Pers. Comm. 2011



Figure 4. Tolowa Dee-ni stewardship rituals, performed with regalia such as this dress from the National Museum of the American Indian, decorated with shells, include songs, prayers, and ceremonies to protect all living things.

C. Historic Overview and Documentation of the Tolowa Contact with Non-Indians

“In the fifty years after Contact, the Tolowa were massively expropriated. They went from a village-based social ownership of use rights to the coast, coastal plain, riverine, and interior areas of a six hundred square mile region, most of present-day Del Norte County, to being in an internal diaspora, exiles in their own homeland...[yet the historical and archaeological evidence indicates a] persistent effort on the part of the Tolowa people to carry on living as they had lived...with subsistence based on skilled fishing, gathering, and hunting” (Collins 1998:44,47).

In 1850, the Tolowa population was estimated at 2,400 (Drucker, 1937; citing house count information provided 50-60 years prior). Population estimates also mention 23 Tolowa villages, all located on the coast or along the lower reaches of the Smith River. (Cook 1956:101)

The introduction of the non-Indian population to the Tolowa people, particularly after the establishment of the state of California, resulted in the Tolowa decimation. One of the most terrible massacres occurred in 1853 during a World Renewal Ceremony at the center of the Tolowa Dee-ni’s spiritual world, Yan’-daa-k’vt (Yontocket). Yan’-daa-k’vt is where the Creator made the First Redwood tree, then created First People. The Tolowa Dee-ni’ founded a large village settlement at this sacred place, held the First Salmon Ceremony, and maintained a sacred sweat house that was considered “Salmon’s home” (Parkman 1989).

Due to repeated massacres that occurred during the state-funded Dee-ni’ Holocaust from 1853-56, and ethnic cleansing that continued through the 1890s, by 1910 the California-based Tolowa population was estimated to be 150-210 people (Kroeber 1925:883; Cook 1956:101; Thornton 1986). This loss of 80% of the populaces also constituted a collapse of the traditional social-political systems that supervised resources access, use, and distribution. Records reflect the Wiyot and the Tolowa were the most exposed to white influence of any of the northwest tribes. Because their aboriginal lands were located on the fertile, commercial, and well settled coast,

evidence reflects their early and rapid disintegration, and almost extinction. “They should have suffered the worst losses and did” (Cook 1956:101).

In addition to the cultural genocide experienced by tribal members, many of the sacred sites of the Tolowa were destroyed by invading settlers and entrepreneurs. The village site of Sastaso, 0.5 mile south-southwest of the tip of Point St. George on a rocky promontory, was dynamited to supply rock for the breakwater at Crescent City (Gould 1966:16). A sea rock, only revealed at high tide, used as a gathering place for sweathouse wood, was blasted away for road ballast (Drucker 1937:230).

D. The Tolowa Dee-ni’ of the Smith River Rancheria Today

1. The Smith River Rancheria

Between 1906 and 1908 a series of appropriations were passed by Congress, providing funds to purchase small tracts of land in central and northern California for Indians of those areas. The land acquisitions resulted in what has been referred to as the Rancheria System in California. (Act of June 21, 1906, 34 Stat. 325, at 333, and Act of 1908, at 35 Stat. 70)

In correspondence dated September 10, 1907, C.E. Kelsey, Special Agent for the California Indians wrote to the Secretary of the Interior concerning the lands he was seeking to acquire for the benefit of the Tolowa people. Although a number of tracts were contemplated, the focus was primarily on lands which provided the Tolowa with access to the Smith River or ocean, where “abundant supplies of sea food, multitudes of salmon in season, surf fish, shell fish, crabs, clams, mussels, rock oysters and other kinds of sea food in the ocean which would support the old people if their lands bordered on the ocean.” (September 10, 1907 correspondence from Special Agent C.E. Kelsey to the Secretary of the Interior). On February 6, 1908, the federal government purchased over one hundred seventy eight acres of lands for the benefit of the Tolowa people the lands which currently make up the Smith River Rancheria, one of two reservations established in Del Norte County for the Tolowa people.

Although the Rancheria was terminated pursuant to the California Rancheria Act (Act of August 18, 1958, P.L. 85-671, 72 Stat. 69, as amended August 11, 1964, 78 Stat. 390), in 1983, in Tillie Hardwick, et al., v. U.S., the United States Northern District of California ruled the termination of Smith River Rancheria to be unlawful, and in 1987 the parties stipulated that the original boundaries of the Smith River Rancheria were restored, and all lands within the restored boundaries were declared “Indian Country” (Tillie Hardwick et al., v. U.S., Civ. No. C-79-1910-SW, p. 4 (N.C. Cal., March 2, 1987)(Hardwick II)(unpublished).

Since its re-establishment, the land base of the Smith River Rancheria of the Tolowa Dee-ni’ has grown to over 700 acres within Del Norte County.

2. The Smith River Rancheria Tribal Government

The Smith River Rancheria is a federally recognized tribe, eligible for funding and services from the Bureau of Indian Affairs by virtue of their status as an Indian tribe. Federal Register, Vol. 75, No. 190, p. 60813, Oct. 1, 2010. The Tribe’s governing body is the Tribal Council, comprised of seven (7) elected members. The Tribes’ current enrollment is 1,442 members, of which 440 live within Del Norte County, and 369 live within the Tolowa ancestral territories outside the County.

The Tribe's Enrollment Ordinance defines the Tolowa Dee-ni' to be a person who is a descendent of the Dee-ni' peoples and the associated federal Indian census rolls, whose place of origin is within the Tribe's ancestral territory, as described in Section IIA. The Tribe regulates its membership in accordance with the Constitution and related laws of the Smith River Rancheria. All members receive not only the rights that flow from their membership, including the right to due process, but members also accept the responsibilities that flow from their membership to adhere to the Tribe's law.

The Smith River Rancheria provides its tribal citizens above the age of 10 with an identification card. Each card contains the member's name, date of birth, and a unique tribal enrollment number, accompanied by a photo. All documents are safeguarded, and the process is strictly followed, with the final authority for enrollment resting with the Tribal Council.

Since its re-establishment, the Tribe has developed a more sophisticated governmental structure and has committed to expanding its capacity to manage its tribal affairs and to meet the needs of its community. The Tribe has established a tribal court, authorized to exercise jurisdiction over its members and territory. The Tribe's Natural Resource Department manages its growing land base, and the Tribal Council is currently deliberating as to how to expand its management capabilities to include oversight of coastal management and marine resource use. The Tribe had joined with the Northern California Tribal Chairman's Association in its commitment to establish cooperative relationships with the State of California to address the management and protection of the marine natural resources within the North Coast Region.

III. THE TOLOWA'S CURRENT TRADITIONAL PRACTICES

Lat si~s-xa xvm-ni. Taa-tvn lat hat xvm-ni. Shin-nat-le-dvn dvsh-xaa~-lat-'e' xvm-ni.

Seaweed grows in the ocean. Three-times seaweed there grows.

Duu hat-dvn lat yvlh-sri. Lhtin' nn-chwaa 'ee-lee-dvn.

Summer-becoming [when] last-seaweed grows. Don't then pick seaweed, too big it-becomes-then.

Since time immemorial, despite the successive waves of immigration, colonization, genocide, ethnic cleansing, subjugation, and illegal expropriation of tribal lands and material culture, the Tolowa have always lived within their aboriginal homelands and sustained a continuous relationship with the ocean, coastline, and marine resources.

The Tolowa maintain active tangible and intangible relationships with sites, i.e. tangible (sites used for harvesting, hunting, or habitat maintenance, social or ritual gatherings, shelter, or trade - including reciprocal site-sharing relationships with other tribes), or intangible relationships (sites referred to in stories, songs, sayings, or the traditional knowledge base of the tribe).

A. Relationship of the Proposed Marine Protected Areas to the Tolowa Ancestral Territory

Shu' numlh-ts'a'-dvn Taa-ghii~- 'a~telh-xat. Lhan-t'i srtaa~ hat xee-yvlh-sri.

Good low-tides Pt. St. George they-go. Many-kinds food there they-get.

Based upon the recommendations of the Marine Life Protection Act Initiative staff, the California Fish & Game Commission has proposed the establishment of four proposed Marine Protected Areas (MPAs) within the ancestral territory of the Tolowa Dee-ni' of the Smith River Rancheria: Pyramid Point (Tolowa: *Tr'uu-luu-k'wvt*) State Marine Conservation Area (SMCA); Point St. George Reef (Tolowa: *Taa-ghii~- 'a~*) Offshore SMCA; Southwest Seal Rock (Tolowa: *Yan'-sa~*) Special Closure; and Castle Rock (Tolowa: *Ee-nii-k'wvt*) Special Closure. The Tolowa connection to these proposed MPAs is memorialized by their ancient Tolowa names, and are known to the Tolowa not only as main landmarks and for hundreds of natural areas (e.g., rocks, beaches, bays, etc.), but also for their associated natural phenomena (e.g., wave action, fish, mammalian, and avian behaviors, etc.), and anthropogenic histories (e.g., human ritual and substance uses of the sites (Waterman 1921-22; Drucker 1937).

Due to the Tolowa's long and intimate traditional association with this portion of the coastline within Del Norte County, all of the proposed MPAs cover areas that are currently used by the Tolowa to continue their customary lifeways, for tangible (physical) or intangible (spiritual and religious) purposes; many purposes involving the use of marine resources. These customary uses are not commercial or recreational: they are tribal, and traditional. Any marine resources taken from these areas have always been, and will continue to be, distributed communally in accordance with the Tolowa custom and tradition.

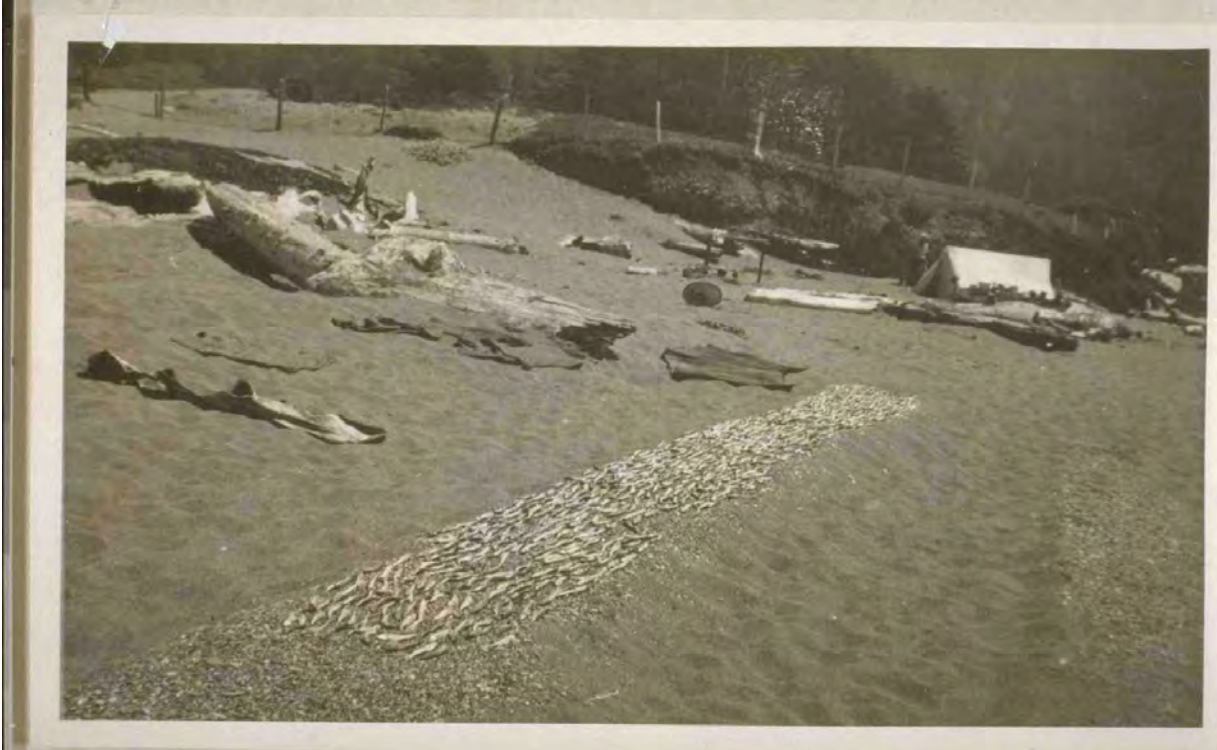


Figure 5. Tolowa Dee-ni' fish camps are an ancient tradition practiced continuously to the present.
Fish "bed" (smelt), Ocean Shore, Smith River, Calif. July 21, 1934. Photo obtained from The Bancroft Library, University of California, Berkeley.

1. **Pyramid Point (*Tr'uu-luu-k'wvt*) Proposed State Marine Conservation Area**

Pyramid Point is known to the Tolowa as *Tr'uu-luu-k'wvt*, meaning "line-fishing-upon". The Smith River Rancheria, lands held in trust by the Federal government for the benefit of the Tolowa, abuts the proposed southern boundary of the *Tr'uu-luu-k'wvt*/Pyramid Point SMCA. Prince Island Rock (*Setlh-xa~*), off the shore of the Rancheria, is also federal trust property, and since ancient times has been known as an area known for the excellent clam bed at its base. Prince Island Rock also has additional cultural significance for the Tolowa, since manhood rites included swimming around *Setlh-xa~* (L. Bommelyn Personal Communication, 2011). It has been, and will continue to be, the position of the Smith River Tolowa that the California Fish and Game Commission has no authority to assert regulatory jurisdiction within the Tribe's reservation boundaries, including the waters within the reservation boundaries. Thus, any proposal to move the southern boundary of the *Tr'uu-luu-k'wvt*/Pyramid Point SMCA will be opposed by the Tribe. Indeed, it continues to be the position of the Smith River Rancheria that due to the significant uses of the marine resources that occur within the *Tr'uu-luu-k'wvt*/Pyramid Point SMCA by the Tolowa, the Commission should adhere to the policy of avoidance adopted by the North Coast Regional Stakeholders Group and the Blue Ribbon Task Force, and not establish the *Tr'uu-luu-k'wvt*/Pyramid Point SMCA.

The proposed *Tr'uu-luu-k'wvt*/Pyramid Point SMCA encompasses a series of prehistoric, historic, and modern day fish camps maintained by the Tolowa since time immemorial. Ethnographic and archaeological accounts document thousands of years of coastal fishing, sea mammal hunting, and harvesting within Tolowa ancestral territories, including the fish camp at *Dat-Naa-Svt/Yaa-ghii~a~*, located within the proposed boundaries of the *Tr'uu-luu-*

k'wvt/Pyramid Point SMCA (Gould 1966, Tushingam 2009). Hundreds of Tolowa songs, stories, sayings, place-names, and customary traditions are based on fish camps, primarily to catch smelt, but also to catch surf-fish (Kroeber & Barrett 1960, Gould 1966, Tolowa Language Classes 1983).

Tolowa stories, songs and prayers speak of pelicans, seagulls, king fishers, summer geese, sea otters, quahogs, horseneck clams, glycermis and olivella shells, seaweed, sea anemone, mussels, mussel worm fish bait, smelt, redbtail perch, ling cod, snapper, steelhead, whales, beach grass and driftwood. Tolowa regalia, still worn in traditional ceremony and dance, is exquisitely and heavily decorated with abalone, clam and olivella shells, dentalia, and sea bird feathers (Waterman 1921-22, National Museum of the American Indian Archives, n.d., *passim*). A more complete, but not exhaustive list of culturally important marine taxa and the historical use types for the Tolowa is outlined in **TABLE 4** above.⁵

In support of the continued use of the fish camps at Dat-Naa-Svt/Yaa-ghii~a~ by the Tolowa, on July 24, 2007, the Del Norte County Board of Supervisors passed Resolution No. 2007-045:

WHEREAS, the Board of Supervisors of the County of Del Norte finds that the continued use of Dat-Naa-Svt (Hole-in-the-Ground) is an established historic use by the Tolowa People; and

WHEREAS, it is the intention of the Board of Supervisors to demonstrate support for the Tolowa people and their culture; and

WHEREAS, the Board of Supervisors deems it advisable to make known its support of the cultural use of the area shown as Easement 'J' on Book 12 of Maps Page 004; and

BE IT RESOLVED that it is the intention of this Board of Supervisors by this resolution to acknowledge the right of the Tolowa people to utilize the area (Easement 'J') consistent with Book 12 of Maps 004.

"Easement 'J'" is a recorded cultural easement, dedicated to the Tolowa Indian Tribe for the exclusive benefit of the Tolowa Indians, "to continue their historic use of the land," during the months of July through September of each year. The fish camps have also been proposed for listing with the National Register of Historic Places.

Currently a small number of Tolowa families set up annual fish camps which happen within a 2-week period during the 90-day window, to catch and process smelt and other finfish. In local nomenclature, the entire stretch of beach is called "Indian Beach." Fish camps and language camps enable the tribe "to teach our children how we have lived for centuries...the traditions they are learning are all pre-contact" (Personal communication, Marva Scott, 2011). In addition to scholarly accounts of fish camps dating from the 1800s to the present (Drucker 1937, Kroeber

⁵ During the MLPAI process, Initiative staff compiled a list of species they believed were harvested by California Tribes and Tribal Communities in the North Coast Region (California MLPAI 2010). This list, as with most ethnographic information compiled externally by anthropologists, is incomplete. For purposes here, the categories of species traditionally taken by the Tolowa are: fin fish, marine plants, invertebrates, pinnipeds, marine mammals, and marine birds. The Tolowa recognize the current take of pinnipeds, marine mammals and others are restricted pursuant to the Endangered Species Act and other applicable laws.

& Barrett 1960, Byram and Lewis 2001), these traditions have been well documented in numerous newspaper articles throughout the years⁶.

The continuance of fish camps located within the Tr'uu-luu-k'wvt/Pyramid Point SMCA is essential for the Tolowa's physical and spiritual welfare. For tribal people, the loss of access to culturally important resources not only impacts the individual and the individual's household; it impacts the community at large and the socio-economic, socio-cultural and socio-political relationships within the community (Charles and Wilson 2009). As Turner et al. note, "the decline or removal of key food sources can introduce a cascading effect in which important associated cultural practices and institutions are also lost" (2008:7). For example, wild-harvesting of marine resources directly impacts tribal food security: not only is wild food availability important for household subsistence, large harvests are consistently shared with elders. Even when harvesting commercially, a portion of the harvest is distributed to elders. Just as the loss of terrestrial wild-harvested foods has damaged Native health throughout the world, the loss of wild-harvested marine resources such as salmon, other finfish, and seaweed in tribal diets also leads to serious health problems (Norgaard 2005, Whitesell et al. 2007).

More seriously, the loss of access to culturally important resources, along with displacement from landscapes or seascapes considered to be sacred, directly impacts the individual's, family's, and community's ability to sustain deeply-held cultural and spiritual relationships with not only the species used, but with associated species and their habitats – relationships that tribal people see as part of their ancestral responsibility. Entire coastlines within ancestral Tolowa territory are important culturally, religiously, and spiritually, such as beaches used for fish camp and ceremony.

⁶ B. Hanly, "Fish Camp," News from Native California, Winter 1996/97; "Preserving tradition; Tolowa gather at beach site to dry smelt for winter stores," Daily Triplicate, July 27, 2011; "Learning the traditions; Summer camp passes on Tolowa customs, language to next generation," Daily Triplicate, July 20, 2006; "Tradition, preserved. Yaa-ghii--'a' (Fish Camp)," Daily Triplicate, August 17, 2007.



Figure 6. Ethnographic and archaeological accounts document thousands of years of coastal use within Tolowa ancestral territories, including the fish camp at (Dat-Naa-Svt), located within the boundaries of the proposed Pyramid Point SMCA (Gould 1966, Tushingham 2009).

2. Point St. George (*Taa-ghii--'a~*) Reef Offshore Proposed Marine Conservation Area

Point St. George, named by the Tolowa as *Taa-ghii--'a~*, meaning “outward-lays-there” centuries before George Vancouver’s 1792 naming of the site, includes the village site of *Taa-ghii--'a~*. Archaeological evidence which supports prehistoric and historic occupation by the Tolowa includes: living houses, sweathouses, smokehouses, brush shelters, workshops for finishing flint, bone, and antler tools, assembling fishing nets and lines, cleaning, drying and smoking fish, butchering mammals, pounding, cracking, and preparing acorns and shellfish, a waste dump, and a cemetery (Gould 1966). Chipped stone tools, and mammalian, avifauna, shellfish and fish remains, including whale, sea otter, sea lion, shark, sturgeon, salmon, hake, halibut, surfperch, and rockfish, found at Point St. George date to 300 BCE (Gould 1966).

The *Taa-ghii--'a~*/Point St. George village complex contains enormous shell middens, projectile points, arrowheads, knife blades, hand drills, scrapers, harpoon tips, tule-mat needles, antler wedges, pestles, net sinkers, fishhooks, and pipes (Gould 1966). This cultural complex and the traditional implements unearthed by Gould show the Tolowa’s extensive relationships with sea

lions (“ocean deer”)⁷, seabirds, migrating waterfowl, shellfish, finfish, eels and aquatic plants. Tolowa mythology identifies the rocks off Taa-ghii~‘a~/Point St. George as parts of Grandmother, blown apart by the North Wind. Taa-ghii~‘a~/Point St. George is identified in traditional Tolowa stories as a living place, a place of wild currants, seaweed, quahogs, horseneck clams, mussels, sea anemone, shells, and “good low tides” and as a launching site for subsistence sea-lion hunting (Gould 1968), used continuously through the 20th century (Goddard 1911). Drucker (1937) reports that the Tolowa moved to their summer camp at Point St. George when the ocean waters were smooth enough to risk hunting expeditions. Traditional Tolowa songs feature Taa-ghii~‘a~/Point St. George and the nearby rocks (K’wvt-nunt) (Tolowa Language School 1983).

3. Southwest Seal Rock (*Yan’-sa~*) Proposed Special Closure

Srwee-la'-ne xee-nvs me' Yan'-sa~ 'vn' naslh-xat.

Five of them went to South Sealion Rock in a canoe.

Northwest (*Dan’-sa~*) and Southwest Seal Rocks (*Yan’-sa~*) are ancient sea mammal hunting grounds. In prehistoric and historic times the First Sea Lion hunt was held in July or August. Tolowa headman determined the timing of the hunt, with seven villages participating. Traditional canoes contained 4-5 men covered in deerskin with blackened face, acting like sea lions. After spearing the animals, each canoe returned carrying 2-3 sea lions, and was received ceremonially at the beach, with meat distributed according to social dictates, and the remains ritually returned to the ocean (Fagen 2003:227-8 also cites Gould 1968). *Yan’-sa~/Southwest Seal Rock* is featured in ancient Tolowa stories (Goddard 1911).

4. Castle Rock (*‘Ee-nii-k’wvt*) Proposed Special Closure

Castle Rock, known to the Tolowa as *‘Ee-nii-k’wvt*, meaning “land-there-upon” is a site of historical line fishing, egg and seaweed gathering, and sea lion hunting. Before the Crescent City harbor was built, sand deposits around the rock supported a thriving razor clam population harvested by the Tolowa. The artificial harbor has changed the natural pattern of sand deposition, such that the sand infill disappeared, and the area now consists of rocks. As a result, the historical razor clam population has been extirpated.

⁷ “Some of the largest Northern seal-lion rookeries in the Pacific occur on the rocks and rocky islands off the Point, with the largest being on a pair of rocks about 6.5 miles offshore (NW and SW Seal Rocks on the U.S. Coast and Geodetic chart 5895, St. George Reef” (Drucker 1937:94).

IV. CONCLUSION



Figure 7. Traditional, communal cooking of wild salmon on redwood stakes.

The Tolowa Dee-ni' of the Smith River have continuously occupied the Del Norte coastline since time immemorial. It is well-documented in the scholarly literature, oral histories and in the archaeological record that the Tolowa Dee-ni' have maintained a spiritual, cultural, and customary relationship with the coast and the associated marine resources. Tolowa harvesting, hunting, and fishing practices are sustainable and contribute to ecological and cultural health and resilience of the people. The historical record demonstrates that the Tolowa have taken finfish, invertebrates, mammals, and marine plants within this region since time immemorial, and should be included as traditional uses protected under the proposed state regulations.

Traditional tribal practices are consistent with the goals of the Marine Life Protection Act. The Tolowa Dee-ni' of the Smith River will continue to assert that there has been no cessation of their inherent rights to continue to fish and gather within their ancestral homelands. This factual record is being submitted as an act of good faith by the Tolowa Dee-ni' of the Smith River, who wish to establish a collaborative relationship with the State of California, to work towards our mutual respective goal to protect the marine resources that are of such significance to all of us.

BIBLIOGRAPHY⁸

- Anonymous. (1927). "Indian Tooth Shell Money." *The Science News-Letter* 12(342): 281-282.
- Anonymous. (1962). "Ethnographic Atlas." *Ethnology* 1(3): 387-403.
- Anonymous. (1964). "Ethnographic Atlas." *Ethnology* 3(1): 107-116.
- Anderson, M. K. (2005). *Tending the Wild: Native American Knowledge and Management of California's Natural Resources*. Berkeley, University of California Press.
- Arnold, J. E. (1995). "Transportation Innovation and Social Complexity among Maritime Hunter-Gatherer Societies." *American Anthropologist* 97(4): 733-747.
- Baumhoff, M. A. (1958). *California Athabaskan Groups*. Anthropological Records. U. o. C. Press. Berkeley.
- Baumhoff, M. A. (1963). *Ecological Determinants of Aboriginal California Populations*. University of California Publications in American Archaeology and Ethnology. U. o. California: 155-236.
- Blackburn, T. K. A. (1993). *Before the Wilderness: Environmental Management by Native Californians*. Menlo Park, A Ballena Press.
- Bright, J. O. (1964). "The Phonology of Smith River Athapaskan (Tolowa)." *International Journal of American Linguistics* 30(2): 101-107.
- Bright, J. O. and W. Bright (1965). "Semantic Structures in Northwestern California and the Sapir-Whorf Hypothesis." *American Anthropologist* 67(5): 249-258 CR - Copyright © 1965 American Anthropological Association.
- Brown, B. E. (1991). "Native American Religions, the First Amendment, and the Judicial Interpretation of Public Land." *Environmental History Review* 15(4): 19-44.
- Byram, S. and D.G. Lewis. (2001) *Ourigan: Wealth of the Northwest Coast*. *Oregon Historical Quarterly* 102(2): 126-157.
- Buckley, T. (1997). "The Shaker Church and the Indian Way in Native Northwestern California." *American Indian Quarterly* 21(1): 1-14 CR - Copyright © 1997 University of Nebraska Press.
- Casteel, R. W. (1974). "Identification of the Species of Pacific Salmon (Genus *Oncorhynchus*) Native to North America Based upon Otoliths." *Copeia* 1974(2): 305-311.
- Chafe, W. L. (1962). "Estimates regarding the Present Speakers of North American Indian Languages." *International Journal of American Linguistics* 28(3): 162-171.
- Chamberlain, A. F. (1897). "The Mythology and Folk-Lore of Invention." *The Journal of American Folklore* 10(37): 89-100.
- Chartkoff, J. L. (1983). "A Rock Feature Complex from Northwestern California." *American Antiquity* 48(4): 745-760.

⁸ Note: although all of these references were used in creating the factual record, due to time and space constraints, only a selection are cited directly in the text. The remainder were used *passim*.

- Cohen, M. S. (1987). "American Indian Sacred Religious Sites and Government Development: A Conventional Analysis in an Unconventional Setting." *Michigan Law Review* 85(4): 771-808.
- Collins, J. (1985). "Pronouns, Markedness, and Stem Change in Tolowa." *International Journal of American Linguistics* 51(4): 368-372.
- Collins, J. (1989). "Nasalization, Lengthening, and Phonological Rhyme in Tolowa." *International Journal of American Linguistics* 55(3): 326-340.
- Conathan, L. (2006). "Recovering Sociolinguistic Context from Early Sources: The Case of Northwestern California." *Anthropological Linguistics* 48(3): 209-232.
- Cook, S. F. (1956). *The Aboriginal population of the North Coast of California*. Anthropological Records. U. o. C. Press. Berkeley and Los Angeles.
- Del Norte County Title Company. 1994. Declaration of Restrictions, Covenants & Conditions "The Beach at Smith River." Declaration made on September 14, 1994 by Reservation Ranch.
- Dixon, R. B. and A. L. Kroeber (1907). "Numeral Systems of the Languages of California." *American Anthropologist* 9(4): 663-690.
- Driver, H. (1939). *Culture Element Distributions; X Northwest California*. Anthropological Records. U. o. C. Press.
- Driver, H. E., J. A. Kenny, et al. (1972). "Statistical Classification of North American Indian Ethnic Units." *Ethnology* 11(3): 311-339
- Drucker, P. (1937). *The Tolowa and Their Southwest Oregon Kin*. University of California Publications in American Archaeology and Ethnology 36(4):221-300. University of California Press, Berkeley.
- Drucker, P. (1939). "Rank, Wealth, and Kinship in Northwest Coast Society." *American Anthropologist* 41(1): 55-65.
- Drucker, P. (1950). *Culture Elements Distributions: XXVI Northwest Coast*. Anthropological Records. U. o. California.
- DuBois, C. A. (1932). "Tolowa Notes." *American Anthropologist* 34(2): 248-262.
- Erlandson, J. M., M. A. Tveskov, et al. (1998). "The Development of Maritime Adaptations on the Southern Northwest Coast of North America." *Arctic Anthropology* 35(1): 6-22.
- Field, L. W. (1999). "Complicities and Collaborations: Anthropologists and the Unacknowledged Tribe of California." *Current Anthropology* 40(2): 193-210.
- Gage, T. B. (1979). "The Competitive Interactions of Man and Deer in Prehistoric California." *Human Ecology* 7(3): 253-268.
- Gayton, A. H. (1935). "Areal Affiliations of California Folktales." *American Anthropologist* 37(4): 582-599.
- Giovannetti, J. M. (1989). "Using Depth Psychology Constructs to Accurately Interpret Native Symbolism: An Examination of the Tolowa "Catching the White Bird" Myth." *American Indian Quarterly* 13(4): 511-527.
- Glassow, M. A. and L. R. Wilcoxon (1988). "Coastal Adaptations near Point Conception, California, with Particular Regard to Shellfish Exploitation." *American Antiquity* 53(1): 36-51.
- Goddard, P. E. (1906). "Lassik Tales." *The Journal of American Folklore* 19(73): 133-140.

- Goddard, P. E. (1920). "Has Tlingit a Genetic Relation to Athapascan?" *International Journal of American Linguistics* 1(4): 266-279.
- Golla, V. (1976). "Tututni (Oregon Athapaskan)." *International Journal of American Linguistics* 42(3): 217-227.
- Gould, R. A. (1966). "The Wealth Quest among the Tolowa Indians of Northwestern California." *Proceedings of the American Philosophical Society* 110(1): 67-89 CR - Copyright 1966 American Philosophical Society.
- Gould, R. A. (1966). "Indian and White Versions of "The Burnt Ranch Massacre": A Study in Comparative Ethnohistory." *Journal of the Folklore Institute* 3(1): 30-42.
- Gould, R. A. (1966). *Archaeology of the Point St. George Site, and Tolowa Prehistory*. University of California Publications in Anthropology. U. o. C. Press.
- Gould, R. A. (1968). "Seagoing Canoes among the Indians of Northwestern California." *Ethnohistory* 15(1): 11-42.
- Gunther, E. (1926). "An Analysis of the First Salmon Ceremony." *American Anthropologist* 28(4): 605-617.
- Hall, R. L. (1992). "Language and Cultural Affiliations of Natives Residing near the Mouth of the Coquille River before 1851." *Journal of Anthropological Research* 48(2): 165-184.
- Halperin, R. H. (1980). "Ecology and Mode of Production: Seasonal Variation and the Division of Labor by Sex among Hunter-Gatherers." *Journal of Anthropological Research* 36(3): 379-399.
- Heizer, R. F. (1941). "Alexander S. Taylor's Map of California Indian Tribes, 1864." *California Historical Society Quarterly* 20(2): 171-180 CR - Copyright 1941 California Historical Society.
- Heizer, R. F. (1962). "The California Indians: Archaeology, Varieties of Culture, Arts of Life." *California Historical Society Quarterly* 41(1): 1-28.
- Heizer, R. F. a. E., Albert B. (1980). *The Natural World of the California Indians*. Berkeley, University of California Press.
- Hewes, G. W. (1947) *Aboriginal use of Fishing Resources in Northwestern North America*. PhD dissertation, University of California, Berkeley.
- Hudson, T. (1981) *To sea or not to sea: further notes on the "oceangoing" dugouts of North Coastal California*. *Journal of California and Great Basin Anthropology* 3(2): 269-282.
- Hughes, J. D. and J. Swan (1986). "How Much of the Earth Is Sacred Space?" *Environmental Review: ER* 10(4): 247-259.
- Huld, M. E. (1983). "Athapaskan Bears." *International Journal of American Linguistics* 49(2): 186-195.
- Hymes, V. D. (1955). "Athapaskan Numeral Systems." *International Journal of American Linguistics* 21(1): 26-45.
- Jackson, T. L. (1989). "Reconstructing Migrations in California Prehistory." *American Indian Quarterly* 13(4): 359-368.
- Jacobs, E. D. (1977). "A Chetco Athapaskan Text and Translation." *International Journal of American Linguistics* 43(4): 269-273.
- Kari, J. (1981). "A Symposium on Athapaskan Comparative Linguistics and Language Planning." *International Journal of American Linguistics* 47(3): 265-268.

- Keeley, L. H. (1982). "Hafting and Retooling: Effects on the Archaeological Record." *American Antiquity* 47(4): 798-809.
- Keeling, R. (1992). "Music and Culture History among the Yurok and Neighboring Tribes of Northwestern California." *Journal of Anthropological Research* 48(1): 25-48.
- Kenny, J. A. (1975). "Statistical Classification of North American Indian Ethnic Units: Corrections and Additions." *Ethnology* 14(1): 109-115.
- Kroeber, A. L. (1904). "A Ghost-Dance in California." *The Journal of American Folklore* 17(64): 32-35.
- Kroeber, A. L. (1920). "Games of the California Indians." *American Anthropologist* 22(3): 272-277.
- Kroeber, A. L. (1936). "Kinship and History." *American Anthropologist* 38(2): 338-341.
- Kroeber, A. L. (1937). "Athabascan Kin Term Systems." *American Anthropologist* 39(4): 602-608.
- Kroeber, A. L. and S. A. Barrett. (1960). *Fishing Among the Indians of Northwest California*. Anthropological Records. U. o. C. Press.
- Kroeber, A. L. and Goddard (1967). "Goddard's California Athabascan Texts." *International Journal of American Linguistics* 33(4): 269-275.
- Landar, H. (1977). "Three Rogue River Athapaskan Vocabularies." *International Journal of American Linguistics* 43(4): 289-301 CR - Copyright 1977 The University of Chicago Press.
- Leap, W. L. (1981). "American Indian Language Maintenance." *Annual Review of Anthropology* 10: 209-236 CR - Copyright 1981 Annual Reviews.
- Losey, R. J. (2005). "House Remains at the Netarts Sandspit Village, Oregon." *Journal of Field Archaeology* 30(4): 401-417.
- Losey, R. J. and D. Y. Yang (2007). "Opportunistic Whale Hunting on the Southern Northwest Coast: Ancient DNA, Artifact, and Ethnographic Evidence." *American Antiquity* 72(4): 657-676.
- MacLeod, W. C. (1928). "Economic Aspects of Indigenous American Slavery." *American Anthropologist* 30(4): 632-650.
- Marrant, D. E. (1970). "Variations on a Theme: Some Northern California Indian Horror Stories." *Western Folklore* 29(4): 257-267
- McMillan, A. D. and I. Hutchinson (2002). "When the Mountain Dwarfs Danced: Aboriginal Traditions of Paleoseismic Events along the Cascadia Subduction Zone of Western North America." *Ethnohistory* 49(1): 41-68.
- Michaelsen, R. S. (1983). "'We Also Have a Religion'. The Free Exercise of Religion among Native Americans." *American Indian Quarterly* 7(3): 111-142
- Michaelsen, R. S. (1984). "The Significance of the American Indian Religious Freedom Act of 1978." *Journal of the American Academy of Religion* 52(1): 93-115
- Michaelsen, R. S. (1988). "Is the Miner's Canary Silent? Implications of the Supreme Court's Denial of American Indian Free Exercise of Religion Claims." *Journal of Law and Religion* 6(1): 97-114.
- Minor, R. and W. C. Grant (1996). "Earthquake-Induced Subsidence and Burial of Late Holocene Archaeological Sites, Northern Oregon Coast." *American Antiquity* 61(4): 772-781.

- Moss, M. L. and G. B. Wasson, Jr. (1998). "Intimate Relations with the past: The Story of an Athapaskan Village on the Southern Northwest Coast of North America." *World Archaeology* 29(3): 317-332.
- Nater, H. (1994). "The Athapaskan Component of Nuxalk." *International Journal of American Linguistics* 60(2): 177-190.
- Parkman, E. B. (1989). "A Stone for Yontocket." *American Indian Quarterly* 13(4): 529-534.
- Perry, R. J. (1983). "Proto-Athapaskan Culture: The Use of Ethnographic Reconstruction." *American Ethnologist* 10(4): 715-733.
- Pierce, J. E. and J. M. Ryherd (1964). "The Status of Athapaskan Research in Oregon." *International Journal of American Linguistics* 30(2): 137-143.
- Pilling, A. R. (1989). "Yurok Aristocracy and "Great Houses"." *American Indian Quarterly* 13(4): 421-436.
- Riches, D. (1984). "Hunting, Herding and Potlatching: Towards a Sociological Account of Prestige." *Man* 19(2): 234-251.
- Slagle, A. L. (1985). "Tolowa Indian Shakers and the Role of Prophecy at Smith River, California." *American Indian Quarterly* 9(3): 353-374.
- Slagle, A. (1987). "The Native-American Tradition and Legal Status: Tolowa Tales and Tolowa Places." *Cultural Critique*(7): 103-118
- Slagle, A. (1989). "Unfinished Justice: Completing the Restoration and Acknowledgement of California Indian Tribes." *American Indian Quarterly* 13(4): 325-345.
- Smith, M. W., A. D. Krieger, et al. (1950). "Archaeology of the Columbia-Fraser Region." *Memoirs of the Society for American Archaeology*(6): iii-46.
- Spencer, R. F. (1956). "Exhortation and the Klamath Ethos." *Proceedings of the American Philosophical Society* 100(1): 77-86.
- Strong, P. T. (2005). "Recent Ethnographic Research on North American Indigenous Peoples." *Annual Review of Anthropology* 34: 253-268.
- Swadesh, M. (1938). "Bibliography of American Indian Linguistics 1936-1937." *Language* 14(4): 318-323.
- Thornton, R. (1984). "Social Organization and the Demographic Survival of the Tolowa." *Ethnohistory* 31(3): 187-196.
- Thornton, R. (1986). "History, Structure, and Survival: A Comparison of the Yuki (Ukomno'm) and Tolowa (Hush) Indians of Northern California." *Ethnology* 25(2): 119-130.
- Thornton, R., T. Miller, et al. (1991). "American Indian Population Recovery Following Smallpox Epidemics." *American Anthropologist* 93(1): 28-45.
- Tveskov, M. A. (2007). "Social Identity and Culture Change on the Southern Northwest Coast." *American Anthropologist* 109(3): 431-441.
- Vastokas, J. M. (1969). "Architecture and Environment: The Importance of the Forest to the Northwest Coast Indian." *Forest History* 13(3): 12-21 CR - Copyright 1969; 1969 Forest History Society and American Society for Environmental History.
- Waterman, T.T. (1921-22) Unpublished Notes on Tolowa Culture and Geography, 1921-1922. University of California at Berkeley Bancroft Library FILM 2216 reel 99 (3)-103.

Waterman, T. T. (1925). "The Village Sites in Tolowa and Neighboring Areas in Northwestern California." *American Anthropologist* 27(4): 528-543.

Wayburn, P. (1983). "Legal Hassles over the West's Natural Heritage." *Ambio* 12(5): 274

White, C. B. (1957). "A Comparison of Theories on Southern Athapaskan Kinship Systems." *American Anthropologist* 59(3): 434-448.

White, C. B. (1958). "Concerning the Proto-Athapaskan Kinship System: Rejoinder." *American Anthropologist* 60(1): 155-156

ORAL HISTORY REFERENCES

1983 Tolowa Language Meetings Editorial Board:

- Loren Bommelyn of Nii~-lii~-chvn-dvn, Chairman
- Betty Green of Nii~-lii~-chvn-dvn, Secretary
- Berneice Humphrey of Yan'-daa-k'vt, Editor
- Tom Parsons, Editor
- Barbara Beall and Hallie Neil, Typists

1983 Tolowa Language Meetings Elder Cultural Contributors:

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- Sam Lopez, Xay-lish, of Xaa-wan'-k'wvt.
- Ella Norris, Nanlh-chu-tr'e', of Da'-tin'-dvn.
- Ed "Goble" Richards, Lha'-dvn-tes-na, of Xaa-wan'-k'wvt.
- Laura Scott Coleman of Nii~-lii~-chvn-dvn.
- Ellen LaFountain of 'Ee-chu-le'.
- Edward Lopez of Xaa-wan'-k'wvt.
- Lena Smiley Lopez of 'Ee-chu-le'.
- Frank, Fred, and, Lila James Moorehead of Xaa-wan'-k'wvt.
- Irene Seymore Natt of Me'slh-telh-dvn.
- William Roberts (Willie Bob) of Taa-gha'rs-naa-lhxvn.
- Anna Brown Sanderson and Harriet Brown Smith of . Yan'-daa-k'vt.
- Ernest Scott of Nii~-lii~-chvn-dvn.
- Ethel Moorehead Scott of Xaa-wan'-k'wvt.
- Bertha Grimes Stewart of . Yan'-daa-k'vt.
- Letsy Brown Whipple of Xaa-wan'-k'wvt.

1983 Tolowa Language Meetings Contemporary Leaders and Contributors:

- Eunice Bommelyn
- Loren Bommelyn
- Audree Bowen
- Margaret Brooks
- Betty Brown
- Joseph Giovannetti
- Betty Green
- Carl James
- Margaret Matthews
- Darrell Moorehead
- Marvin Richards
- Viola Richards
- Sheryl Steinruck

From: [MLPA CEQA](#)
To: [Pam Rittelmeyer; Caitlin Gilleran;](#)
Subject: FW: Trinidad Rancheria Scoping Comments
Date: Friday, October 14, 2011 3:44:47 PM
Attachments: [Scoping Comments for Trinidad Rancheria \(10-14-2011 Final\).pdf](#)

From: Jacque Hostler & Leslie Sanders [cherae.roads@gmail.com]
Sent: Friday, October 14, 2011 6:16 PM
To: MLPA CEQA
Subject: Trinidad Rancheria Scoping Comments

Attached are the Cher-Ae heights Indian Community of the Trinidad Rancheria Comments on the Scope and Content of the Environmental Impact Analysis for the Northern California Coast Component of the Statewide Network of Marine Protection Areas Proposed Under the Marine Life Protection Act

--

Jacque Hostler, Chief Executive Officer of the Trinidad Rancheria
Leslie Sanders, Transportation Specialist & Assistant to JH
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Cher-Ae Heights Indian Community of the Trinidad Rancheria



October 14, 2011

MLPA North Coast CEQA Scoping Comments
California Department of Fish and Game
c/o Horizon Water and Environment
P.O. Box 2727
Oakland, CA 94602

RE: Comments on the Scope and Content of the Environmental Impact Analysis for the Northern California Coast Component of the Statewide Network of Marine Protection Areas Proposed Under the Marine Life Protection Act

To Whom It May Concern:

The Cher-Ae Heights Indian Community of the Trinidad Rancheria (the “Tribe” or “Trinidad Rancheria”), a federally recognized Indian tribe, hereby submits the following comments in response to the September 12, 2011 Notice of Preparation of Environmental Document Regarding Marine Protected Areas (MPAs) in the North California Region Pursuant to the Marine Life Protection Act (MLPA) (the “Project”).

The Trinidad Rancheria, which is held in trust for the benefit of the Tribe by the United States, is located on the North Coast of California and lies within the Tribe’s ancestral homelands. From time immemorial through the present day, the Tribe has engaged in traditional activities and practices within its ancestral homelands, which include but are not limited to ceremonial and subsistence gathering and fishing and the governance of such activities by Tribal members. These traditional activities and practices represent basic expressions of the Tribe’s culture and form the basis for the continuity of the Tribe’s cultural system, and their continuity substantially affects the Tribe’s cultural system. Additionally, the Tribe is also the owner and operator of the Trinidad Pier and related facilities (mooring field, boat launch, boat cleaning and maintenance facilities, the intake pipe for the Humboldt Sates University Marine Lab, parking lots, a restaurant, bait and gift shop, recreational areas), which anchor the Tribe’s economy and the economy of the communities located in the general region. The pier and these related facilities, as well as the tribal and local economies depend upon the continuation of a sustainable commercial and recreational fishing industry.



www.trinidadrancheria.com

1 Cher-Ae Lane • PO Box 630 • Trinidad, California • 95570 • 707.677.0211 • 707.677.3921 (fax)

Through a multi-year process, the Trinidad Rancheria and other tribes located on the North Coast, worked to educate the Department, the Fish and Game Commission, the MLPA Initiative, the Blue Ribbon Task Force (BRTF), and the NCRSG about the unique environment on the North Coast Study Region and the inextricably interwoven relationship between the tribes on the North Coast and the marine and coastal resources. As part of this effort, the Tribe participated extensively in the local process established to inform the Department of Fish and Game (“Department”) and the Fish and Game Commission (“Commission”) about the environment, the Tribe’s relationship to marine and coastal resources, and the potential effects of this Project. The Tribe was represented on the North Coast Regional Stakeholder Group (NCRSG) and submitted the Tribe’s regional profile to the Department. Most recently, the Tribe submitted documentation to the Commission supporting the Tribe’s historic and on-going traditional gathering and fishing in accordance with Tribal Gathering Option 1 adopted by the Commission as part of the preferred alternative for this Project.

Based on the information and evidence presented throughout this process, the NCRSG and the BRTF recommended that traditional, non-commercial tribal uses of the resources within the North Coast Study Region be recognized and protected pursuant to the regulations governing the MPAs located in the region. At its June 29, 2011 meeting, Commission selected a preferred alternative for the north coast MPAs, and as part of the preferred alternative the Commission selected Tribal Gathering Option 1, to allow tribal gathering by federally recognized tribes to continue in State Marine Conservation Areas and State Marine Recreational Management Areas based upon a factual record showing ancestral take or tribal gathering practices with the MPA.

The North Coast Study Region is unique. The marine and coastal environment and resources are unique, as is the cultural and subsistence relationship between the Indian tribes located within this region and the marine and coastal resources and environment. The economic dependence of communities within this region on a sustainable commercial and recreational fishing is also unique. The Notice of Preparation of the draft EIR acknowledges the unique environment of the North Coast Study Region and the need to ensure that the environmental impact review process reflects this unique environment.

The Tribe requests that the scope and content of the environmental impact analysis address all required topics under the California Environmental Quality Act (CEQA) and the CEQA guidelines including, without limitation, the topics discussed below.

Historic and Cultural Resources

The Department should ensure that the environmental impact analysis identify all historic and cultural resources, especially those associated with Indian tribes and tribal cultures located within the North Coast Study Region, which may include without limitation cultural landscapes (e.g. traditional cultural properties, ethnographic landscapes, and historic sites) associated with traditional tribal cultural systems, ceremonies, subsistence practices, and other culturally significant activities. As part of this analysis the Department should exercise its discretion under CEQA to identify and evaluate the potential effects the Project may have on historic and cultural resources, regardless of whether the resource has been previously identified or assessed. Also, the Department should ensure that this analysis is conducted in consultation with affected tribes and consistent with

the close nexus between CEQA and the National Historic Preservation Act and its implementing regulations and guidance documents including but not limited to the following: National Register Bulletin 38, Guidelines for Evaluating and Documenting Traditional Cultural Places; National Park Service Preservation Brief 36, Protecting Cultural Landscapes; and NPS-28, Cultural Resource Management Guide.

If a historic or cultural resource, such as an ethnographic landscape, relies upon the continuation of traditional tribal activities, including subsistence activities, the Department should consider effects of the Project that would affect, interfere, hinder, or preclude the cultural activities upon which the cultural or historic integrity of a historic or cultural resource is partially or wholly dependent as a potential substantial adverse change to the historic or cultural resource. The Department should further ensure that substantial adverse changes to historic and cultural resources are treated as environmental effects, which the Department shall seek to avoid. Consistent with California Executive Order W-26-92, the Department should recognize and, to the extent possible, preserve and maintain the significant heritage resources of the State, which may include tribal cultural resources.

Environmental Justice

The Department should ensure that environmental impact analysis evaluates whether the Project will have a disproportionate affect on economically-disadvantaged communities, especially Indian tribes suffering high unemployment. The analysis should consider Indian tribes as separate, identifiable communities.

Socio-Economic Impacts

The Department should ensure that environmental impact analysis evaluates whether the Project may cause blight or decay within tribal communities that rely on cultural and subsistence uses of marine and coastal resources. This analysis should be based upon the affects to the communities of individual affected tribes, which are separate jurisdictions and have a unique cultural systems that rely upon cultural and subsistence uses.

The Department should further ensure that environmental impact analysis evaluates whether the Project may cause blight or decay to facilities and business areas that rely upon marine and coastal resources including but not limited to piers, and facilities related to or serving commercial and recreational fishing interests and businesses.

Consumptive Uses

The Department should ensure that environmental impact analysis evaluates the extent to which the Project may displace traditional tribal subsistence and ceremonial gathering and fishing and evaluate the effect this displacement may have on specific Indian tribes or tribal communities.

The Department should further ensure that the environmental impact analysis evaluates whether the Project may displace commercial or recreational fishing and the effect such displacement may have

on piers and related facilities, and communities that rely on such commercial activity. For the purposes of this analysis, Indian tribes should be considered as a separate, identifiable local community.

Mitigation Measures

The Department should ensure that the environmental impact analysis examines and evaluates all available mitigation measures to avoid or minimize adverse potential environmental impacts, substantial adverse changes to historic or cultural resources, and other impacts which may affect the environment directly or indirectly. The Department should further consult closely with affected Indian tribes when identifying or evaluating mitigation measures to avoid or minimize impacts.

The Tribe requests that the Department consider individual Indian tribes and tribal communities when determining and evaluating the baseline and existing conditions and the impacts to those tribes or communities. The Tribe also requests that the analysis evaluate the incremental effects of potential change against the baseline and/or existing conditions.

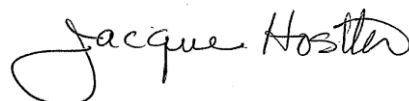
The Department, pursuant to California Government Code § 11019.8(a) and California Executive Order B-10-11, is obligated to cooperate with federally recognized tribes and to actively encourage communication and consultation between the tribes and the Department and to ensure that the tribes have the opportunity to provide meaningful input directly to the Department regarding this environmental impact analysis.

Please provide all CEQA and project related notices and correspondence regarding the environmental impact analysis and the preparation of the draft EIR to the following persons:

Jacque Hostler, CEO
Trinidad Rancheria
P.O. Box 630
Trinidad, Ca. 95570

Thank you for your consideration of the comments of the Trinidad Rancheria regarding the CEQA scoping for the environmental impact analysis for the northern California coast component of the statewide network of MPAs proposed under the MLPA.

Sincerely,



Jacque Hostler, CEO
Trinidad Rancheria

From: [MLPA CEQA](#)
To: _____
Subject: FW: Is this Sustainable sheephead fishing?
Date: Friday, November 04, 2011 2:07:51 PM

From: Lance Ignatowicz [lignatowicz@yahoo.com]
Sent: Tuesday, October 25, 2011 1:18 PM
To: MLPA CEQA
Subject: Is this Sustainable sheephead fishing?

I found this online and I'm sickened. I can see taking one or two fish, but harvesting the entire population from a reef seems like it should be illegal.

<http://www.bdoutdoors.com/forums/inshore-islands-fishing-reports-southern-california/366785-freedom-sheep.html>

Am I wrong or is this excessive?

Lance
Lignatowicz@yahoo.com <<mailto:Lignatowicz@yahoo.com>>