

MARINE LIFE PROTECTION ACT  
NORTH COAST STUDY REGION  
DRAFT ENVIRONMENTAL IMPACT REPORT  
PUBLIC HEARING

FORT BRAGG TOWN HALL  
363 N. MAIN STREET  
FORT BRAGG, CALIFORNIA 95437

TUESDAY, MARCH 20, 2012

6:30 P.M.

PUBLIC COMMENTS

REPORTED BY:

ROBIN KOOP, CSR NO. 5270

Page 1

## 1 A P P E A R A N C E S

2

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8

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## 17 P U B L I C S P E A K E R S

18

19 Dan Hamburg	William Lemos	Sheila Dawn Tracy
20 Char Flum	Ed Oberweiser	Carson Bell
21 Larry Knowles	Rex Gressett	Gabriel Maroney
22 Bill Maahs	Richard Charter	Elaine Charkowski
23 Terry d'Selkie	David Gurney	Judy Filer
24 Jeanine Pfeiffer	Tomas DiFore	

25

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1 Tuesday, March 20, 2012 6:30 p.m.

2 --oOo--

3 (Opening comments by Michael Stevenson, Susan  
4 Ashcraft, and Jill Sunahara not reported.)

5 --oOo--

6 PUBLIC COMMENTS

7 MR. STEVENSON: So the first speaker today is  
8 Dan Hamburger. Hamburg -- sorry about that. Followed  
9 by Char Flum.

10 DAN HAMBERG: It's not the first time.

11 Hello. My name is Dan Hamberg. I'm the County  
12 Supervisor for the Fifth District of Mendocino County.  
13 The Mendocino County Board of Supervisors, excuse me,  
14 will be submitting comments on the Draft Environmental  
15 Impact Report prior to the April 16th deadline.

16 Therefore, my comments this evening are as an  
17 individual supervisor representing the coastal area from  
18 Mendocino south to the Gualala River.

19 I will also, though, be referring to a letter  
20 which the Board of Supervisors sent to Marija Vojkovich,  
21 the regional manager for the marine region of the  
22 California Department of Fish and Game on October of  
23 18th of last year.

24 And in that letter of October 18th, 2011, the  
25 Board of Supervisors raised -- raised three issues that  
Page 3

1 -- that we believe need extensive discussion in the DEIR  
2 and which we have not found adequate discussion of in  
3 the document today.

4           The first is biological resources. And it's  
5 the board's opinion that despite claims that are made in  
6 the document, in the MLPA document, implementation will  
7 encourage a highly uneven distribution of fishing  
8 pressure across the region. And this phenomenon, which  
9 is referred to as effort shift, has not been addressed  
10 in the DEIR.

11           The second was in relation to public services  
12 and utilities. The original notice of project  
13 identifies the need for more wardens to enforce the MPA  
14 regulations. And with the California Department of Fish  
15 and Game Enforcement Division already significantly  
16 understaffed, we really wonder what is the workable  
17 formula to provide enforcement of the MPAs.

18           And we believe that the result could well be  
19 that the wardens that are now dealing with problems like  
20 poaching, and water pollution, and trafficking, and  
21 abalone, and so on, that those issues will be ignored as  
22 the available wardens deal with the -- with the MPAs.

23           And I think many of us on the coast feel really  
24 reluctant to see a privatized enforcement system put  
25 into place. I mean, the privatization of this entire

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1 process has been a major bone of contention for people  
2 on the coast.

3 And I think even your company, Horizon, is  
4 representation of that privatization, and the Resource  
5 Legacy Foundation Fund and, you know, their dollars  
6 being from private foundations.

7 And so it just, you know, this whole issue of  
8 how this process that we don't feel was ours to begin  
9 with is now going to be enforced is a major concern of  
10 the Board of Supervisors.

11 A third concern that was raised in October by  
12 my board was concerning cultural resources. And  
13 according to the National Park Service, the entire North  
14 Coast is a traditional cultural property for the tribal  
15 communities, which have inhabited this area for a  
16 millennia.

17 A local journalist named Frank Hartzell wrote a  
18 recent piece on the DEIR in the local Ft. Bragg paper,  
19 the Advocate-News, in which he said, "The privatized  
20 Marine Life Protection Act Initiative process was  
21 created in Southern California and did not conceive of  
22 the existence of Native American tribal claims." This  
23 issue has not been fully resolved in the DEIR, and we  
24 believe it may require legislation in Sacramento to do  
25 so.

Page 5

1           A forth concern I have, which was not addressed  
2     in the board's letter last year, is with regard to the  
3     strange way in which the singularly important issue of  
4     takes has been handled throughout this process. While  
5     both commercial and recreational fishing, urchin, and  
6     abalone diving and seaweed gathering are specifically  
7     disallowed, nowhere is there a statement made that wave  
8     energy, aquaculture, or even oil and gas drilling should  
9     be band. This has caused great unhappiness and distrust  
10    of the MLPAI process here in Mendocino County.

A1-5

11           Another seeming anomaly is that the Fish and  
12    Game Commission has expressed -- or has not expressed a  
13    willingness to look at the designation of the Big River  
14    Estuary, which allows for waterfowl hunting. And I  
15    believe that's something that Bill Lemos is going to  
16    address later, so I won't go into it in any depth.

17           But I do believe that this allowance is  
18    contrary to good sense. It's also contrary to both what  
19    the North Coast Regional Stakeholders Group and the Blue  
20    Ribbon Task Force have recommended.

A1-6

21           The Mendocino County Board of Supervisors has  
22    taken a unanimous position in favor of the elimination  
23    of any hunting in the estuary. And we will continue to  
24    push the Fish and Game Commission for increased take  
25    restrictions in the estuary itself.

Page 6

1 Thank you very much.

2 MR. STEVENSON: Thank you.

3 We now would like to invite up -- actually,  
4 before I do, are there any more elected officials in the  
5 audience who are speaking tonight? In the past, we've  
6 always given them the first opportunity to speak.

7 Okay. I'd like to invite up Char Flum. I hope  
8 I got that name right. Larry Knowles will be up --  
9 Larry Knowles will be up after this.

10 CHAR FLUM: Good evening. My name is Char  
11 Flum. I'm a 50-year resident of this area. I have  
12 worked on fishing boats, I have spent time in Alaska  
13 with the fisher people.

14 Some of the comments I'd like to make I pulled  
15 from this huge document that took weeks to read. The  
16 first one has to do with the National Park Act.

17 No provisions have been made to prohibit  
18 industrialization of the ocean that would damage the  
19 scenery, especially from effluence from oil, gas, fish  
20 farms, wind energy, and any mineral or other resource  
21 extraction. I think this is one of the biggest elements  
22 for mistrust in this community. Plus the fact that  
23 Catherine Reheis-Boyd, who has been the president of the  
24 Petroleum Institute, has been one of the main players in  
25 this. People do not trust what is going on with the

Page 7

A2-1

1 MLPA.

2 This industrialization would in turn effect the  
3 local economy by not conserving the natural and historic  
4 objects according to the National Park Act, which means  
5 that this is not in compliance with the National Park  
6 Act. The very least that this could do, this MLPA could  
7 do, would be to offer buffer zones from any potential  
8 industrialization.

A2-1

9 Okay. I'm going down to hydrokinetic projects.

10 By the way, National Part Act is No. 6.32.

11 Your document states at present there are no  
12 active or permitted projects in the study region. As  
13 recent as weeks ago there were permits requested for  
14 reviews of a previous request for permits for a ocean  
15 wave energy so-called farm off of the coast of the  
16 Mendocino area.

A2-2

17 There are no prohibitions against underwater  
18 cables, ocean platforms for pipelines in the MLPA, nor  
19 recognition of the danger of the active earthquake  
20 faults of which cables, platforms or pipelines in these  
21 benthic ocean zones could rupture and cause permanent  
22 damage to the North Coast.

A2-3

23 The next thing is the enforcement of the MLPA,  
24 6.23.

A2-4

25 The Fish and Game supervision of approximately  
Page 8



1 517 miles of the North Coast Region is unrealistic and  
2 ludicrous based on the present understaffing of the Fish  
3 and Game Department and the economic likelihood that the  
4 Fish and Game Department will not increase its employees  
5 in the near future because of the economy. This fact  
6 must be accounted for. How in the world is this little  
7 handful of Fish and Game going to monitor this huge  
8 project that goes on forever?

A2-4

9 MR. STEVENSON: You have one minute left.

10 CHAR FLUM: Okay. I have one more to do. That  
11 was point 6.23.

12 This is voting, 6.3.

13 Acoustic noise pollution from boats can  
14 condense in the ocean and affect all marine life,  
15 including the whale population and other manuals. It  
16 must be included in the MLPA plans.

17 The Navy plans to use sonar for its war  
18 equipment testing on the coastal areas. In fact, the  
19 Navy is coming to Ft. Bragg this coming Friday. They  
20 will be at Town Hall from 5:00 to 8:00. And they have  
21 full permits to use sonar and increase sonar on the  
22 coast of California. That has not been mentioned. That  
23 can cause whale disruption of mating patterns, food  
24 security, habitat selection. And this must be specified  
25 in the plan.

A2-5

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1           The economic harm to tourism, fishing, and  
2 visitors -- I know, I hear it. You can turn it off --  
3 if marine mammals, fishing, etcetera, were to cease or  
4 to be damaged would be irreparable to our economy plus  
5 pretty irreparable to the whales.

A2-5

6           Thank you.

7           MR. STEVENSON: Thank you.

8           We'd like to call Larry Knowles, followed by  
9 Bill Maahs.

10           LARRY KNOWLES: Hello, I'm Larry Knowles. I'm  
11 a stakeholder for the North Coast Region on the Marine  
12 Life Protection Act. I also own Rising Tide Sea  
13 Vegetables, and I'm a member of Seaweed Stewardship  
14 Alliance, commercial seaweed harvesters.

15           The first thing I want to do is actually thank  
16 Ken Weisman, because, unannounced to him, he was sitting  
17 at the stoplight coming north on Highway 1 when I was  
18 going south at Highway 1 and 20, and I thought what's  
19 Ken Weisman doing here today. And I thought, oh, geez,  
20 today's the meeting. So thank you for the reminder of  
21 that unknowingly. I appreciate your indirect reminder.

22           But what I'm commenting on today are three  
23 SMCAs mainly -- MacKerricher, Van Damme and Russian  
24 Gulch -- which are not part of the unified array  
25 submitted by the North Coast Regional Stakeholder Group.  
Page 10

A3-1

1 They were actually -- they are in the motion, I believe  
2 they are in the ECA, a motion put in by Virginia  
3 Strom-Martin on October 26, 2010 -- I'd be happy if I  
4 got this right.

5 And specifically the Seaweed Stewardship  
6 Alliance has a problem with these because they have --  
7 they reduce or they restrict the commercial take of  
8 nereocystis or boat kill. And as submitted, that's a  
9 real problem for us. And they are also within the  
10 10-mile safety zone of the regional stakeholder report  
11 that's so hard to get for this process. So that really  
12 puts a -- puts a restriction on the commercial seaweed  
13 harvesting there.

14 And we have a 4,000-pound maximum that was  
15 imposed, we imposed on ourselves, a number of years ago  
16 for nereocystis to make this a really de minimis take of  
17 the species, in any case. And because we have such  
18 limited licenses for this area, we are going to push for  
19 the take of nereocystis for edible purposes only being  
20 allowed in these SMCAs.

21 And I have contacted state parks, and they have  
22 failed to respond. So I will be at the December 11th  
23 meeting and talk with the Fish and Game Commission about  
24 this.

25 This would be a classic example by the way of  
Page 11

A3-1

A3-2

A3-3

1 effort shift because as it is we've designed our take to  
2 really balance on the whole North Coast Region. Those  
3 are some primary access points, so having this  
4 restriction in take really could concentrate effort.

5 And I think that's it for sake of time. Thank  
6 you for being here.

7 MR. STEVENSON: Thank you. We'd like to call  
8 now Bill Maahs, and then Terry d'Selkie would be next.

9 BILL MAAHS: Well, I'm Bill Maahs.

10 And I'd like to say that I've spent more time  
11 on the ocean I think than anybody around here. I  
12 started fishing -- when I was 17, I shipped out on  
13 frigate during World War II. And I've been -- went back  
14 and finished high school when the war was over and I've  
15 been a fisherman ever since. There wasn't a lot of jobs  
16 here when the war was over. All we had was a mill and  
17 had a fishing industry. There was no such thing as  
18 tourism and all this other stuff. And you either worked  
19 for the lumber company or you were a fisherman.

20 But anyway, I've watched the fishing industry  
21 was -- going back about 100 years on my father's side  
22 and both on my wife's side, goes back on both sides we  
23 were fishermen.

24 And we never had a problem fishing for salmon.  
25 In all the years we had a full season, had a big fleet.

Page 12

A3-3

A4-1

1 And we first got shut off in the late -- late-'80s.  
2 They come down with the -- the statement Golden Rivers.

3 Well, the more they shut us down over those  
4 years, the fishing industry went down every second.  
5 Nothing to do with fishing that caused this big decline  
6 in our fishing. It was varying habitat which had been  
7 destroyed from pesticides and herbicides, and  
8 diversions.

9 And I don't say anything I can't back up. I  
10 keep papers over there in case anybody doubts it.

11 But, anyway, it's hard for me to imagine,  
12 because I always believed when I joined the Merchant  
13 Marines when 17 that -- I couldn't pass an army  
14 physical, because I had a hearing problem -- but I  
15 believed we had a government by the people and for the  
16 people, and I believed in liberty and justice. And I'm  
17 really unhappy with what they have done with the fishing  
18 industry.

19 And I have no quarrel -- but what bothers me is  
20 when you start regulating -- some people don't  
21 understand about fish. Fish eat fish. And every time  
22 you catch one you save a thousand little ones. Unless  
23 you do it, and get out and clean fish, you wouldn't even  
24 recognize it.

25 So overloading your river like they did in all  
Page 13

A4-1

A4-2

1 the years, what -- a small number produce as much fish  
2 as the big ones, is because the amount of food in that  
3 river for juveniles is a key element. And if you over  
4 -- put too many fish in that river, they don't produce  
5 as much as when there's only a fraction and they  
6 quadruple their size and they don't get eaten by the  
7 other fish. So you can understand why fishing has very  
8 little to do with the decline in our rivers.

A4-2

9 But anyway, I spent 30 years on the Salmon and  
10 Steelhead Advisory Committee. I got an award from  
11 Virginia Strom-Martin in 2000 for my time. I spent 40  
12 years at Salmon Unlimited, where we sat together as  
13 sport and commercial fishermen trying to save our  
14 fishing industry.

A4-3

15 And all of that I feel has been lost because of  
16 the political system that controls what -- what the  
17 money wants them to do, and they are not caring enough  
18 about people lives. It's too late for me, because I'm  
19 84 and I'll be 85 this year.

20 But I do think the potential of our fisheries  
21 -- still the hatcheries are capable of doing what they  
22 were put there to mitigate the fisheries, because years  
23 ago they couldn't take somebody's business away and give  
24 it to somebody else, like they were doing the  
25 diversions.

A4-4

Page 14

1           So they put hatcheries there to mitigate to the  
2   fisheries. And a hatchery today, if they can afford to  
3   -- if they got 5,000 eggs of pink salmon to come up  
4   there, the big ones, and if they can produce -- if they  
5   don't get 90 percent hatch, they are doing something  
6   wrong. So they can grow enough fish to fill an ocean  
7   full of fish, but they are not going to do it when  
8   somebody wants to get rid of the fishing industry.

A4-4

9           And I get very suspicious of everything that  
10   comes out of the government from what they did to us.  
11   So that's about all I could tell you. That, anyway, I  
12   just thought I -- if any doubt about the numbers I used,  
13   I have a -- I don't say anything I can't back up,  
14   because I've printed it too -- too many times. If  
15   somebody wants to talk to me where I got some of these  
16   numbers, I've got a lot of numbers I could show you.

A4-5

17           Okay. Thank you.

18           MR. STEVENSON: I'd like to call up Terry  
19   d'Selkie followed by Andy Fisch.

20           TERRY D'SELKIE: My name is Terry d'Selkie, and  
21   I'd like to agree with the gentleman who just spoke.

22           I'm owner of Ocean Harvest Sea Vegetable  
23   Company. I'm an artisanal seaweed harvester. I would  
24   like to address Chapter 4 regarding local kelp in the  
25   EIR. I believe the data that it is based on is flawed,

A5-1

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1 and it has been shown to be meritless during the entire  
2 MLPA process. Even the chair of the Science Advisory  
3 Team and several other scientists from the Science  
4 Advisory Team debated on why the bull kelp coverage --  
5 it was seen daily on drives -- was not allowed into the  
6 current models. This data has been flawed from the very  
7 beginning.

A5-1

8 My comments and testimony that I made with  
9 knowledge and expertise that I have about the ocean and  
10 the seas, I don't believe it was included anywhere in  
11 EIR, especially in subsection 4.6, the kelp canopy  
12 coverage on pages four to 30.

13 The missing data in this table could be  
14 partially reconstructed with the assistance of local  
15 experts, such as myself or urchin divers, who have  
16 commented earlier on the visual presentations of this  
17 data several times.

A5-2

18 Independent C, the kelp beds are largely absent  
19 from the 23 maps. I want to know why. The Fish and  
20 Game Commission will certify the Environmental Impact  
21 Report. I understand that. I'm not really sure how my  
22 comments will make tonight, they have made no difference  
23 so far in this process. I want this to be recorded as I  
24 feel I'm witnessing an illegal process public input that  
25 has been largely ignored.

A5-3

Page 16



1 Thank you.

2 MR. STEVENSON: We would like to call up Andy  
3 Fisch followed by Dr. Jeanine Pfeiffer. Andy? I guess  
4 maybe Andy is not here. I'll save his card for later.

5 So Dr. Jeanine Pfeiffer, followed by William  
6 Lemos.

7 JEANINE PFEIFFER: Hi. Welcome to our region.

8 You may discover that a couple of our speakers  
9 here are a little testy because you missed out on  
10 hundreds of hours of comments by folks, and too often  
11 those comments were never transcribed. They were never  
12 acknowledged. Oftentimes they weren't even listened to  
13 or incorporated.

14 So the comments which I'll be providing -- not  
15 tonight, because I don't have enough time, but I'll be  
16 providing this evening by e-mail -- are an attempt to  
17 capture that missing data, that missing information,  
18 because I was fortunate to be present at virtually all  
19 the meetings. And so I will be commenting both by  
20 subsection and by chapter and by page to make it easier  
21 for you.

22 So the main concerns that I have as a scientist  
23 is where the Environmental Impact Report was not  
24 incorporating either verbal public comment or  
25 documentation that was provided during the process, or  
Page 17

A6-1

1 wasn't using a sufficiently rigorous model.

2           And so that includes, for example, there are,  
3 oh, goodness, I think at least 10 factual records  
4 provided by the tribes listed in tables 4.2 -- sorry  
5 table 2.1. And the tribes that are listed on pages 510  
6 and 511 are not cited in your references and they do  
7 provide detailed information that's relevant to sections  
8 1.6, 1.5, 2.3, 4.2.3, and 4.3.2 and Chapters 5 and 6.  
9 So there's quite a bit of data that needs to be  
10 incorporated.

A6-1

11           Secondly, in section 4.4, a little surprised to  
12 see the model there. It assumes ecological stasis,  
13 homogeneity and even distribution, which is not true for  
14 this region. In reality the factors that are discussed  
15 in that section are dynamic, heterogenous and unevenly  
16 distributed. So very different conclusions I think  
17 would be reached.

A6-2

18           There's also a concern that I've heard from a  
19 number of constituents where impacts were deemed as not  
20 significant. And I think that's a deep concern to  
21 communities here, especially, for example, small scale  
22 family fisheries.

A6-3

23           So what may seem as not a significant impact on  
24 the macro scale is very much significant on the micro  
25 scale.

Page 18

1           And here in Mendocino County, we have less than  
2   90,000 residents. So any time a family household  
3   business is eliminated or crippled, it's a huge impact  
4   on us.

A6-3

5           We're also concerned that although the document  
6   did note that -- citing me. And incidentally my name is  
7   misspelled throughout the document, so you might want to  
8   change that -- that the North Coast is effectively a  
9   traditional cultural property, there's a whole appendix  
10  devoted to 157 shipwrecks, but there's not equivalent  
11  data on cultural properties.

A6-4

12           And then a few other notes. The concern about  
13  the ordinance, apparently our region covers 517 statute  
14  miles of shoreline. So we divide that by 19 wardens,  
15  that's about 27 miles of shoreline per warden.

A6-5

16           Our constituents are concerned not just about  
17  enforcing the MPAs but addressing poaching, trafficking  
18  and water pollution, including from so-called  
19  nonconsumptive users who tend to litter.

20           Anyway, the rest of my comments will come to  
21  you by e-mail. And I thank you for your time.

22           MR. STEVENSON: Thank you.

23           We'd like to next call up William Lemos,  
24  followed by Ed Oberweiser.

25           WILLIAM LEMOS: Good evening. Thank you.

Page 19

1 William Lemos.

2 I'm a consultant for the Natural Resources  
3 Defense Council. I'm also a member of the Mendocino  
4 Abalone Watch, I was the founding member of that  
5 organization; a Reef Check Foundation volunteer  
6 collecting data for information about offshore reefs;  
7 and I'm an elected official. But I don't mind waiting  
8 my turn for getting to the mic. I'm the president of  
9 the Mendocino Fire Protection District.

10 So here I am in wearing the hat of a regional  
11 stakeholder as commenting on the analysis of the Draft  
12 Environmental Impact Report.

13 I have lived here on the Mendocino Coast all my  
14 life. I've worked on, and owned, and leased fishing  
15 boats. I fish recreationally and dive for abalone.

16 Many of us on the North Coast lead lives that  
17 are integrated with the ocean. We have a cultural and a  
18 spiritual connection with the ocean as well as an  
19 economic connection. I have children and grandchildren  
20 that are making the community their home. And I want to  
21 leave them with a legacy of a healthier ocean.

22 So we're pleased to see the environmental  
23 review of the North Coast proposal for protected areas  
24 moving forward, and particularly pleased that the North  
25 Coast communities have converged in support for the

Page 20

A7-1

1 unified proposal, also known as the proposed project.  
2 We reviewed the DEIR and will submit written comments by  
3 the deadline. But, in general, I wanted to make these  
4 comments today.

5 Participants of the North Coast Regional  
6 Stakeholder Group and Blue Ribbon Task Force worked hard  
7 to complete a plan that will help rebuild our marine  
8 resources while respecting diverse interests. The  
9 resulting unified proposal shows our communities share  
10 commitment to keeping the ocean healthy and will provide  
11 -- that will provide direct benefits for the nearshore  
12 marine ecosystem for generations to come.

13 We believe the DEIR authors have done a  
14 tremendously good job of assembling and analyzing the  
15 relevant information. The report correctly finds that  
16 increased fish size and reproduction within proposed  
17 marine protected areas may need the long-term ecosystem  
18 benefits inside and fishery benefits outside the  
19 boundaries.

20 The draft report confirms that the proposed  
21 project will create public benefits by protecting  
22 special areas, including productive places like the  
23 Double Cone Rock at Usal, and leverage restoration  
24 projects already underway, such as those at the Big  
25 River Estuary and Point Cabrillo.

Page 21

1 I'm not going to get into the water waterfowl  
2 issue tonight, but I will in my comments when I provide  
3 them later on in my written comments.

4 The DEIR highlights the need for marine  
5 protection and enhancement of biodiversity that is  
6 associated with conservation estuaries, conservation of  
7 estuaries, intertidal areas and offshore reefs.

8 The DEIR finds that the proposed project will  
9 yield the most substantial benefits for the State of  
10 California by protecting most marine wildlife and  
11 habitat while also balancing the interests of a wide  
12 variety of stakeholders.

13 We believe the DEIR fulfills purposes of CEQA  
14 and provides a sound basis for the state's decision.  
15 Its fundamental conclusions are well-reasoned.

16 We agree with the conclusion of the DEIR that  
17 placement of the marine protected areas as defined in  
18 the proposed project will overall have either  
19 insignificant or no adverse impact on the biological and  
20 social resources of the North Coast.

21 And we will identify minor factual corrections  
22 in our written comments correcting these errors, will  
23 strengthen the document. And I have about a three-page  
24 list of those minor errors that I will reference by  
25 section, most of which are in the southern bioregion  
Page 22

A7-3

A7-4

1 having to do with the local area.

2 But thank you very much for the time, and I  
3 appreciate the efforts that are going forward.

4 MR. STEVENSON: Thank you.

5 I'd like to call up Ed Oberweiser. And the  
6 next speaker will be Rex Gressett.

7 ED OBERWEISER: Hello. Thank you for the  
8 opportunity to speak. My name is Ed Oberweiser. Excuse  
9 me. I've got a cold. I'm a Fort Bragg resident, and  
10 I'm on the Board of Directors of the Foundation of  
11 Sustainable Living.

12 The ocean is extremely important to the  
13 survival of all life on Earth. scientists acknowledge  
14 that at least 40 percent of the Earth's oxygen is  
15 produced by the ocean. They have learned that the  
16 Earth's oceans are becoming more acidic due to human  
17 activities and exploitation. Ninety percent of large  
18 ocean predators no longer exist. The world's fisheries  
19 are mined and not sustainably harvested.

20 Clearly, the ocean's fisheries and ecosystems  
21 need more protection; however, the Marine Life  
22 Protection Act as written doesn't prohibit oil drilling  
23 or extracting gas off the Northern California Coast. It  
24 doesn't prohibit aquaculture mining for minerals at the  
25 bottom of the ocean, harmful military training

Page 23

A8-1

A8-2

1 exercises, or the introduction of dangerous wave  
2 technology -- wave energy technology.

A8-2

3 The North Coast is a very important coastal  
4 upwelling area that is crucial for its contribution to  
5 the diversity of ocean life.

A8-3

6 The United States Navy wants to expand its war  
7 training exercises. These include new powerful sonar,  
8 surface-to-air gunnery, missiles, bombs and testing for  
9 new weapon systems. These activities will release  
10 numerous hazardous materials and endanger the gray  
11 whales' yearly migration. This is not addressed by the  
12 MLPA or the Draft EIR.

A8-4

13 Green Wave Energy has applied for a permit to  
14 create a huge energy farm off the coast of Mendocino.  
15 This application includes from 150 to 680 huge 600-foot  
16 Pelamis Wave Energy Converters that will weigh 1,433  
17 tons each. These will have serious impacts on both the  
18 ocean and its floor. This is not prohibited by MLPA.  
19 This was not addressed by the Draft EIR.

A8-5

20 Chapter 8 of the Draft EIR says that the  
21 California Environmental Quality Act requires that a  
22 Draft EIR must evaluate a reasonable range of  
23 alternatives to the project.

A8-6

24 The range of alternatives considered does not  
25 include prohibition of oil drilling, ocean floor mining,  
Page 24



1 fish farming, or wave energy machines from marine  
2 protected areas. We have seen in the Santa Barbara  
3 Channel, the San Francisco Bay, and Alaska, and in the  
4 Gulf of Mexico oil drilling harms the ocean life.

A8-6

5 I propose that the MLPA be placed on hold until  
6 proper scientific research and study has been done and  
7 until citizens have had sufficient time and opportunity  
8 to study it.

A8-7

9 In Fort Bragg we haven't had sufficient access  
10 to the Draft EIR or the MLPA itself. After requesting  
11 copies of the Draft EIR, we were told there was one copy  
12 available at the Fort Bragg library.

13 We were told that the MLPA Master Plan and the  
14 Draft EIR could be accessed online by computer. That is  
15 not sufficient. Not all of us have large-screen  
16 computers, high-speed Internet connections with the  
17 capacity to download and print copies of the Draft EIR.

A8-8

18 The Fort Bragg library isn't open around the  
19 clock and can't accommodate all interested citizens.  
20 Many of us have jobs with varying working hours. Our  
21 off times don't always match the library's open hours.  
22 We were told that we had to pay \$150 for each extra  
23 copy. This is not sufficient access.

24 Again, I urge that the MLPA be put on hold  
25 until sufficient access to the Draft EIR has been given  
Page 25

A8-9

1 to the public and an accurate and scientific mapping of  
2 the coast has been done.

A8-9

3 The Draft EIR and the MLPA as written will  
4 adversely affect our coastal ecosystem because they  
5 don't protect marine life from the most damaging human  
6 activities.

A8-10

7 Thank you.

8 MR. STEVENSON: I'd like to call up Rex  
9 Gressett, followed by Richard Charter.

10 REX GRESSETT: Hi. Good evening. I'm just a  
11 private citizen. I'm not credentialed in any way.

12 Certainly -- Ed, I respect your views as my  
13 friend. But I've got news for you, there's no Santa  
14 Claus. This is not going to cover oil and gas, it's not  
15 going to cover wave energy. Those things have to be  
16 addressed, but not here.

17 What we're talking about with the Marine Life  
18 Protection Act is a small step forward. This process is  
19 being characterized by vilification, slander, by  
20 misrepresentation by professional lobbyists who have  
21 distorted and really destroyed public input. Mr. Martin  
22 and Dr. Pfeiffer are paid lobbyists. They are not  
23 private citizens. They have consistently controlled  
24 this process with their money, their influence and their  
25 connections. Vilification of process has become

A9-1

Page 26

1 habitual. I have heard people talk about oil and gas,  
2 I've heard talk about not trusting the process. But we  
3 must begin. And the Marine Life Protection Act is  
4 merely a way to begin. The people need to take this  
5 process back.

6 Most people that I speak to support marine  
7 protection. You're asking here -- everyone's speaking  
8 against the process, as they always have under the  
9 direction of these overpaid and unscrupulous lobbyists.

10 But we must begin somewhere. If you had a  
11 field of wheat -- if you had a field of wheat, and you  
12 had let everybody go at it with scythes, and they were  
13 told that the more you cut the more money you make, then  
14 the wheat would soon be gone. We have to control the  
15 use of our resources in a logical, systematic, open and  
16 ethical way. The process has always represented these  
17 things.

18 The Marine Life Protection Act process from the  
19 first time it came to Fort Bragg has attempted to open  
20 itself to public comment. But that process has been  
21 distorted by egregious interference from professional  
22 lobbyists.

23 Mr. Martin drew every line on that map. The  
24 areas that we are -- that we are so upset about are a  
25 tiny fraction of what they should be.

Page 27

A9-1

1           If instead of everybody hacking away at the  
2 wheat, if we agreed that we would share the resource,  
3 that we would manage our ocean intelligently, we could  
4 have an abundant ocean.

A9-1

5           UNIDENTIFIED SPEAKER: Any comments on the  
6 DEIR?

7           REX GRESSETT: I beg your pardon, sir? I'm  
8 commenting to the best of my ability. If it doesn't  
9 work for you, you'll have to see me later.

10          UNIDENTIFIED SPEAKER: I'm just asking you if  
11 have anything to say about the DEIR.

12          MR. STEVENSON: Sir, please let him complete  
13 his comments.

14          REX GRESSETT: And especially this issue of  
15 privatization, and especially this issue of wardens.  
16 This is raised again and again. And I believe that  
17 these are valid issues.

A9-2

18          The reason that I'm not addressing this by  
19 chapter and verse is because I'm not going to quibble  
20 over details when the substance of the agreement has not  
21 been made clear to the public. I think that we have the  
22 right to understand this. I don't think we should be  
23 bullied by the loudest or the most aggressive.

A9-3

24          I think that the people should have a say in  
25 this. I don't think that you're shouting me down is

Page 28

1 going to help anything. And I don't think we should  
2 shut up anybody, including those people that want to  
3 protect the ocean.

A9-3

4 All right. I better call my anger management  
5 class guidelines again. Anyway, sorry for that  
6 disruption. That's extremely disoriented.

7 The Marine Life Protection Act has been delayed  
8 for ten years. Now they are asking for more delays.  
9 They will continue to ask for delays -- may I have a  
10 little extra time?

A9-4

11 They will continue asking for delays forever.  
12 They will never say it has been studied enough. There  
13 will never be enough public comment because their  
14 objective is delay. I think all of these people who are  
15 talking about oil and gas and wave energy are correct.  
16 Those things have got to be addressed, but they have  
17 nothing to do with the MLPA.

18 Catherine Reheis-Boyd had a background in the  
19 oil industry. But she showed no evidence that I could  
20 see of being biased in that direction. She was there to  
21 try to get to the truth. But the lobbyists prevented  
22 that from happening. There was no stakeholder who was  
23 not selected by Mr. Martin and Dr. Pfeiffer. There was  
24 no representative of environmental interests that were  
25 not controlled by the lobbyists.

A9-5

Page 29

1 The Ocean Protective Association --

2 UNIDENTIFIED SPEAKER: Time.

3 REX GRESSETT: The Ocean Protective Association  
4 was among the worst offenders. If you read their  
5 newsletter, folks, those of you who care about it, then  
6 read the newsletter from the Ocean Protective  
7 Association, you'll find there's an anti-environmental  
8 organization.

9 UNIDENTIFIED SPEAKER: Boo.

10 REX GRESSETT: Thank you for the process, thank  
11 you for the time. And this will continue to go forward  
12 until we have made our ocean safe and until we have  
13 stopped their desertification, to fight and go on.

14 Thank you very much.

15 MR. STEVENSON: Folks, before I call the next  
16 speaker, I'd just like to ask that no one please catcall  
17 or interrupt the speakers. Anyone who does that again  
18 will be asked to leave the meeting. This is an  
19 opportunity for everyone to speak. They may be offering  
20 viewpoints which are different from your own, they are  
21 allowed to do that.

22 The next speaker is Richard Charter, followed  
23 by David Gurney.

24 RICHARD CHARTER: My name is Richard Charter.

25 And I have worked on behalf of protection for the

Page 30

A9-5

1 Northern California Coast since 1978. Thank you for  
2 coming here.

3 As a patient process leading us here has  
4 proceeded since the passage of the California law in  
5 1999, some key trends now unfolding in our world's  
6 oceans have validated the reasons why restoration  
7 measures are a good idea.

8 These trends include carbon-induced  
9 acidification of our oceans, downward population trends  
10 in sea birds throughout the oceans -- as reported  
11 recently by IUCN -- and the dangerous immergence of  
12 offshore oil drilling as a political football in an  
13 election year.

14 We know we are blessed right here with one of  
15 the four most important ocean upwelling systems on the  
16 planet. And our communities have fought for three  
17 decades to protect this place from federal offshore oil  
18 and gas drilling proposals. As recently as within the  
19 past three weeks, the House of Representatives has  
20 accepted -- but the U.S. Senate has narrowly defeated --  
21 proposed amendments that have brought federal waters  
22 offshore drilling right here to the Mendocino, Humboldt  
23 and Del Norte Coasts.

24 While the recognition granted to our state  
25 waters and our region under the proposed network of

Page 31

A10-1

1 Marine Protected Areas cannot directly ban offshore  
2 drilling here, the resulting protections can and will  
3 strongly discourage the state authorities from any  
4 consideration of lifting our existing state waters  
5 drilling moratorium within three miles from shore; and,  
6 in addition, these Marine Protected Areas will almost  
7 certainly help to dissuade federal agencies like the  
8 Department of Interior from federal offshore oil and gas  
9 leasing beyond three miles from shore due to a key  
10 element of the overarching Outer Continental Shelf Lands  
11 Act.

12 This federal law requires the Secretary of  
13 Interior to balance what the federal law calls relative  
14 environmental sensitivity against potential development  
15 of offshore oil and gas resources. Obviously, any  
16 formal recognition of sensitive areas within state  
17 waters cannot help but be an important indicator to  
18 federal decision-makers reminding them once again of  
19 their mandate to avoid our region as a target for  
20 offshore oil and gas drilling.

21 For these and other reasons, I'm here in  
22 support of the proposed project. I look forward to  
23 submitting more extensive written comments on the EIR  
24 prior to the deadline for written comments.

25 Thank you for your time.

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A10-1



1 MR. STEVENSON: I'd like to call up David  
2 Gurney, followed by Luana.

3 DAVID GURNEY: Hi. I'm David Gurney. I'm  
4 presently chairperson of the Ocean Protection Coalition.  
5 I'm speaking as a private citizen.

6 I want to first -- I'm probably one of the few  
7 people here who has actually read your report. And I  
8 want to address the scientific analysis. Chapter 1.4,  
9 "Topics Dismissed From Analysis, Mineral Resources."

10 The EIR refers to CEQA Appendix G, Section 10,  
11 which is not included in your report. There's no  
12 Appendix G. But what you're referring to is page 1-29  
13 of Chapter One, "Mineral Resources. "

14 It states: "Based on the 2010 Outer  
15 Continental Shelf Oil and Gas Strategy  
16 announcement by the Department of Interior, the  
17 entire California coast is identified as an  
18 area of low resource potential/low support for  
19 potential new leasing such that new leases are  
20 not anticipated through 2017. Because  
21 any future conflicts are speculative, the  
22 Proposed Project would have no potential  
23 impact."

24 But this is false.

25 The head of the Western States Petroleum

Page 33

A11-1

A11-2

1 Association, Catherine Reheis-Boyd, was on the Blue  
2 Ribbon Task Force throughout the process to make sure no  
3 restrictions on oil or gas drilling or infrastructure  
4 were put into place for these Marine Protected Areas.

A11-2

5 Number two, the Draft EIR states that  
6 scientific and educational research will have, quote, no  
7 significant impact. Yet you identify 20 organizations,  
8 institutions and agencies with an interest in these  
9 closed protected areas, plus three NGOs.

A11-3

10 And you state there are 562 scientific  
11 collecting permits. 562 permits for our marine region  
12 for take by, quote-unquote, science research, which  
13 includes commercial aquariums, research. And these  
14 scientific collecting permits are highly unregulated.

15 They are also section -- okay. We'll go on to  
16 section 4.3, "Biological Resources."

17 The EIR states that the majority of these study  
18 regions habitat occurs in 100 meters or shallower. And  
19 you identified 93 percent of that study region occurring  
20 in these areas.

A11-4

21 You have gone on to say that the unknown  
22 habitats, quote-unquote, in your EIR covers 127 square  
23 miles of this study region. That's 127 square miles  
24 that you have no idea what's going on in waters 100 feet  
25 or less; in other words, more than a quarter of the

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1 study region. This Marine Life Protection Act went  
2 ahead with absolutely no knowledge of what's down there.  
3 You could have asked the urchin drivers if you wanted to  
4 find out, but you didn't get their cooperation. So I  
5 feel this is insufficient data.

A11-4

6 Plus the head of your Science Advisory Team was  
7 recently arrested on felony embezzlement charges, the  
8 co-chair of the Science Advisory Team. How are we to  
9 trust data coming from this kind of integrity?

A11-5

10 I won't mention the mapping vessel that struck  
11 the whale, illegally, unpermitted with no marine mammal  
12 observer.

A11-6

13 The Marine Life Protection Act falsely calls  
14 itself an initiative, when an initiative is in fact a  
15 process by which the people put something on a ballot to  
16 be voted upon. This law was never voted upon by the  
17 people of the State of California, nor was the private  
18 -- privately funded implementation of this whole process  
19 was not okayed by anyone.

A11-7

20 I've gone through the 562 collecting permits  
21 that are going to be okayed for our region, wanting to  
22 throw all the fishermen off the water.

A11-8

23 People in -- Gabriel -- Gabriel Maroney has  
24 ceded his time, so I want to go a couple minutes over.

25 MR. STEVENSON: I'm sorry, you can't do that.

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1                   DAVID GURNEY: Yes, I can.

2                   MR. STEVENSON: No, sir, I need -- I need you  
3 to stop now.

4                   DAVID GURNEY: Gabriel Maroney has ceded his  
5 time. It's on his card right here.

6                   MR. STEVENSON: You can't do that.

7                   DAVID GURNEY: I just want to go a couple more  
8 minutes, sir.

9                   MR. STEVENSON: You're welcome to submit your  
10 comments in writing.

11                  DAVID GURNEY: I just need to go over a minute  
12 over, sir.

13                  UNIDENTIFIED SPEAKER: We've heard enough.

14                  MR. STEVENSON: I'm sorry. We have run out of  
15 time today. Please submit your comments in writing.

16                  DAVID GURNEY: I am going to submit my comments  
17 in writing, but the gentleman has ceded his time to me,  
18 sir.

19                  MR. STEVENSON: Sir, let me escort you --

20                  DAVID GURNEY: Don't touch me. Keep your hands  
21 off me, sir. Don't touch me.

22                  UNIDENTIFIED SPEAKER: David.

23                  DAVID GURNEY: I want to object to this  
24 procedure right here. A gentleman has legally ceded --  
25 ceded his time to me, four minutes. I want to speak a

Page 36

1 couple minutes over. This is baloney. Excuse me, sir.

2 This is baloney. You've just taken 30 seconds, a  
3 minute, to do this. I would be finished by now.

4 MR. STEVENSON: Sir, if you don't sit down  
5 we're going to have to shut the meeting down.

6 DAVID GURNEY: So this is how -- this is how --  
7 this is a privately funded process. These people are  
8 not government, they are financed by a private  
9 corporation, the same corporation that funded the Marine  
10 Life Protection Act.

11 MR. STEVENSON: Sir, please stop. This is  
12 unacceptable.

13 We'd like to call to the front Luana, followed  
14 by Tom DiFore. Is Luana still in the audience?

15 All right. Tomas DiFore, we'd like to invite  
16 you to the front, followed by Sheila Dawn Tracy.

17 TOMAS DIFORE: Here I stand before the  
18 privatized democracy of the state. My name is Tomas  
19 DiFore. I will skip all the personal accolades of  
20 accomplishment. And statements about the Draft EIR,  
21 I'll submit all those in writing.

22 I do have a question for Susan Ashcraft, maybe  
23 even clarification, if you can go into it that far.

24 I think I heard you state about 12 minutes into  
25 this meeting that the Punta Gorda Reserve is going to be

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A12-1

1 deleted by June. And then you're going to -- or somehow  
2 another one is going to come up with -- a different one  
3 you said to replace it.

4 So my question is am I getting this right? And  
5 where is that different one going to come from? Can we  
6 do a question response? That was less than a minute.  
7 Thank you.

8 MS. ASHCRAFT: Just to clarify. As described  
9 in the Draft EIR, the proposed projects look at what  
10 Marine Protected Areas are in existence and evaluates  
11 them and determines whether they are retained, whether  
12 they are retained and revised, or whether they are  
13 deleted.

14 And this is one of the elements of the regional  
15 state group proposal and what the commission has  
16 decided, has determined its preferred alternative. So  
17 there are -- yeah, because there are -- there are  
18 existing MPAs in five locations. The proposed project  
19 includes four out of those five existing locations.

20 And the network that you see here, this array  
21 of MPAs, there's an MPA that's included that's adjacent  
22 to Punta Gorda, so it moves the protection from the site  
23 at Punta Gorda to a different location, if that helps.

24 And that's not -- the decision, I just want to  
25 clarify also for the process, the Fish and Game

Page 38

A12-1

1 Commission at their June 6th meeting will make a  
2 decision about the proposal and details that are in the  
3 options in their proposal.

4 There still is -- there are still a few that  
5 have to go through the Office of Administrative Law  
6 Review before they are certified and in place. Okay?

7 And I also want to just take a quick second to  
8 say I've heard a lot of comments that would be  
9 beneficial for the Fish and Game Commission to hear as  
10 far as the rule-making. And I just reiterate that  
11 public comment period starts this Friday. And so I urge  
12 you to either send in or write and send in your comments  
13 to them as well.

14 MR. STEVENSON: Thanks, Susan.

15 I'd like to call up Sheila Dawn Tracy, followed  
16 by Jean Woolhiser.

17 SHEILA DAWN TRACY: Hello. My name is Sheila  
18 Dawn Tracy. I've lived on the coast 34 years and  
19 attended several earlier MLPA meetings until I was put  
20 off by the process.

21 It is well-documented that the process of  
22 public participation and oversight has been corrupted by  
23 overstepping your authority, the MLPA authority, using  
24 intimidation tactics by having independent videographers  
25 removed from the meeting, a violation of the

Page 39

A13-1

1 Bagley-Keene Act.

2 It is also well-documented that while trying to  
3 appear to be a grassroots process, the decision was made  
4 to override the decision of participants to being broken  
5 into smaller groups, thereby curtailing the shared  
6 expertise of individual.

7 So I have to say that when the process -- when  
8 the process is not democratic, it makes the end results  
9 suspect. I know many in the community have worked hard  
10 to arrive at solutions compatible to the multitude of  
11 ocean uses by individuals, Native Americans, and small  
12 businesses. And your plan will prevent ocean harvesting  
13 in protected areas.

14 So if your goal is ocean protection, why has  
15 not the whole process, permitting process for the wave  
16 energy permits been considered? This has been going on  
17 for three years, and it obviously should have entered  
18 into some of your negotiations and into the EIR.

19 Also, the -- as Ed Oberweiser commented -- the  
20 Navy is going to come and talk to us about their  
21 proposed military exercises. I have a problem with the  
22 various state agencies or under the guise of the state  
23 authority not being in communication with the federal  
24 authorities. I really think that in something that  
25 affects this community that we really need to open up

Page 40

A13-1

A13-2

A13-3



1 communication between various state and federal  
2 agencies.

A13-3

3 It appears that in the guise of state  
4 authority, you have cleared the arena for future  
5 industrial use of our most valuable resource. Why is  
6 there no mention of prohibition for oil and gas  
7 extraction which would devastate the economy, the food  
8 resource, and threaten the very vitality of this local  
9 resource?

A13-4

10 I and many of my neighbors are suspicious that  
11 this whole long intricate process is merely a ruse for  
12 the privatization of our ocean resources for corporate  
13 interests. What assurances can you give the public that  
14 this is not so? Thank you.

A13-5

15 MR. STEVENSON: Thank you.

16 We'd like to call up Jean Woolhiser, followed  
17 by Andy Fisch. Are either of those people still here?

18 Then the next person is Carson Bell, followed  
19 by Gabriel Maroney.

20 CARSON BELL: Good evening. My name is Carson  
21 Bell. And I've been behind the scenes in this end of  
22 the process, but worked with it in the MLPA 1 and 2.

A14-1

23 So my friend Jeanine Pfeiffer would like to for  
24 the record to know that our consultants contracted by --  
25 by civic organizations are not paid lobbyists.

Page 41

1           And I do have a suggestion. You know, I've  
2    seen the intensity for nearly a decade that all of us,  
3    no matter which side we think we're on, and would it be  
4    possible to sign a little piece of paper when you sign  
5    in that says, hey, no personal attacks? I mean, would  
6    that help facilitate? And then you could just --  
7    because running these meetings has been tough.

A14-1

8           Bless you all.

9           MR. STEVENSON: Thank you. The last person we  
10   have is Gabriel Maroney. We have one more. Gabriel, do  
11   you want to get up and talk?

12          GABRIEL MARONEY: Gabriel Maroney.

13          I want to object about my time not being ceded.  
14   David Gurney was written on my card. So now I have to  
15   read what he had to say instead of him saying it. So I  
16   really don't appreciate that. It's really standard to  
17   be able to cede time. So I'd like to officially  
18   complain about that.

A15-1

19          It is illegal and unjust to delegate access to  
20   the ocean for only certain individuals for the take of  
21   plants and animals, or access for spiritual communion,  
22   public or private, or for the subsistence of food  
23   gathering on the basis of race, religion, national  
24   origin, cultural identity, professional, economic or  
25   scientific status.

A15-2

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1           The access to interrelate with nature should be  
2   governed by human beings respect for nature and nothing  
3   else.

4           To violate these rights is basically a  
5   violation of both the United States and California  
6   Constitutions, and the essence of equality, civil rights  
7   and fair play.

8           Final point. How can an EIR be paid for by the  
9   same individuals and organization, the RLFF, who  
10   financed the illegal MLPAI public/private initiative,  
11   quote-unquote, in the first place; claim to be  
12   independent, fair, just, accurate or comprehensive.

13          The conflict of interest inherent in financing  
14   of this EIR alone should be seriously questioned.

15          And, again, time and time again we've come  
16   across these problems of, you know, little things, not  
17   being able to cede my time. Where, you know, you gave  
18   more time to one person but not to another. Why is  
19   that? Why did I have to get up here and read this?

20          Thank you.

21          MR. STEVENSON: We'd like to call up Elaine  
22   Charkowski.

23          ELAINE CHARKOWSKI: All right. I've been a  
24   resident of Fort Bragg for about four years. And I'm  
25   from Santa Cruz County, and I'm just overcome how

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1 beautiful it is up here.

2 And I'm also depressed, angry and disgusted at  
3 this farse, this so-called Marine Life Protection Act  
4 that does not exclude Navy bombs, and poisons, and  
5 Napalm, you name it, sonar. It does not exclude oil  
6 drilling. It doesn't exclude gigantic wave energy  
7 machines.

8 This whole scene just makes me sad. I mean, do  
9 you think we're just stupid? That we're supposed to  
10 just sit here and believe all this? Just the insults,  
11 it hurts my feelings and makes me feel bad that there is  
12 such a disrespect for the ocean and such callus  
13 disregard for all these living creatures.

14 I mean, we're all cutting off our nose to spite  
15 our face, and we're sitting here watching this  
16 monstrosity unfold. We're supposed to believe it's --  
17 it's a Marine Life Protection Act? I mean, even the  
18 paper has raised that, you know, it's supposed to be,  
19 you know, taking comments about the possible impacts.  
20 I mean, it's ridiculous. All I can do is say we're not  
21 stupid, and none of us are fooled by this. And I don't  
22 blame these guys getting emotional about the ocean. I  
23 mean, it's all we have. I'm just disgusted at the  
24 corporate takeover of the world. But we're not fooled,  
25 and we all know what a bunch of baloney it is.

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1 Thank you.

2 MR. STEVENSON: Thank you.

3 Is there anybody else with a comment card who  
4 would like to speak? Okay.

5 JUDY FILER: I was on the list. Did you ask  
6 for more people?

7 MR. STEVENSON: If I missed your card for some  
8 reason, what's your name?

9 JUDY FILER: Judy Filer.

10 MR. STEVENSON: Judy Filer. For whatever  
11 reason, I did not get your card. But why don't you come  
12 up and speak. Thank you.

13 JUDY FILER: I have to admit I'm a little late  
14 to the party on this issue. So I did some research on  
15 my own. And my main question is what is this all about?

16 UNIDENTIFIED SPEAKER: It's about protecting  
17 the ocean.

18 JUDY FILER: The definition of preserve is to  
19 protect and to guard.

20 I'm a retired registered nurse. I also have a  
21 master's in health and safety studies, so I'm really  
22 relying on that background right now.

23 If I were to write a law to protect and guard  
24 our ocean, our marine life, the first thing I would put  
25 in that act is that you restrict the industrialization

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1 of the ocean. Does that make sense? I'm talking about  
2 oil wells, I'm talking about mineral extraction, I'm  
3 talking about wave energy, I'm talking about Navy sonar  
4 demolition testing.

5 I'm not a major player here, but I do come to  
6 all the protests and get somewhat involved. And I have  
7 to tell you this coast has been fighting oil wells since  
8 1988. They had major protests here then, which involved  
9 thousands of people.

10 The other thing I question is why in your EIR  
11 you did not include this? I read your Chapter 3. I  
12 really couldn't find anything there to really be  
13 critical about except the boats coming in and out would  
14 have -- cause more pollution from the diesel because  
15 fishermen will have to go farther to get the fish.

16 But I looked for something on prohibiting the  
17 industrialization of our ocean. And this ocean, you  
18 must understand, is not just for us and it's not just  
19 for you. It's for all the people inland who come here.  
20 I've been coming here since I was two years old, and I'm  
21 73. My brothers came in the Boy Scouts to do the surf  
22 fishing. So I well, well have in my memory Fort Bragg.  
23 It stands out.

24 Could I ask that you go back and rewrite in  
25 Chapter 3 an evaluation of those items that I've just  
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A17-1

A17-2

A17-3

A17-4

1 discussed? I would give you a couple of suggestions.  
2 And please stop me with my time, so I will try to make  
3 this in just three sentence. Address air pollution with  
4 Outer Continental Shelf oil leasing, because it will  
5 come. Air pollution from OCS development has several  
6 sources; tankers, platforms, processing plants, and  
7 pipeline operations all have the potential to adversely  
8 affect onshore air quality. Tanker loading and  
9 transport pose the greatest threat to air pollution.  
10 Recent legal and technical trends point toward very  
11 limited local government power to control offshore air  
12 quality impacts via the Clean Air Act.

A17-4

13 Water pollution. The big water quality worry  
14 has traditionally been oil spills, platform blowouts,  
15 massive accidents, and chronic low-level spills due to  
16 loading, unloading, ballasting and hold cleaning. Also  
17 tanker impacts and shipping lanes, pipeline routes over  
18 geologic hazards. That's another thing that could be  
19 put in your report, is the existence of the -- the  
20 earthquake faults in our ocean here.

A17-5

21 Fishing industry --

22 MR. STEVENSON: Ma'am, your time is up.

23 JUDY FILER: Okay. Let me just briefly say  
24 with fishing, oil pollution contain catches and reduce  
25 fish populations, platforms can reduce fishing grounds

A17-6

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1 and some underwater structures may foul nets.

2 Bottom line, could you go back and address this  
3 issue, which I would have put at the very, very top of  
4 the list. Thank you.

A17-6

5 MR. STEVENSON: Thank you for your comments.

6 Were there any other speakers who for whatever  
7 reason I didn't get your cards? Okay.

8 Well, I would like to thank everyone for their  
9 participation tonight. There will be a meeting tomorrow  
10 night in Crescent City. If you are interested, please  
11 join us. We'll also be meeting on the 11th of next  
12 month with the Fish and Game Commission, and many of the  
13 comments today I think would be worth the Fish and Game  
14 Commission hearing from you.

15 Once again, thank you very much. We'll be  
16 around here for a few minutes if you want to talk to us,  
17 and we also look forward to receiving your comments in  
18 writing. Thank you.

19 (Hearing adjourned 7:58 p.m.)

20 --oOo--

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## 1 CERTIFICATE OF REPORTER

2

3 I, ROBIN KOOP, a Certified Shorthand Reporter,  
4 hereby certify that the proceedings herein were taken in  
5 shorthand by me, a disinterested person, at the time and  
6 place herein stated, and that said proceedings were  
7 thereafter reduced to typewriting, by computer, under my  
8 direction and supervision;

9 I further certify that I am not of counsel or  
10 attorney for either or any of the parties to said  
11 proceedings, nor in any way interested in the event of  
12 this cause, and that I am not related to any of the  
13 parties thereto.

14

15

16 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2012

17

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\_\_\_\_\_  
ROBIN KOOP, CSR No. 5270

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## Comment Letter A – Fort Bragg, CA Public Hearing

Commenter A1: Hamburg, Dan

Response to Comment A1-1

The Commission acknowledges that MPA regulations preclude certain activities which are presently occurring within the proposed MPA boundaries. This includes, but is not limited to, various commercial and/or recreational fishing activities. The public will continue to participate in these activities in alternative geographic areas. Thus, the MPAs will in fact displace a certain unknown fraction of the public to adjacent or equivalent areas. However, the MLPA process involved extensive input from stakeholders to avoid placing protected areas near the most popular fishing sites and access points and to carefully design them in such a way that would not lead to congestion from displaced fishing effort.

Impacts from this displacement were covered within the DEIR in Chapter 4 *Biological Resources*. The conclusion of the DEIR is that the potential biological impacts of displacement and effort shifts would be less than significant for the Proposed Project. Further, as stated on page 4-54 of the DEIR, adaptive management is a part of the MLPA program (FGC, Section 2853[c][3]). The MLPA requires monitoring to determine whether its goals related to biological resources are being met. If the goals of the MLPA are not being met, then either regulatory or management changes could occur to better meet the goals.

Response to Comment A1-2

See *Master Response 4: Enforcement*.

Response to Comment A1-3

These comments do not address the sufficiency of the EIR. DEIR Chapter 6.2 *Public Services and Law Enforcement*, discusses the federal, state and local agencies that undertake natural resource enforcement in California; the commenter's reference to a "privatized enforcement system" is unfounded. Further, the legitimacy of using private funds for the MLPA was decided in *Coastside Fishing Club v. California Resources Agency* (2008) 158 Cal.App.4th 1183. Assertions that the MLPA is somehow "privatizing" marine resources constitute unsubstantiated opinion. Also see *Master Response 4: Enforcement*.

Response to Comment A1-4

Traditional Cultural Properties (TCPs) are discussed in Section 5.3.2, *Cultural Landscape* of DEIR Chapter 5, *Cultural Resources*. Text from the DEIR (pages 5-11 and 5-12) explaining the definition of a TCP according to the National Register of Historic Places (NRHP) guidelines is pasted below for reference:

Cultural landscapes are the result of the interaction between people and the natural landscape. The features of a cultural landscape include topography, vegetation, water features, and structures. For a cultural landscape to be listed on the NRHP as a TCP, it must have significant cultural worth. Examples of landscapes possessing such significance include:

- a location associated with the traditional beliefs of a Native American group about its origins, its cultural history, or the nature of the world;
- a rural community whose organization, buildings and structures, or patterns of land use reflect the cultural traditions valued by its long-term residents;
- an urban neighborhood that is the traditional home of a particular cultural group, and that reflects its beliefs and practices;
- a location where Native American religious practitioners have historically gone, and are known or thought to go today, to perform ceremonial activities in accordance with traditional cultural rules of practice; and
- a location where a community has traditionally carried out economic, artistic, or other cultural practices important in maintaining its historic identity.

Section 5.3.2, *Cultural Landscape* in DEIR Chapter 5 *Cultural Resources*, on page 5-12, states that a "TCP, then, can be defined generally as a cultural landscape that is eligible for inclusion in the NRHP because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community (Parker and King 1998)." However, as noted in Section 5.2.1, *Federal Laws, Regulations, and Policies* in Chapter 5, *Cultural Resources* on page 5-3 of the DEIR, the "National Historic Preservation Act (NHPA) of 1966, as amended in 2004, is the primary mandate governing projects under federal jurisdiction that may affect cultural resources. If improvements implemented as a part of this Proposed Project were funded by the federal government or were part of a federal action such as a permit, then this statute would apply." This project is not funded by the federal government and it is not a part of a federal action; as such, the criteria in the statute do not directly apply. Rather, CEQA's definitions regarding a significant impact have been used.

The DEIR generally assumes that sites exist within the Study Region that may be eligible for listing as TCPs in the NRHP and as cultural historical resources in the California Register of Historical Resources (CRHR), and they have been analyzed as if they were eligible. As described in Section 5.2.2, *State Laws, Regulations, and Policies* in Chapter 5, *Cultural Resources* (pages 5-3 and 5-4) of the DEIR, evaluations of potential impacts to prehistoric and historic cultural resources in the EIR are based on CEQA guidelines which define three ways that a property may qualify as a historical resource for the purposes of CEQA review:

- The resource is listed in or determined eligible for listing in the CRHR.
- The resource is included in a local register of historical resources, as defined in PRC Section 5020.1(k) or identified as significant in a historical resource survey that meets the requirements of PRC Section 5024.1(g), unless the preponderance of evidence demonstrates that it is not historically or culturally significant.
- The lead agency determines the resource to be significant as supported by substantial evidence in light of the whole record.

A cultural resource is eligible for listing on the CRHR if it:

- is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;

- is associated with the lives of persons important in our past;
- embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
- has yielded, or may be likely to yield, information important in prehistory or history.

California PRC 15064.5 establishes rules for the CEQA analysis of prehistoric and historical resources to determine whether a project may have a substantial adverse effect on the significance of the resource. As described on page 5-4 of the DEIR, California PRC Section 15064.5(b) states that “physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired” would be a significant adverse change to a prehistoric or historic site. The Proposed Project would not adversely impact the integrity of sites in a manner that would prevent them from being eligible for NRHP or CRHR listing under CEQA since the Proposed Project would not alter the physical characteristics of any sites. Unlike development and construction projects, the Proposed Project would not cause permanent physical alteration of any sites.

Regarding the comment about the lack of involvement of tribes in a prior MLPAI effort, this issue was discussed on page 6.6-12 in the subsection “Native American Tribes and Tribal Communities,” in DEIR Chapter 6.6, *Environmental Justice*. The following text has been copied below for reference:

In recognition of the subsistence fishing and cultural practices conducted by tribes and tribal communities, MLPA Initiative staff began outreach efforts early in the planning process (starting in August 2009). As a result, the MPA development process for the Study Region had more outreach to and involvement by tribes and tribal communities than any of the previous MLPA study regions.

#### Response to Comment A1-5

Comment noted. See *Master Response 1: Scope of the MLPA and Regulatory Authority* for a discussion on the MLPA jurisdictional authority.

#### Response to Comment A1-6

This comment, submitted during the CEQA public review period, contains statements not related to the environmental review conducted pursuant to CEQA and published in the DEIR, but which instead are related to proposed MPA regulations and/or regulatory sub-options under consideration by the Commission as part of its current rulemaking process conducted pursuant to the Administrative Procedures Act (APA). Examples of such statements include but are not limited to: support or opposition for specific take allowances by species and gear type, support or opposition to specific MPA placement, boundaries, or names, or comments regarding potential socioeconomic effects of a proposed MPA on a particular port or fishing sector. These statements are more relevant to and appropriately addressed by the Commission through the rulemaking process it is concurrently undertaking; thus instead of including a response within this FEIR, the comment has been forwarded to the Commission for consideration.

CEQA requires a public agency to review the reasonably foreseeable adverse environmental impacts that could result from implementation of a proposed project and selected alternatives. This review typically is published in the form of an EIR, which is distributed and noticed to the public and public agencies allowing them opportunity to comment on the DEIR. CEQA requires that a lead agency respond to all the *environmental* comments that it receives during the public review of that agency's DEIR and to publish these responses in an FEIR by either making changes in the text of the EIR, or by publishing a separate response to comments, or both. However, lead agencies are not required to consider or include within the FEIR information which is speculative, unsubstantiated opinion or narrative.

In this case, the Proposed Project is the adoption of rules related to the designation of and allowable uses within defined geographic areas known as marine protected areas. The identification of areas of the north coast and the drafting of the rules that would apply to these areas was completed through an extensive public process (See Section 2.3 of the DEIR). The resulting Proposed Project and alternatives were reviewed by the Department and the Commission to analyze reasonably foreseeable environmental impacts from implementation of these differing regulatory options. The results of this analysis were included in the DEIR that was made available for public agency and general public review. All comments received during the DEIR public comment period have been included in this FEIR along with appropriate responses.

Any comment that addresses issues other than environmental issues or analysis contained in the DEIR will be forwarded to the Commission for consideration through its APA rulemaking process and noted as such within this FEIR. Comments related to how the Commission should weigh and decide on the facts presented in the DEIR, or statements or comments that are speculative or make unsupported assertions, are forwarded to the Commission for consideration during their rulemaking deliberation. Comments regarding the proposed regulations under APA will be received and considered by the Commission through its decision hearing scheduled for June 6, 2012. See [www.fgc.ca.gov](http://www.fgc.ca.gov) for details.

#### Commenter A2: Flum, Char

##### Response to Comment A2-1

Comments noted. These comments raise complex issues of law and policy and do not address the sufficiency of the EIR. Further, the Proposed Project does not include regulations on oil and natural gas exploration or drilling, or wind and wave energy development. As such, the environmental impact analysis did not evaluate potential effects of regulations on these topics. See *Master Response 1: Scope of the MLPA and Regulatory Authority* for a discussion on the MLPA jurisdictional authority.

##### Response to Comment A2-2

The Proposed Project does not include regulations on oil and natural gas exploration or drilling, or wind and wave energy development. As such, the environmental impact analysis did not evaluate potential effects of regulations on these topics. See *Master Response 1: Scope of the MLPA and Regulatory Authority* for a discussion on the MLPA jurisdictional authority.

However, the DEIR did consider potential cumulatively considerable impacts of the Proposed Project and reasonably foreseeable future projects in the Study Region, such as

hydrokinetic energy projects,. As stated in DEIR Chapter 7, page 7–9, second paragraph under “Hydrokinetic Power Projects,” the preliminary permit for the proposed hydrokinetic project near the proposed Point Cabrillo SMR is disclosed. However, the project has yet to be implemented and there is no evidence to suggest that the project will proceed to fruition. Additionally, any hydrokinetic power project must undergo CEQA and NEPA compliance prior to commencing with implementation. The potential effects of those projects will be disclosed under processes separate from this MLPA environmental review process. Cumulatively considerable effects of those projects in consideration of adopted MLPA regulations must be disclosed as part of CEQA and NEPA compliance. Further, only reasonably foreseeable future projects are required to be evaluated in the cumulative impact analysis. See *Master Response 2: Analysis of Other Activities within the North Coast Study Region*.

Also, see *Response to Comment AV-8*.

#### Response to Comment A2-3

See *Master Response 1: Scope of the MLPA and Regulatory Authority* for a discussion on the MLPA jurisdictional authority.

#### Response to Comment A2-4

See *Master Response 4: Enforcement*.

#### Response to Comment A2-5

See *Master Response 2: Analysis of Other Activities within the North Coast Study Region*.

### Commenter A3: Knowles, Larry

#### Response to Comments A3-1 and A3-2

These comments contain statements not related to the environmental review published in the DEIR, but which instead are related to proposed MPA regulations and/or regulatory sub-options under consideration by the Commission as part of its current rulemaking process conducted pursuant to the APA. See *Response to Comment A1-6*.

#### Response to Comment A3-3

See *Response to Comments A3-1, A3-2, and A1-1*.

### Commenter A4: Maahs, Bill

#### Response to Comment A4-1

Comment noted.

#### Response to Comment A4-2

Comment noted.

Response to Comment A4-3

Comment noted.

Response to Comment A4-4

The comment states that hatcheries are a sufficient tool to mitigate declines in fisheries, yet their benefits are controlled through anti-fishing regulations. As stated in Goal 2 of the MLPA (see Section 2.2, *Project Goals and Regional Objectives* in DEIR Chapter 2, *Project Description*, on p. 2-4), the Proposed Project is designed to help sustain, conserve, and protect marine life populations, including those of economic value, and rebuild those that are depleted. The north coast MLPA planning process included extensive stakeholder involvement and the Proposed Project is based on the outcome of stakeholder agreements of a MPA network designed to have the least amount of impact to local fishermen. Additional descriptions of the stakeholder process are provided in DEIR Chapter 6.6 *Environmental Justice*, Section 6.6.3, in the subsection “Opportunity for Involvement in the MLPA Planning Process” (pages 6.6-8 through 6.6-12).

Response to Comment A4-5

Comment noted.

Commenter A5: d’Selkie, Terry

Response to Comment A5-1

With respect to incorporating local or other knowledge and data, based on experiences in prior MLPA study regions, the SAT anticipated individuals or groups would come forward with data intended to enhance SAT analyses and evaluations. Therefore, early in the north coast MPA planning process, the SAT approved a protocol for evaluating incoming data from sources external to the SAT at their second meeting on December 17-19, 2009 (MLPA SAT 2009). In order to meaningfully influence the SAT’s evaluation of habitat data, of utmost importance and specified in the SAT protocol, habitat data needs to be quantified and georeferenced—preferably comprehensively—across the entire Study Region.

Text has been added to the DEIR document to clarify the kelp habitat data used by the SAT to evaluate MPA proposals. Specifically, a new paragraph in DEIR Chapter 4 *Biological Resources*, Section 4.3.1, in the subsection “Kelp Forests,” on page 4-30 preceding Table 4-6, has been added, as follows:

Bull kelp does not form extensive surface canopies, and bull kelp beds are persistent over time but exhibit marked seasonal and annual fluctuations. Thus the extent of bull kelp is not well documented by overflight surveys, although multiple years of overflight survey data allow assessment of locations that are likely to support kelp forests. Statewide overflight surveys, including the entire Study Region, were conducted by the Department (and Ecosan in 1989) in 1989, 1999, 2002-2005, and 2008. The SAT developed a linear measure of kelp derived from the composite of overflight survey data years to assess length and proportion of habitat included in MPA proposals (MLPA SAT 2010).

Additionally, see *Master Response 3: Inadequacy or Application of Data Gathered During the MLPA Initiative Planning Process, and Adequacy of the Science Standard*.



## Response to Comment A5-2

See *Master Response 3: Inadequacy or Application of Data Gathered During the MLPA Initiative Planning Process, and Adequacy of the Science Standard*

## Response to Comment A5-3

Your comments have been documented and considered by the Commission. As stated in *Master Response 3: Inadequacy or Application of Data Gathered During the MLPA Initiative Planning Process, and Adequacy of the Science Standard*, the MLPA establishes an adaptive management process. Therefore, there will be continued opportunities for contributions of locally collected data as part of the ongoing monitoring and management goals of the Proposed Project. See also Section 2.5.3 *Monitoring and Adaptive Management* in Chapter 2 of the DEIR.

## Commenter A6: Pfeiffer, Jeanine

## Response to Comment A6-1

Information submitted, including verbally, during the MLPA Initiative Planning Process was considered during development of the Proposed Project and is documented as part of the rulemaking files. Documentation of the MLPA Initiative Planning Process is available for public review at this website: [http://www.dfg.ca.gov/mlpa/binders\\_nc.asp](http://www.dfg.ca.gov/mlpa/binders_nc.asp).

The DEIR includes references to documents submitted to the Department during the MLPA planning process for inclusion in Appendix E, *California Tribes and Tribal Communities* of the Regional Profile of the North Coast Study Region: California/Oregon Border to Alder Creek. Additionally, factual records furnished by the tribes listed below were submitted to the Commission as part of its rulemaking process and are incorporated into the DEIR by reference, as authorized under State CEQA Guidelines Section 15150.

- Cher-Ae Heights Indian Community of the Trinidad Rancheria
- Elk Valley Rancheria
- Intertribal Sinkyone Wilderness Council
- Tolowa Dee-ni' of the Smith River Rancheria
- Wiyot Tribe
- Yurok Tribe

The factual records submitted by the above listed tribes provide details regarding their current and historical practices. These records are included in the rulemaking file and are available for review upon request to the Commission. The information included in the factual records provides background information which document baseline conditions in terms of the EIR analysis. The Proposed Project was designed in consideration of the information in these factual records. Therefore, it was not necessary for the EIR analysis to use the factual records because they were already considered by the Commission. Further, no significant impacts on the practices of tribes and tribal communities in the Study Region were identified in the EIR analysis.

Additionally, see *Master Response 3: Inadequacy or Application of Data Gathered During the MLPA Initiative Planning Process, and Adequacy of the Science Standard*.

#### Response to Comment A6-2

The evaluation included in DEIR Chapter 4 *Biological Resources*, Section 4.4 *Impact Analysis* in the subsection “Evaluation of Displacement” beginning at the bottom of page 4-53, has been revised as follows:

##### **Evaluation of Displacement**

One of the key issues identified by many participants involved in designation of MPAs is the displacement of fishing activities from protected to unprotected areas and the negative effects that may result from redirected fishing effort on fish populations outside of protected areas. The key question regarding redirected fishing effort would be whether the expected increase in export of fish in all life stages from MPAs could compensate for the increased fishing pressure in areas outside MPAs. The MLPA requires provisions for monitoring, research, and evaluation at selected sites to determine whether its goals related to biological resources are being met, and to facilitate adaptive management of MPAs (MLPA Section 2853[c][3]). If export did outpace extraction, fishery yields should show a net increase or remain the same despite the displaced effort.

~~Assuming the same amount of fishing pressure in the Study Region before and after an MPA was established, the amount of fishing outside the MPA would increase in proportion to the size of the MPA for the species restrictions applied to the MPA. That is, the fishing that used to occur inside what is now an MPA would be distributed outside the MPA in the remaining nonprotected area in proportion to the size of the MPA. This can be simply calculated. If R is the fraction of area in MPAs within the Study Region, fishing intensity outside the MPAs would increase by a factor  $1/(1-R)$ . For example, if 13% of the habitat was closed to fishing in MPAs, the intensity of fishing outside would increase by  $1/(1-0.13) = 1.15$ . That is, if the same number of users were fishing the same number of hours in the remaining 87% of the habitat, the fishing intensity would be 15% higher than before. In this example, in the short term, displacement would increase mortality rates outside the MPAs probably by 15%. However, if MPAs enhanced populations beyond their boundaries through movement of adults or young, these increases could be offset or eliminated by MPA benefits. The increased production within the MPA boundaries necessary to counter the increased fishing intensity outside can be calculated as well. The formula is  $1+[1/(1-R)]$ . For the example above, the result equals 2.15. This means that production inside the boundaries of the MPAs would need to increase by a factor of 2.15 just to balance the added losses outside the MPAs. A higher level of production would be needed to help rebuild depleted populations, one of the goals of the MLPA. The relative time for the Proposed Project or alternatives to achieve the goals of the MLPA also would need to be considered in the impact analysis.~~

Additionally, an overarching theme of some comments is that the socioeconomic information used to inform MLPA planning is deficient. However, nothing in the MLPA imposes an affirmative duty to generate socioeconomic data beyond that which is required by other applicable laws, such as the APA (Government Code 11346.3), or—to the extent a socioeconomic change induces significant adverse environmental impacts—CEQA. The

MLPA only authorizes the establishment of a Master Plan team of scientists, one of which “may” have expertise in socioeconomics (FGC, Section 2855[b][3][A]). The preferred siting alternative must incorporate information and views provided by people who live in the area and other interested parties, including economic information (FGC, Section 2857[a]). Here, the term “economic information” relates back to “information”, so the Commission reasonably interprets this to mean that it is the “people who live in the area and other interested parties” that provide the economic information. Conversely, neither the five MLPA Program elements in FGC Section 2853[c], nor the eleven Master Plan components in FGC Section 2856[a][2], address socioeconomics. Socioeconomics, then, is only one factor to consider in the development of a siting alternative (FGC, Sections 2855[c][2], 2857[a]), which still must be consistent with the ecosystem-based goals and elements (FGC, Section 2853) and sound scientific guidelines (FGC, Section 2857[c]) of the MLPA. Consistent with State CEQA Guidelines (14 CCR, Section 15131[a]), there is no duty to mitigate for adverse socioeconomic impacts under the MLPA.

The MLPA expressly addresses mitigation of adverse impacts “on marine life and habitat in MPAs,” and if the Legislature had intended that socioeconomic impacts also be mitigated, it plainly would have said so (FGC, Section 2862). However, detailed socioeconomic information generated during the siting process may be relevant in the subsequent implementation of regulations under the APA.

Also, see *Master Response 3: Inadequacy or Application of Data Gathered During the MLPA Initiative Planning Process, and Adequacy of the Science Standard*.

#### Response to Comment A6-3

The existing physical and social conditions in the Study Region were taken into account in the EIR analysis. However, as discussed in Chapter 1 *Introduction*, Section 1.5 *Consumptive Uses and Associated Socioeconomic Considerations* (page 1-30) State CEQA Guidelines Section 15131 states that “economic or social effects shall not be treated as significant effects on the environment.” Therefore, socioeconomic effects are not considered environmental impacts under CEQA, unless they have relevance to a significant environmental impact.

#### Response to Comment A6-4

Comment noted regarding the correct spelling of your name. This has been corrected as follows.

DEIR Change to Chapter 5 *Cultural Resources*, Section 5.3.2 *Cultural Landscape*, end of the first paragraph on page 5-12:

(Buckskin, pers. comm., 2011; ~~Pfeiffer~~Pfeiffer, pers. comm., 2011)

DEIR Change to Chapter 10 *References*, Chapter 5 *Cultural Resources* references:

~~Pfeiffer~~Pfeiffer, J. Coordinator for Mendocino County. California Marine Life Protection Act Initiative. October 12, 2011—e-mail to Horizon Water and Environment regarding Notice of Preparation scoping.

See *Response to Comment A1-4* regarding the analysis of TCPs in the DEIR.

Response to Comment A6-5

See *Master Response 4: Enforcement*.

Commenter A7: Lemos, William

Response to Comment A7-1

Comment noted. See *Master Response 4: Enforcement*.

Response to Comment A7-2

Comment noted. The DEIR, including a description of the proposed regulations, was circulated to solicit public comments regarding the sufficiency of the related environmental analysis. Comments expressing a support are noted and will be considered by the Department and Commission as they contemplate final action.

No changes to the DEIR are necessary.

Response to Comment A7-3

Comment noted. No changes to the DEIR are necessary.

Response to Comment A7-4

Comment noted. No changes to the DEIR are necessary.

Commenter A8: Oberweiser, Ed

Response to Comment A8-1

Existing conditions in the Study Region were evaluated as the baseline for the EIR analysis.

Response to Comment A8-2

Comment noted. See *Master Response 1: Scope of the MLPA and Regulatory Authority* for a discussion on MLPA jurisdictional authority.

Response to Comment A8-3

Comment noted. The geographic and temporal characteristics of upwelling seasons in the north coast were considered in the design of the MPA network and are included in DEIR Chapter 4 *Biological Resources* (pages 4-15, 4-33 through 4-34, 4-46, and 4-61 through 4-67). No changes to the DEIR are necessary.

Response to Comment A8-4

See *Master Response 1: Scope of the MLPA and Regulatory Authority*, and *Master Response 2: Analysis of Other Activities within the North Coast Study Region*

Response to Comments A8-5 and A8-6

See *Response to Comment A2-2*.

#### Response to Comment A8-7

The Commission has complied with the requirements of CEQA for public review of the DEIR, per State CEQA Guidelines Section 15087.

#### Response to Comment A8-8

The requirements for public review of a DEIR are described in CEQA Guidelines Section 15087, as follows:

(g) To make copies of EIRs available to the public, Lead Agencies should furnish copies of draft EIRs to public library systems serving the area involved. Copies should also be available in offices of the Lead Agency.

Accordingly, printed copies of the DEIR were provided for public review at 14 local libraries and two local Department of Fish and Game offices located throughout the north coast. The locations of printed copies available for public review and the website address where the DEIR could be reviewed or downloaded electronically were listed in the NOA. Electronic copies of the document were provided free of charge on a compact disc (CD) by request. Review of the DEIR from a CD does not require a high speed internet connection or computer storage capacity, and computers are available at most public libraries where a CD could be reviewed. Further, individuals also have the option of taking the CD to a print shop for printing. There are no legal requirements for printed copies of EIRs to be provided free of charge for public review.

Informal comments from individuals at the public meetings indicated that the document could not be found at several of the libraries where it was sent. This is unfortunate; however the Commission has limited ability to affect the manner in which libraries manage publicly available documents.

In conclusion, the Commission has fully complied with the requirements of CEQA for public review of the DEIR, per State CEQA Guidelines Section 15087, and in fact has exceeded those requirements by making electronic files available on CD and for download from the Department's website.

#### Response to Comment A8-9

Several comments requested an extension of the DEIR public comment period, and also complained of deficiencies in the NOP and NOA. Although these comments do not raise significant environmental issues in the document, the Commission notes that the purpose of the NOP is only to facilitate interagency coordination (14 CCR 15375). CEQA requires only substantial compliance with notice requirements, and this was achieved (e.g., see PRC, Section 21092[b][2]).

#### Response to Comment A8-10

Comments in opposition of the Proposed Project are noted. Comments expressing a policy preference are noted and will be considered by the Commission as they contemplate final action. No changes to the DEIR are necessary.

Commenter A9: Gresset, Rex

Response to Comment A9-1

Comments noted. See *Master Response 1: Scope of the MLPA and Regulatory Authority* for a discussion on MLPA jurisdictional authority. While these comments do not address the sufficiency of the EIR, it should be noted that the legitimacy of using private funds for the MLPA was decided in *Coastside Fishing Club v. California Resources Agency* (2008) 158 Cal.App.4th 1183. Assertions that the MLPA is somehow “privatizing” marine resources constitute unsubstantiated opinion.

Response to Comment A9-2

See *Master Response 4: Enforcement*.

Response to Comment A9-3

Equal opportunities for verbal comments were provided at the public meetings.

Response to Comment A9-4

Comment noted.

Response to Comment A9-5

See *Response to Comment A9-1*.

Commenter A10: Charter, Richard

Response to Comment A10-1

Comment noted. Comments expressing a policy preference are noted and will be considered by the Commission as they contemplate final action. No changes to the DEIR are necessary.

Commenter A11: Gurney, David

Response to Comment A11-1

The comment states that the DEIR and supporting documents are missing Appendix G, as cited beginning on page 1-28 of the DEIR. The reference in the DEIR is to Appendix G of the State CEQA Guidelines, not a separate appendix to the DEIR.

Appendix G of the State CEQA Guidelines contains the Environmental Checklist Form, which aids the lead agency in evaluating potential effects on a suite of environmental resource areas. The Environmental Checklist is used as a starting point to consider the environmental factors that could be affected by a project. This checklist can be accessed online from the California Environmental Resources Evaluation System (CERES) website:  
<http://ceres.ca.gov/ceqa/guidelines/appendices.html>.

The CEQA Environmental Checklist Form was used to initially identify resource areas which could be adversely affected by the project and those which would not. A description of the resource topics determined to not result in potential adverse effects associated with the project was provided in DEIR Chapter 1, Section 1.4.

Based on this initial evaluation, further refinements to the environmental checklist were made to evaluate the specific effects of the Proposed Project, and these were included in Chapter 3 of the DEIR.

No changes to the DEIR are necessary.

#### Response to Comment A11-2

These comments constitute unsubstantiated opinion and do not address the sufficiency of the EIR. No changes to the DEIR are necessary.

#### Response to Comment A11-3

The commenter questions whether or not scientific collecting would have a significant impact on “the ocean or the culture of the North Coast Region”, which is not a part of the Proposed Project analysis. The analysis provided in DEIR Chapter 6.4 pertaining to scientific research and education, as required under CEQA, determined less than significant or no adverse environmental impacts from the Proposed Project, as it: (A) would not create the need for building more research or educational facilities, since existing facilities will be more than sufficient to meet the future research or educational needs of the project; and (B) would not decrease or have a negative impact on research or educational opportunities in the North Coast Region.

Though scientific collecting permits (SCPs) are not a required evaluation topic in the State CEQA Guidelines, information was nonetheless provided in DEIR Chapter 6.4 *Research and Education* for informational purposes only. As explained on page 6.4-8, the number of SCPs provided reflects the number issued annually statewide, not just in marine waters, and not just in the North Coast Region. Only a small fraction of these permits issued were for research or educational projects within the North Coast Region and, further, not all SCPs are for research that results in lethal take. Additionally, it should be noted that SCPs are issued on a case-by-case basis. Each project that applies for an SCP is thoroughly reviewed and restrictions are placed on the project, if warranted. Research and educational projects requesting SCPs to work within MPAs go through a more rigorous review process than those collecting outside of MPAs. Not all projects applying for an SCP to work within an MPA will be approved. Permit holders may also have to report their collection activities. Additionally, SCP holders are required to notify the Department 24 hours before they go out and collect, which enhances the Department’s oversight of permit holders.

In addition, however, note that the SCP discussion and data contained in the DEIR has been updated to incorporate refined data that became available after the publication of the DEIR, and to improve clarity. Text on page 6.4-8 of DEIR Section 6.4.3 *Environmental Setting*, in the middle of the paragraph in the subsection “Scientific Collecting Permits” on page 6.4-8, has been updated as follows:

...The total number of permits issued statewide in California marine waters annually from 2002 through August 2011 has remained relatively consistent from year to year (Table 6.4-1). The numbers provided in Table 6.4-1 reflect permits issued in the marine region of the entire state; only a small fraction of these permits were issued for research or educational projects within the North Coast Region (e.g., <5% in 2011). Through August 2011 April 2012, the Marine Region issued 562 scientific collecting permits. The permit holder must notify the Department before collecting,

carry a copy of the permit while in the field, and submit a Report of Specimens Collected or Salvaged within 30 days of permit expiration...

In addition, data provided in Table 6.4-1, following the discussion on page 6.4-8 of the DEIR, also represented the total number of SCPs issued within California, not just marine waters. Table 6.4-1 has therefore been updated on page 6.4-9 to indicate the total number of SCPs issued statewide in marine waters only, through the end of 2011, as follows:

**Table 6.4-1.** Number of Scientific Collecting Permits Issued Statewide in the Marine Region, 2002–2011\*

Year	Number of Permits
2002	<del>1218</del> 654
2003	<del>1306</del> 488
2004	<del>1706</del> 694
2005	<del>1717</del> 849
2006	<del>1802</del> 826
2007	<del>1922</del> 755
2008	<del>1545</del> 534
2009	<del>1669</del> 606
2010	<del>1342</del> 385
2011	<del>868</del> * 540

Note: \* As of August 30, 2011

Source: CDFG ~~2011b~~ **2012**

#### Response to Comment A11-4

Text has been added to the DEIR to clarify the 0–30-meter substrate proxy line and nearshore habitat data used by the SAT to evaluate MPA proposals. Specifically, new text has been added in DEIR Chapter 4 *Biological Resources*, Section 4.3.1, in the subsection “Hard Bottom/Rocky Reefs” on page 4-31 preceding Table 4-7.

**Table 4-7** shows the extent of hard and soft substrata in the Study Region, where rocky reefs are much less common than soft-bottom habitats at all depth zones. Approximately 6% of the total Study Region area can be characterized as hard-bottom at any depth. The majority of rocky substrata in the Study Region is shallower than 100 meters. Substrate across the majority of the Study Region has been mapped using high resolution multi-beam sonar techniques. This data was considered the best readily available substrate data during the MLPA planning process and represents a substantial advance in our ability to identify the location and extent of subtidal rocky reef and soft bottom habitats. However, areas shallower than 10 meters depth (33 feet) remain unmapped due to safety and logistical considerations associated with data collection in those areas. Throughout the north coast, 99% of the area deeper than 30m depth and 72% of the area shallower than 30m depth is mapped and classified as rocky reef or soft bottom habitat. Because of the difficulty of mapping locations close to shore in the North Coast because of navigational hazards, a significant portion (27%) of nearshore waters are classified as “unknown.” To address this issue, the SAT developed a “proxy line” for this



nearshore area that indicates the dominant habitat type between 0 and 30 meters in a given location. Available fine-scale data, intertidal habitats, kelp abundance, and expert knowledge are all considered when generating this proxy. Thus, although only 7% of the nearshore area is classified as hard bottom by area, 23% is classified as hard bottom using the linear proxy.

In order to best accommodate nearshore mapping gaps and reflect the strong depth-dependence of marine communities within the 0-30m depth zone, the SAT developed a linear measure of substrate in the 0-30m zone called the 0-30m proxy line. This proxy line reflects the best readily available information about substrate within the 0-30m zone, including the areas mapped using multibeam sonar techniques and information from the shoreline [NOAA's Environmental Sensitivity Index (ESI) shoreline] and offshore rock [California Coastal National Monument] datasets. Because marine community composition and the relative abundance of species varies strongly with depth in nearshore areas, nearshore habitats that span the full range of depths from 0-30m are most likely to encompass the full range of biodiversity associated with these habitats. In this respect, a reef or soft bottom area that falls steeply from shore to 30m depth, would likely support a similar level of biodiversity as a gradually sloping reef that spans the 0-30m depth zone over a much larger area. Due to the depth-dependence of nearshore communities, the linear proxy for nearshore rocky reef and soft bottom habitats is scaled to the proportion of soft and hard bottom habitats within the 0-30m depth zone.

As developed, the nearshore proxy line is a line drawn roughly parallel to shore at 12-15m depth. This line is divided into short segments 1/10th of a minute of latitude north-south, and the estimated proportion of hard and soft bottom in the 0-30m zone is associated with each segment. To estimate the proportion of hard and soft bottom in each 1/10th minute segment, the mapped proportion is combined with an estimate from the unmapped areas. The latter value is calculated as the average of offshore and onshore borders of the unmapped areas. For example, if the shoreline is 100% rock and the offshore margin is 50% rock, the unmapped zone between the two would be approximated as 75% rock. This estimate of substrate in the unmapped zone is then scaled to area, and combined with the mapped substrate to generate an overall estimate of rock and sand in the 0-30m zone (MLPA SAT 2010).

For more information on how local or other knowledge or data was incorporated into the north coast MPA planning process, refer to *Response to Comment A5-1*. With respect to incorporating local or other knowledge or data to supplement the 0-30m substrate proxy line where data on nearshore habitats are lacking, the SAT considered NOAA charts, Google Earth, and Lighthawk surveys; and also held a habitat data conference call approximately halfway through the north coast MPA planning process in May 2010 with North Coast Regional Stakeholder Group (NCRSG) members, MLPA Initiative and Department staff, and a SAT member to help clarify how and why the proxy line was developed, and what data could be used to meaningfully influence the SAT's evaluation of habitat data (MLPA SAT 2010a, question and response #2, and MLPA SAT 2010b, question and response #2).

#### Response to Comment A11-5

This comment does not address the sufficiency of the EIR; no further response is necessary.

## Response to Comment A11-6

At the time of the whale strike, the State of California and the National Oceanic and Atmospheric Administration had partnered to gather the seafloor mapping data regardless of MLPA planning and implementation. The MLPA Initiative just happened to be one of the beneficiaries of this data, but it was being gathered for a multitude of other reasons, not specifically for MLPA planning and implementation. It is not clear what the relationship is between the report of striking a blue whale and either the analysis and conclusions of the DEIR or the validity of the data collection effort.

Regarding the data collection effort, please refer to *Response to Comment A11-4*.

## Response to Comment A11-7

This comment does not address the sufficiency of the EIR. The legitimacy of using private funds for the MLPA was decided in *Coastside Fishing Club v. California Resources Agency* (2008) 158 Cal.App.4th 1183. Assertions that the MLPA is somehow “privatizing” marine resources constitute unsubstantiated opinion.

## Response to Comment A11-8

See *Response to Comment A11-3*.

## Commenter A12: Difore, Tomas

## Response to Comment A12-1

Comment noted. As noted in the transcripts, this comment was responded to at the meeting by Susan Ashcraft of the Department. No further comments on the DEIR were provided.

## Commenter A13: Dawn, Shelia

## Response to Comment A13-1

Ample opportunities for public participation were provided in a number of locations throughout the North Coast Region. Please refer to DEIR Section 6.6 *Environmental Justice* and Table 6.6-4, on pages 6.6-8 through 6.6-11, for a comprehensive description of opportunities for involvement during MLPA planning process.

## Response to Comment A13-2

See *Response to Comment A2-2*.

## Response to Comment A13-3

See *Master Response 1: Scope of the MLPA and Regulatory Authority*, and *Master Response 2: Analysis of Other Activities within the North Coast Study Region*.

## Response to Comment A13-4

See *Response to Comment A2-2*.

Response to Comment A13-5

These comments constitute unsubstantiated opinion and do not address the sufficiency of the EIR. However, see *Master Response 1: Scope of the MLPA and Regulatory Authority* for a discussion on the MLPA jurisdictional authority.

Commenter A14: Bell, Carson

Response to Comment A14-1

Comment noted.

Commenter A15: Maroney, Gabriel

Response to Comment A15-1

Equal opportunities for verbal comments were provided at the public meetings. The public meetings were hosted for the CEQA compliance process. The public meeting held on March 20, 2012, was not a Commission meeting. Standard practices of Commission meetings did not apply at the CEQA public meetings. Although meeting attendees may be accustomed to ceding public speaking time to others, that practice was not implemented at CEQA public meetings, including the meeting on March 20, 2012.

Response to Comment A15-2

These comments raise complex issues of law and policy and do not address the sufficiency of the EIR. Moreover, this comment contains statements not related to the environmental review published in the DEIR, but which instead are related to proposed MPA regulations and/or regulatory sub-options under consideration by the Commission as part of its current rulemaking process conducted pursuant to the APA. See *Response to Comment A1-6*.

Response to Comment A15-3

See *Response to Comment A11-7*.

Response to Comment A15-4

See *Response to Comment A15-1*.

Commenter A16: Charkows, Elaine

Response to Comment A16-1

Comment noted. This comment contains statements not related to the environmental review published in the DEIR, but rather related to proposed MPA regulations and/or regulatory sub-options under consideration by the Commission as part of its current rulemaking process conducted pursuant to the APA. See *Response to Comment A1-6*.

Response to Comment A16-2

Comment noted. The DEIR including a description of the proposed regulations was circulated to solicit public comments regarding the sufficiency of the related environmental

analysis. Comments expressing a policy preference are noted and will be considered by the Department and Commission as they contemplate final action.

No changes to the DEIR are necessary.

#### Commenter A17: Filer, Judy

##### Response to Comment A17-1

See *Master Response 1: Scope of the MLPA and Regulatory Authority*.

##### Response to Comment A17-2

Your concern regarding additional pollution from boats traveling farther to avoid MPA areas has been addressed in DEIR Section 3.2 *Air Quality*. Specifically, Impact AIR-1, beginning on page 3.2-12, discusses the potential changes in emissions associated with vessel displacement. As noted in the DEIR, increases in these criteria air pollutants associated with the project is considered to be less than significant.

Similarly, DEIR Section 6.5 *Vessel Hazards* included a discussion of the potential risk of oil and/or gas spillage from boats travelling farther in the vicinity of MPAs. As detailed in Impact VT-3 beginning on page 6.5-16, the Proposed Project's potential impact on accidental hazardous material exposure would be less than significant.

In summary, your comment is noted; however, no further changes to the DEIR are necessary.

##### Response to Comment A17-3

See *Master Response 1: Scope of the MLPA and Regulatory Authority*.

##### Response to Comment A17-4

See *Master Response 2: Analysis of Other Activities within the North Coast Study Region*.

See Chapter 3, Section 3.2 *Air Quality* and 3.3 *Global Climate Change and Greenhouse Gas Emissions* for a discussion of the Proposed Project's potential contributions of air quality pollutants and greenhouse gases (GHGs). Other than emissions from displaced vessels, the Proposed Project would not influence air quality in the Study Region or elsewhere.

Displaced vessels resulting from the Proposed Project could contribute to global climate change. Cumulative impacts of vessel-related emissions in consideration of global climate change are evaluated in DEIR Chapter 7 *Other Statutory Considerations*.

##### Response to Comment A17-5

Potential water quality impacts due to vessel abandonment or spills of hazardous materials are described in DEIR Chapter 3, Section 3.4 *Water Quality* and Chapter 6, Section 6.5 *Vessel Traffic and Hazards*.

See *Master Response 2: Analysis of Other Activities within the North Coast Study Region* for a discussion of evaluation of other activities within the Study Region. See also *Master Response 1: Scope of the MLPA and Regulatory Authority*.

Response to Comment A17-6

See *Master Response 1: Scope of the MLPA and Regulatory Authority*.

Submission to the MLPA by Char Flum  
310 N. Harold St.  
Fort Bragg, Calif. 95437

March 18, 2012

#### National Park Act 6.32

No provisions have been made to prohibit industrialization of the ocean that would damage the scenery, especially from effluents from oil, gas, fish farms, wind energy or any mineral or other resource extraction. This industrialization would in turn effect the local economy by NOT conserving the natural and historic objects according to the National Park Act.

B-1

#### Hydro Kinetic Projects

Your document states that at present there are no active or permitted projects in the study region. As recent as weeks ago there were permits requested for review of a previous request for permits for a ocean wave energy project in the Mendocino area. There are no prohibitions against underwater cables, ocean platforms or pipelines in the MLPA nor is there recognition of the danger of the active earthquake faults that may *damage* such cables, platforms or pipelines in these bethnic ocean zones.

B-2

#### Enforcement of the MLPA 6.23

The Fish and Game supervision of approximately 517 miles of the North Coast region is unrealiztic based on the present understaffing of the Fish and Game department and the economic likely hood that it will not increase its numbers of employees in the for seeable future because of State budget shortfalls. This fact must be accounted for in the inadequate plans for enforcernent of the MLPA.

B-3

#### Boating 6.3

Acoustic noise pollution that can condense in the ocean and affect all marine life, including the Whale population and other mammals must be included. The Navy plans to use Sonar for its war equipment testing on Coastal areas which causes Whale disruption of mating patterns, food security and habitat selection and this must be specified in the plan. The economic harem to tourism, fishing and visitors if marine mammals, fishing etc were to cease or be damaged would be irreparable.

B-4

\Copies to the MLPA  
and the Fort Bragg Advocate

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## Comment Letter B – Flum, Char

Response to Comment B-1

*See Master Response 1: Scope of the MLPA and Regulatory Authority.*

Response to Comment B-2

*See Response to Comment A2-2.*

Response to Comment B-3

*See Master Response 4: Enforcement.*

Response to Comment B-4

*See Master Response 2: Analysis of Other Activities within the North Coast Study Region.*



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Submitted by David Gurney  
March 20, 2012  
Fort Bragg, California (Draft version)

at the EIR Hearing of "Horizon Water and Environment",  
(a private consulting firm financed by the Resources Legacy Fund Foundation)  
on behalf of the California Dept. of Fish and Game, and the CDFG Commission

## COMMENTS ON THE MLPAI DRAFT ENVIRONMENTAL IMPACT REPORT, NORTH COAST STUDY REGION

### I. Scientific analyses of the MLPAI Draft EIR

1) In Chapter 1.4 -- "**Topics Dismissed From Detailed Analysis--Mineral Resources**" the EIR refers to "CEQA Appendix G Checklist Section 10.

There is no appendix G. in the Environmental Impact Report, as disseminated to the public in either in the printed library copies, or on the CDs distributed by "Horizon Water and Environment".

2) The draft EIR states that "scientific and educational research" will have "no significant impact," yet you identify 20 organizations, institutions, and agencies with an interest in these closed marine protected areas.

In addition the EIR states there are now 562 "scientific collecting permits" for our Marine Region.

I call into question the assertion that 562 virtually unregulated "scientific collecting permits" will have "no significant impact" on the ocean for the culture of the North Coast region.

Also identified are 20 organizations, institutions, corporations and government entities who will be operating with these scientific take permits, to take plant and animal life in the North Coast Region. How can all of this have "no significant impact" as stated in this EIR?

3) RE; Section 4.3 of chapter 4: "**Biological Resources**" the EIR states: "the majority of the study region's habitats occur in areas 100 m or shallower. In fact 93% of the study region occurs in water 100 m or less."

The section lists as "unknown habitats" 127 mi.<sup>2</sup> of the marine region from zero to 30 meters deep. Thus, on a strip coastal habitat from Point Arena to the Oregon border and three miles out, you identify 127 square miles as unknown habitat in the 0 to 100 foot depth range.

According to your figures, this is over a quarter of the study region, from the shoreline, to 98 feet deep. (For anyone who is familiar with our coastline here, that's quite a bit of the water,

out to the horizon-line, that you can see from shore).

The EIR also goes on to claim on page 4-31, in section 4.3 - "**Environmental Setting**" that the 127.9 mi.<sup>2</sup> are "unknown substrata", in other words you don't know whether it's hard rocky bottom, sand, pebbles, Reefs or ???.

C-3

The EIR claims that this 127.9 mi.<sup>2</sup> is 27% of the 0 to 30 m region in the North Coast study region. Unfortunately going through your numbers, they don't add up. 127.9 mi.<sup>2</sup> is more than 27% of the study region, and I urge you to do the math.

4. Your mapping vessel working to identify these habitats through sonar mapping struck and killed a 72 foot blue whale. The vessel was at the time was operating illegally without a valid permit, and without the required marine mammal observer onboard, whose job it is to spot whales and avoid such accidents during hydrographic operations.

How are we to trust the data supplied by a contractor who is willing to violate the law, both in permitting and operation of their sonar surveys?

C-4

And even with this illegally obtained data, which could conceivably be unreliable, how are we to sit satisfactorily design these network of marine protect in areas with the data for more than one quarter of the coastline completely missing? And how are we to trust any of the science that justifies these closures, when the Co-Chair of the science team has recently been arrested on felony fraud charges? The implementation of these MLPA's needs to be fully investigated if Mr. LeValley is convicted of felony embezzlement charges.

5. This EIR also fail to include the possible negative effects on communities and cultures, across the board, who interact intimately with the coast and the ocean, and seek to live and work in balance with her natural bounty.

This is a cultural effect that some will feel, as they are barred from taking fish, and must watch as scientists and commercial Aquarians, with a total of 562 loosely regulated permits, valid for our Marine Region, will be allowed to take fish in front of their eyes.

C-5

What sort of effect will we have on local culture? Some may have chosen not to be a part of green-washed scientific and environmental organizations, which will be benefited, and some have chosen not to take part in illegal privately funded governmental processes such as this MLPAI.

## **II. Analysis of Improper and illegal Actions taken by the MLPAI "Initiative."**

1. The privately funded implementation of, nor the law itself was never voted on by the people of this state, though this project alters the California State Constitution (See: Article 1, Section 25), which guarantees equal resource access to all Californians.

C-6

2. California through the Department of Fish and Game them already has "statutory authority to determine season and conditions" under which any plant or animal species may be taken. Hence the MLPA tiered access program is unnecessary.

C-7

3. In Chapter 1.4 -- "Topics Dismissed From Detailed Analysis--Mineral Resources" the EIR refers to "CEQA Appendix G Checklist Section 10.

C-8

There is no appendix G. in your environmental impact report, as disseminated to the public either in your library copies or on the CDs distributed by your organization.

4. The MLPA process called itself and initiative.

But an Initiative in California has a specific legal definition. It is the process of collecting signatures so that a measure can be put on the ballot to be voted on by the people.

C-9

The MLPA I was not an initiative, but was a privately funded special interest endeavor to serve these special interests.

5. Private aquariums will be allowed to take in the new MLPA's, under the legal umbrella of education and research. The people who funded this so-called initiative own the Monterey Bay aquarium, and so have a vested conflict of interest.

C-10

6. The draft EIR states that "scientific and educational research" will have "no significant impact," yet you identify 20 organizations, institutions, and agencies with an interest in these closed marine protected areas.

In addition, the EIR states there are now 562 "scientific collecting permits" valid for our Marine Region.

C-11

I call into question the assertion that 562 virtually unregulated "scientific collecting permits" will have "no significant impact" on the ocean fo the culture of the North Coast region.

Also identified are 20 organizations, institutions, corporations and government entities who will be operating under these unregulated "scientific take" permits. These permits allow the take plant and animal life in the North Coast Region. How can all of this have "no significant impact" as stated in this EIR?

7. This privately funded initiative has violated numerous law is in the course of using a privately funded government process to either directly serve private interests, or to purposely avoid the proper oversight on these vested interests, as required by the 1999 law, the Marine Life Protection Act, and intended by AB 993.

C-12

A. This "Public/Private process" engaged in improper notice of public meetings. The MLPAL repeatedly violated Bagley-Keene open meeting laws by improperly noticing public meetings.

B. Members of the public were improperly approached by initiative staff while sitting in the audience during public meetings.

C. The MLPAl seriously violated Bagley-Keene open meeting and civil rights laws by prohibiting public comment and press coverage at some of their public meetings.

D. The MLPAl "Initiative engaged in illegal financing of individuals, organizations, agencies, and government entities during their project. (In past days this was known at as bribery.)

E. The MLPAl falsely called itself an initiative when in fact an initiative is a legislative process by a which citizens gather a petition, in order to get a measure on the ballot - to be decided upon by the voters.

8. I object to the naming of the Ten Mile State Marine Reserve after Skip Wallenberg. Mr. Wallenberg staunchly insisted that marine protected areas have, written into law, an absolute prohibition of underwater pipelines, cables or any other infrastructure related to industrial development, or oil and gas drilling. I believe Mr. Wallenberg would have demanded these prohibitions in order for his name to be attached to these areas. (I personally spoke to Mr. Wallenberg on this topic.)

9. It is illegal and unjust to delegate access to the ocean for only certain individuals, for the take of plants and animals, or access for spiritual communion, public or private, or for subsistence food gathering - on the basis of race, religion, national origin, cultural identity, professional, economic or scientific status.

The access to interrelate with nature, should be governed a human being's respect for nature, and nothing else.

Any abrogation of these rights is a violation of both the United States and the California Constitutions, and the essence of equality, civil rights, and fair play.

10. Finally, how can an EIR be paid for by the same individuals and organizations (the RLFF) who financed the illegal MLPAl public/private "Initiative" in the first place - claim to be independent, fair, just, accurate, or comprehensive? The conflict of interest inherent in the financing of this EIR alone should be seriously questioned.

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## Comment Letter C – Gurney, David

Response to Comment C-1

See *Response to Comment A11-1*.

Response to Comment C-2

See *Response to Comment A11-3*.

Response to Comment C-3

Of the 463 mi<sup>2</sup> of 0-30m depth zone available in the Study Region, 127.9 mi<sup>2</sup> (or 27%), is classified as unknown substrata. Refer to *Response to Comments A5-1 and A11-4* for additional information.

Response to Comment C-4

Refer to *Response to Comment A11-6*

Response to Comment C-5

The design of the MPA network included considerations of the health and vitality of local coastal communities. Placing MPAs 10 miles or more from ports was a major priority in order to minimize socioeconomic impacts. DEIR Chapter 5, *Cultural Resources* discusses the analyses of maritime culture in more detail. In particular, see Impact CR-2: *Indirect Adverse Effects to Land-based Maritime Historical Resources* on page 5-21 of the DEIR. The conclusion from that section is copied here for reference:

The Proposed Project would not place any new restrictions on areas between and beyond the MPAs; thus, it is not likely that the fishing industry would suffer from a widespread collapse. Furthermore, the proposed MPAs are spaced over a straight-line distance of 225 mi [statute miles] (517 mi of actual shoreline) and, except in a few cases, there are no MPAs within 5 miles of either side of a port (and in many cases MPAs are at least 10 mi away). The goals and objectives of the design of the MPAs included consideration of the health and vitality of coastal communities, ports, and harbors. Distance from ports was a major priority in the design of the MPA network, to minimize socioeconomic impacts on the north coast region (MLPAI 2010c); therefore, it is not likely that the Proposed Project would cause community-wide economic failure and decay that would lead to the loss of historical maritime properties. This impact on land-based maritime historical resources would be considered less than significant.

Regarding your comment on scientific collecting, Goal 3 of the MLPA (see Section 2.2, *Project Goals and Regional Objectives* in Chapter 2, *Project Description* on pages 2-4 and 2-5 of the DEIR) clearly states the intention of the proposed regulations to improve recreational, educational, and study opportunities. However, take of living marine resources for scientific and educational purposes would be allowed within MPAs only with a valid SCP as currently authorized by the Department. Since the Proposed Project would not alter the existing regulations for scientific collection, there would be no impact from the Proposed Project.

Furthermore, the north coast MLPA planning process included extensive stakeholder involvement and the Proposed Project is based on the outcome of stakeholder agreements of a MPA network designed to have the least amount of impact to local fishermen. Additional descriptions of the stakeholder process are provided in DEIR Chapter 6.6 *Environmental Justice*, Section 6.6.3, in the subsection “Opportunity for Involvement in the MLPA Planning Process” (pages 6.6-8 through 6.6-12).

Response to Comment C-6

See *Response to Comment A11-7*.

Response to Comment C-7

See *Master Response 1: Scope of the MLPA and Regulatory Authority*.

Response to Comment C-8

See *Response to Comment C-1* above.

Response to Comment C-9

Comment Noted. This comment speaks to the MLPA planning process and does not address the sufficiency of the EIR.

Response to Comment C-10

These comments raise complex issues of law and policy and do not address the sufficiency of the EIR.

Response to Comment C-11

See *Response to Comment A11-3*.

Response to Comment C-12

See *Response to Comment C-6*, above. Additional comments pertain to the MLPA planning process and do not address the adequacy of the DEIR; therefore, no changes to the DEIR are required.

Response to Comments C-13 and C-14

This comment contains statements not related to the environmental review published in the DEIR, but rather related to proposed MPA regulations and/or regulatory sub-options under consideration by the Commission as part of its current rulemaking process conducted pursuant to the APA. See *Response to Comment A1-6*.

Response to Comment C-15

See *Response to Comment C-6*, above.



You might mention that the North Coast Unified plan submitted to the Blue Ribbon Task Force excluded oil/gas & wave energy development in the 2 proposed State Marine Reserves. Note: "Marine Sanctuary" is a Federal designation. "Marine Reserve" is the highest level of protection under the MLPA--a State program. Marine Reserves allow no take of marine resources. Next down is Marine Conservation Area, which allows some take. There are other designations w/in the MLPA. This recommended exclusion is documented. At the very least Marine Reserves should have extensive development buffer areas.

D-1



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## Comment Letter D – Anonymous

Response to Comment D-1

*See Master Response 1: Scope of the MLPA and Regulatory Authority.*

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EIR  
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----- Original Message -----

Subject:MLPA EIR Meeting

Date:Tue, 20 Mar 2012 15:03:23 -0700

From:Judy Filer <jhfiler@comcast.net>

To:JUDY FILER <jhfiler@comcast.net>

### MLPA CHAPTER 3 OUTER CONTINENTAL SHELF OIL LEASING

AIR POLLUTION ----- AIR POLLUTION FROM OCS DEVELOPMENT HAS SEVERAL SOURCES. TANKERS, PLATFORMS, PROCESSING PLANTS, AND PIPELINE OPERATIONS ALL HAVE THE POTENTIAL TO ADVERSELY AFFECT ONSHORE AIR QUALITY. TANKER LOADING AND TRANSPORT POSE THE GREATEST THREAT AIR POLLUTION. RECENT LEGAL AND TECHNICAL TRENDS POINT TOWARD VERY LIMITED LOCAL GOVERNMENT POWER TO CONTROL OFFSHORE AIR QUALITY IMPACTS VIA THE CLEAN AIR ACT.

E-1

WATER POLLUTION ----- THE BIG WATER QUALITY WORRY HAS TRADITIONALLY BEEN OIL SPILLS. PLATFORM BLOWOUTS, MASSIVE ACCIDENTS AND CHRONIC LOW LEVEL SPILLS DUE TO LOADING , UNLOADING , BALLASTING AND HOLD CLEANING. ALSO TANKER IMPACTS IN SHIPPING LANES. PIPELINE ROUTES OVER GEOLOGIC HAZARDS.

E-2

SOCIOECONOMIC IMPACTS----- MOST -JOBS REQUIRE SPECIAL SKILLS AND TRAINING----- SO OUTSIDE WORK CREWS ARE IMPORTED. COASTAL LAND USES SUCH AS RECREATION AND TOURISM ARE ADVERSELY AFFECTED.

E-3

FISHING INDUSTRY-----OCS DEVELOPMENT CAN AFFECT THE FISHING INDUSTRY IN

E-4

SEVERAL WAYS. OIL POLLUTION CAN TAINT CATCHES AND REDUCE FISH  
POPULATIONS, PLATFORMS CAN REDUCE FISHING GROUNDS AND SOME UNDERWATER  
STRUCTURES MAY FOUL NETS.

E-4

FROM COOKING WITH OFFSHORE OIL A HANDBOOK FOR CALIFORNIA LOCAL  
GOVERNMENT BY MARTIN CHORICH AUGUST 1978

## Comment Letter E – Filer, Judy

Response to Comment E-1

See *Response to Comment A17-4*.

Response to Comment E-2

See *Response to Comment A17-5*.

Response to Comment E-3

As discussed in DEIR Chapter 1 *Introduction*, Section 1.5 *Consumptive Uses and Associated Socioeconomic Considerations* (page 1-30), State CEQA Guidelines Section 15131 states that “economic or social effects shall not be treated as significant effects on the environment.” Therefore, socioeconomic effects are not considered environmental impacts under CEQA, unless they have relevance to a significant environmental impact.

Effects of the Proposed Project on land use are presented in Chapter 6, Section 6.1, and effects on recreation are presented in Chapter 6, Section 6.3.

Response to Comment E-4

See *Master Response 1: Scope of the MLPA and Regulatory Authority*.

MARINE LIFE PROTECTION ACT  
NORTH COAST STUDY REGION  
DRAFT ENVIRONMENTAL IMPACT REPORT  
PUBLIC HEARING

DEL NORTE COUNTY BOARD CHAMBER BUILDING  
981 H STREET  
CRESCENT CITY, CALIFORNIA 95531

WEDNESDAY, MARCH 21, 2012

6:30 P.M.

PUBLIC COMMENTS

REPORTED BY:

ROBIN KOOP, CSR NO. 5270

Page 1

1

## A P P E A R A N C E S

2

3

MICHAEL STEVENSON, Principal

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15

## P U B L I C S P E A K E R S

16

17

John Corbett

Craig Strong

18

Steve Bradley

Christa Norton

19

Mike Belchik

Doug Corrigan

20

Jennifer Savage

George Bradshaw

21

Alicia McQuillen

22

Charlene Storr

23

24

25

Page 2



1 Wednesday, March 21, 2012 6:30 p.m.

2 --o0o--

3 (Opening comments by Michael Stevenson, Becky Ota,  
4 and Jill Sunahara not reported.)

5 --o0o--

6 PUBLIC COMMENTS

7 MR. STEVENSON: Is there anyone who needs a  
8 blue card who doesn't already have one? So it looks  
9 like we have six cards here. So we've got plenty of  
10 time. Why don't we allocate five minutes per speaker,  
11 and if -- that way if additional people decide they want  
12 to speak, they can do that. And if there are people who  
13 want to do a second -- second thing, we have time for  
14 that.

15           So with that I'm going to invite John Corbett  
16   up, the first speaker, and Steve Bradley will be next.

17 JOHN CORBETT: Thank you. John Corbett, the  
18 Yurok Tribe, 1801 Ocean Drive, McKinleyville,  
19 California.

20           And first I want to thank you for appearing on  
21   the North Coast for us to make input, and we appreciate  
22   your efforts to include tribal harvesting.

23           As has been the case with all our  
24 presentations, I will, as senior attorney, speak for all  
25 the Yurok presenters. These presentations are in the

Page 3

F1-1

1 context of reserving all rights, so that at any time we  
2 can exercise our sovereign rights to protect tribal  
3 harvesting.

4 In fact, we're looking forward to participating  
5 in this process. We, of course, are happy and support  
6 the unified proposal which is supported by all the local  
7 governments in the North Coast, both unique in the state  
8 and unique here.

9 We also mention there are some very sensitive  
10 intertribal issues, which we will not be discussing, but  
11 we are working on that with the appropriate tribes:  
12 Tolowa, Resighini, and Trinidad Rancherias.

13 I wanted to say the ISOR statement on the  
14 proposed regulations clearly makes it clear that the  
15 LOPs described in the Draft Master Plan are reconsidered  
16 for each study region for evaluation purposes.

17 The Yurok Tribe has submitted materials on the  
18 environmental constraints on harvesting, the vast  
19 majority of which are limited to the North Coast Region.  
20 And you'll hear more about it. And the Yurok Tribe  
21 requires or requests and wants findings as to the  
22 validity of rough seas, limitations on access, and other  
23 issues limiting harvesting; and adding our comments to  
24 the appendix without a conclusion as to their validity  
25 is insufficient.

Page 4

1           Second of all, we wanted to point out -- and we  
2 think it should be noted for the record -- that the LOP  
3 analysis, according to the Science Advisory Team, did  
4 not assess the levels of protection per take of one  
5 particular group of noncommercial users, e.g.  
6 traditional tribal use.

7           And I'll introduce into the record a July 22,  
8 2010 draft statement on page eight, but my understanding  
9 is the draft was adopted and they never took the word  
10 off. And so I'll just hand that to the clerk.

11           And we do think that should be noted, because  
12 it's pretty critical that that LOP analysis did not take  
13 and assess Native American harvesting.

14           The second thing is we believe a careful review  
15 of the science record will show that the Science  
16 Advisory Team was operating and adopted as part of their  
17 LOP assumptions a material misstatement of law, and it  
18 has material effects on the conclusions of recreational  
19 take. And that was very similar, and that is that  
20 science panel adopted the statement that they could not  
21 legally distinguish between recreational users; and,  
22 therefore, that would be binding on the tribes.

23           The very fact you can consider and the very  
24 fact that Fish and Game Commission adopted a provision  
25 for Native American resources is a sign that was a

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1 misstatement of law, and they said that was an integral  
2 part of the LOP. We are satisfied as long as it's duly  
3 noted, or there's a footnote based upon what we've said  
4 somewhere in the EIR that there was no assessment of  
5 traditional native uses by the Science Advisory Team.

6 We believe that, just a little bit on the  
7 materiality, they both said it was a material element of  
8 the LOP in that same July 27th meeting. And in  
9 addition, we believe that the conclusions are material  
10 at overestimating the recreational take for tribes.

11 I'd like to introduce into the record a chart.  
12 It's called "Reading Rock." And it has essentially a  
13 24-hour day. And it says if you sleep eight hours, and  
14 you work eight hours, and you take two hours to do all  
15 your clothes shopping, showering, wash, eating,  
16 shopping, going to family events and weddings, pretty  
17 conservative, I can't do it that quick, and one hour to  
18 harvest up to the maximum limits, that gives you only  
19 five hours driving time.

20 And what the chart indicates is instead of the  
21 whole State of California, the LOP assumption that it's  
22 just a small area in the northwest corner of California,  
23 and what that means is that it is the assumption that is  
24 in there regarding that the take is the maximum amount  
25 allowed by state and federal law, each and every day,

Page 6

F1-5

F1-6

1    which is two million users in the marine reserve, is  
2    impossible. It could not happen. And so we wanted to  
3    introduce that into the record. And here, I've got one  
4    for you, too.

5               Next we wanted to -- and we'll submit in  
6    writing certain other reasons to place that assumption  
7    in question. But I think the easy way to dispose of it  
8    is just say they stated themselves they didn't assess  
9    it.

10              We will be making major presentations on  
11    Reading Rock, but we'd like a couple things noted into  
12    the record.

13              One, is that the Bureau of Land Management and  
14    the Yurok Tribe have had a management agreement.

15              MR. STEVENSON: John, your time is up.

16              JOHN CORBETT: Okay. Thank you. Can I finish  
17    the sentence?

18              MR. STEVENSON: Yes, of course.

19              JOHN CORBETT: We'd like noted in the record  
20    that the Bureau of Land Management and the Yurok Tribe  
21    have had a co-management agreement for Reading Rock for  
22    many years, and we'd like that noted in the EIR.

23              Thank you.

24              MR. STEVENSON: Let us know if you would like  
25    to speak again at the end.

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1           Next up we have Steve Bradley, followed by Mike  
2 Belchik.

3           STEVE BRADLEY: Yeah. I'm Steve Bradley. I'm  
4 a sport fisherman. And I'm a little late to this  
5 process, so I kind of apologize. I haven't seen all the  
6 information that's been developed, and there's quite a  
7 bit I'm sure.

8           My question is -- and maybe it's in the wrong  
9 place at the wrong time -- can I look at it, do you have  
10 available a detailed map of the local areas that affect  
11 this area out of Crescent City? I think there's two of  
12 them, perhaps?

13           It's hard for me evaluate impact.

14           MS. SUNAHARA: If you go online -- I can meet  
15 with you afterwards -- there's a really wonderful Web  
16 site that, if you have access to an Internet, there's a  
17 Google map interface that will let you surf around with  
18 the overlays with these areas on there.

19           STEVE BRADLEY: There must have been, but I  
20 just didn't know.

21           MS. SUNAHARA: That's okay. I can give you the  
22 Web page afterwards.

23           STEVE BRADLEY: Thank you. That's really just  
24 a question. I appreciate that. Thank you.

25           MR. STEVENSON: Thank you.

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1 All right. So Mike Belchik is next, followed  
2 by Jennifer Savage.

3 MIKE BELCHIK: My name is Mike Belchik. It's  
4 B-E-L-C-H-I-K. Address is 2300 Highway 96, Weitchpec,  
5 California. I work for the Yurok Tribe, I'm the Senior  
6 Fisheries Biologist.

7 I was asked by the tribe to evaluate the  
8 science behind the DEIR report and also the levels of  
9 protection.

10 First of all, on the levels of protection, I  
11 found the science to be completely lacking for a number  
12 of reasons. First of all, that levels of protection  
13 failed to take into account other causes of take, such  
14 as power plant intakes, oil and gas, drilling and other  
15 things.

16 I know that the Cal Fish and Game  
17 representative here said that is beyond the scope, but  
18 on page 1.7 it does note that take is not limited to  
19 fishing activities; for example, coastal power  
20 generating stations, etcetera, and then goes on to say  
21 but we are only going to consider direct take. I don't  
22 think that's proper. And I don't think that the MLPA is  
23 capable of reaching its goal of protection unless it  
24 considers other resources of take.

25 The LOPs failed to take into account that large  
Page 9

F3-1

F3-2

1 stretches of the coast are already de facto state marine  
2 reserves due to inaccessibility, weather, and things  
3 like that.

F3-2

4 And the SAT's level of protection conceptual  
5 model failed to take into account systemwide and often  
6 unpredictable effects of harvest prohibition.

F3-3

7 So, for example, one of the things that I tried  
8 to explain to the Fish and Game Commission -- and got a  
9 lot of blank stares -- was the concept of humans as part  
10 of the ecosystem rather than something that the  
11 ecosystem needed to be protected from.

12 And so I did get a lot of blank stares. And so  
13 what I did was went and looked at the body of  
14 literature, science literature, and I found papers like  
15 "Man as a component of the littoral predator spectrum:  
16 a conceptual overview," and science succinctly saying  
17 people as part of the system, what effects are they  
18 having. And "Variation and persistence of middle rocky  
19 intertidal community of central Chile, with and without  
20 human harvesting."

F3-4

21 Sir, what I found was a vast body of  
22 literature, hundreds of resources evaluating the effects  
23 of exclusion of humans, documenting often unpredictable  
24 results, oftentimes the opposite of what people  
25 expected, and embodying the concept of humans as part of

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1 the ecosystem rather than something that needs to be  
2 protected, that the systems need to be protected from.

3 I then compiled a partial list of these and  
4 cross-referenced the DEIR to see if any of those had  
5 been incorporated. These are readily available from  
6 large journals and publications, none of them could be  
7 found.

8 So I have compiled a list of these. I would  
9 like to see the levels of protection for the North  
10 Coast, being that John said that they would be evaluated  
11 for different stretches of coast, be completely  
12 reevaluated for the North Coast. Include issues such as  
13 accessibility, which is not included in the assumptions.  
14 And people as part of the system rather than something  
15 that the system needs to be protected from.

16 These are supported in the scientific  
17 literature in peer review journals. This isn't just  
18 something that we came up with on our own.

19 We are also quite concerned that the DEIR, as I  
20 stated before, focuses solely on harvest and take  
21 prohibition, oftentimes affecting activities that have  
22 taken place since time immemorial, or thousands and  
23 thousands of years.

24 When, in fact, the goals of the MLPA project,  
25 they are to protect the natural diversity, they are to

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F3-4

F3-5

F3-6

1 help sustain and conserve marine life and protect marine  
2 heritage, including the protection of representative  
3 habitats.

4 The MLPA then goes on to -- the DEIR then goes  
5 on to explain that take is not limited to just harvest,  
6 yet then just takes a left turn and says, well, harvest  
7 is the only tool that we are going to consider, or  
8 various take provisions on there.

9 We believe this is not supported in the  
10 scientific literature. And that the MLPA, unless it  
11 considers a broader framework and looks at other than  
12 perhaps marine resources cannot achieve its objectives.

13 Thank you.

14 MR. STEVENSON: Thank you.

15 Next up we have Jennifer Savage, followed by  
16 Christa Norton.

17 JENNIFER SAVAGE: Hi. Jennifer Savage with  
18 Ocean Conservancy. I live down in Manila on Humboldt  
19 Bay. And I served on the Regional Stakeholder Group.

20 Regarding the proposed project, it was  
21 developed by local fishermen, business leaders, tribal  
22 representatives, and conservationists; supported by the  
23 Blue Ribbon Task Force and the Fish and Game Commission,  
24 as well as our state elected officials and all city and  
25 county governments in the North Coast Region.

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1           The DEIR finds that the proposed project will  
2   yield the most substantial benefits to the State of  
3   California by protecting the most marine, wildlife and  
4   habitat, while also balancing the interests of a wide  
5   variety of stakeholders.

6           The DEIR correctly finds that potential adverse  
7   impacts of the proposed project and its alternatives are  
8   less than significant for all resource topics analyzed  
9   in the document. There will be no significant adverse  
10   impacts to physical, biological, cultural or social  
11   resources.

12           The DEIR, in summary, provides a legally  
13   sufficient and fundamentally sound foundation for the  
14   state's decision and fulfills the purposes of CEQA.

15           Thank you.

16           MR. STEVENSON: All right. Christa Norton is  
17   next. It sounds like you have a PowerPoint here, it  
18   look like a PowerPoint. Okay. We actually have plenty  
19   of time, does anybody have any objection if she goes 10  
20   minutes? There's only one more speaker, Alicia  
21   McQuillen.

22           MS. STORR: I changed my mind.

23           MR. STEVENSON: Okay. Alicia McQuillen and  
24   then Charlene Storr.

25           ALICIA MCQUILLEN: Hello. My name is Alicia

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1 McQuillen. And I'm the Marine Resource Coordinator for  
2 the Yurok Tribe, also a Yurok tribal member. I live at  
3 60 Grace Lane in Crescent City, California. The Yurok  
4 Tribal office is located at 190 Klamath Boulevard in  
5 Klamath, California 95548.

6 My comments are to follow-up with John  
7 Corbett's and the rest of the Yurok Tribes.

8 Actually, I have a question regarding the  
9 content of the DEIR. And the question is how have  
10 tribal traditional uses, tribal traditional uses of  
11 marine resources been incorporated into the baseline  
12 conditions for the North Coast Study Region DEIR  
13 analysis?

14 This concept was discussed at length within the  
15 MLPA process and with Department of Fish and Game staff  
16 and Horizon staff. Yet I have not found the delineated  
17 concept within the Draft Environmental Impact Report.

18 If this concept and tribal uses have been  
19 analyzed and noted in the document, I'd appreciate that  
20 pointed out. Otherwise, I think it would be a good idea  
21 to state it literally within the document.

22 Thank you.

23 MR. STEVENSON: Let's call up Charlene Storr.

24 CHARLENE STORR: Hello. I'm Charlene Storr.

25 4520 North Bank Road, Crescent City, California. Last  
Page 14

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1 name spelled S-T-O-R-R.

2 I wasn't going to make a comment, but then I  
3 realized I do want to make a comment.

4 You have beautiful maps here, and you have all  
5 these nice little squares, all these beautiful things.  
6 But I grew up here. I was born and raised here. I do  
7 know that when I go and gather whatever I want to  
8 gather, doesn't necessarily mean it's going to be  
9 outside that zone that you have on the map here that's  
10 already labeled as being in place.

11 You have to live and learn the land before you  
12 can say this is what we're going to do here, this is  
13 what we're going to do here. People need to learn you  
14 just can't go in and do things because you think it's a  
15 great idea. You have to live here, you have to live  
16 with the land, you have to learn what it does.

17 And that's my comment, is I would like to just  
18 say I'm an elder here. I'm 69 years old. And I've been  
19 gathering in Del Norte County for many, many years. I  
20 moved away for many years, but I also gathered in  
21 Humboldt County.

22 So I do know that -- I like the maps, and it's  
23 really pretty, and all the colors, and all the designs  
24 and everything -- but you can't tie down that something  
25 is going to stay there in that one spot or not stay

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F6-1

1     there in that one spot. Things move, as you know, and  
2     the population moves, as you know. And the population  
3     of Del Norte has increased greatly. And I can totally  
4     understand that people coming in thinking they have  
5     discovered this county haven't really discovered it  
6     because we've been here. And we've been here and we  
7     will always be here. And we are survivors and we will  
8     not give up easily.

9             I do like to go out and gather, and I do have  
10    permission from my tribe, which is Tolowa Nation, to go  
11    and gather, and they know what I gather. And I don't  
12    overdo it because I only gather for myself. I don't  
13    gather to make money off of it. I don't gather -- I do,  
14    I do give away some of my stuff to the elders because I  
15    do make medicinal plants, that several plants that I  
16    give away to elders because they are good for arthritis,  
17    and first aid, or whatever.

18            But I just wanted to let you know that you do  
19    have to live and learn the land. You can not tie down  
20    sites.

21            MR. STEVENSON: Thank you.

22            Why don't we call Craig Strong to the front.

23            CRAIG STRONG: Hi. Craig Strong, 7700 Bailey  
24    Road, Crescent City. And I was on -- a member of the  
25    science team, as you know, and I've been following this

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F6-1

F7-1

1 process.

2 And I start off with a question, which is a  
3 follow-up to some of the other Yurok speakers. Is it  
4 was my understanding that we are were not addressing  
5 tribal uses simply because there is no legal  
6 infrastructure to set apart tribal traditional,  
7 ceremonial take from sport fishing. And therefore it  
8 was written in as sport fishing as sort of a  
9 placeholder.

10 So my question is, has there been any progress  
11 in legislating tribal take within MLPA or in protected  
12 areas? So that's something that I kind of feel like in  
13 agreeing to this that was an understanding that that  
14 effort would be pursued.

15 I had one other. And that is that -- oh, yeah,  
16 a couple other. One was a follow-up on Mike's comment  
17 on the looking at ancestral take as a part of the  
18 ecosystem. I remember we did discuss that during our  
19 meetings, and never came to any conclusion. I think it  
20 is a valid way of looking at subsistence take in this  
21 still sparsely populated part of the North Coast.

22 I think the benefit of these Marine Protected  
23 Areas will be seen much more in the future when  
24 population rises and machine pressure increases.

25 One final comment is in spite of being on the  
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F7-1

F7-2

F7-3

1 science team and working out this system that everyone  
2 gets happy with or everyone could accept and agree on,  
3 we didn't miss the boat in some of the most vital  
4 biological hotbeds on the North Coast. And as our last  
5 speaker said, you really have to live here to know where  
6 things are. Not all sandy beaches are created equal,  
7 and not all rocky bottoms. But each one is unique.

8 And this represents a compromise, that's all  
9 I'm saying.

10 Thank you.

11 MR. STEVENSON: All right. I'd like to call  
12 Christa Norton.

13 CHRISTA NORTON: Can everyone hear me from  
14 here? Okay.

15 My name is Christa Norton, and I am with the  
16 Yurok Tribe. And I'm very happy to be here tonight. I  
17 put this presentation together to kind of give the DEIR  
18 people, for lack of a term, I put this together in less  
19 than eight hours to give you an idea of what we go  
20 through in our tribal and ceremonial harvesting.

21 Okay. First off, this is False Klamath Rock,  
22 the one in the very back. And it's basically seasonal,  
23 seasonal closer. It's 300 feet in diameter around the  
24 rock. And this rock is key during the low tides for  
25 harvesting, ceremonial and traditional.

Page 18



1           The closure is traditionally going to be  
2   through March, excuse me, March through August, which  
3   can potentially take two months of the gathering window  
4   away from the tribal harvesting.

F8-1

5           Now, tribal harvesting has several natural  
6   constraints. They are faced with paralytic shellfish  
7   poisoning, and there is a 6-month mandatory quarantine  
8   that has been for several years.

9           The opportunistic limited low tides, the rough  
10   seas, which we all know about, are basically very  
11   limiting, turbidity with all the silt being brought up  
12   by the rough seas, our highlands and many of our roads  
13   being closed to fallen trees.

14           Here you'll see the toxic-producing algae,  
15   causing the paralytic shellfish poisoning, or the PSP.  
16   The PSP is a form of food poisoning, as I've mentioned  
17   earlier, from eating the mussels that are collected. It  
18   begins anywhere from between 30 minutes to 24 hours  
19   after ingestion. It can last a few minutes, it can last  
20   a few hours, and in some people it's fatal.

F8-2

21           Now a typical quarantine generally has been  
22   from May 1st through October 31st. However, in 2011 the  
23   ban was from March 25th through October 31st.

24           Many of the Native Americans learn to watch for  
25   the PSP by watching the waves, the luminescence, the

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1 glow, and that came from the algae putting off this  
2 glow.

3 And here we've just got our lovely sea foam  
4 right off the rocks and the white caps themselves.

5 The best times for harvesting are your minus  
6 one tides or lower. And you typically have less than 55  
7 per year. In 2009 we had a total of 52 days; 2010 was  
8 54, and 2011 was 48 days. These figures do not include  
9 any bad weather, they do not include the 6-month  
10 mandated quarantine or any extensions.

11 And here we have just a picture of the lack of  
12 shoreline at low tide. You'll see several logs in  
13 there. Those logs are very dangerous when you are skin  
14 diving for your mullusks and your mussels. They could  
15 also cause a lot of turbidity, which minimizes your  
16 visibility. You can't see the logs, they come up and  
17 hit you, and carry you off to sea and the sharks.

18 Basically, when we've taken our data, we've  
19 looked at our data that we provided the DEIR, we've  
20 looked at the 9-foot greater waves. Those waves were --  
21 data we pulled from NOAA, were 4-hour periods minimum.  
22 Many of these had multiple instances per day.

23 And in 2009 we had a 117 days where there were  
24 a minimum of four hours of 9-foot or greater sustained  
25 waves. That makes it very dangerous to go up on the

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F8-2

1 shore even in low tide.

2 In November of 2009, we had a 94-hour period  
3 where you had 9-foot or higher waves. And November is  
4 one of our harvesting months.

5 In 2010, we had 174 days. But there were 38  
6 multiple instances. So you had multiple periods in  
7 there that were more than four hours at a time. And the  
8 longest duration on that one was 62 hours in December,  
9 and that's also a harvesting month.

10 In 2011, we had 141 days, 37 local instances.  
11 The longest duration lasting 83 hours in March, and  
12 again that was also a harvesting month. And as you can  
13 see, it severely limits tribal and ceremonial  
14 harvesting.

15 We also looked at weather small craft  
16 advisories. The small craft advisories are issued when  
17 you have a minimum 6-foot wave that lasts a minimum of  
18 seven seconds.

19 And if you go down the chart, and you have  
20 7-foot waves minimum that last a minimum of eight  
21 seconds. The -- the higher the wave, the longer the  
22 time frame, the more dangerous. And as you can see  
23 there we had several days per year where we could not do  
24 any harvesting. But this is also for the entire year.

25 This is a map of the plan. You can see the  
Page 21

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1 swells visible at this approximately 600-foot elevation  
2 at Red Bluff Hill. Those are white caps, and I wouldn't  
3 want to be down at the bottom. As you can see, we have  
4 very little -- very little beach available. And as you  
5 get further down in the picture, the center of the  
6 picture, you have little or no coast, no access.

7 We also have high winds that occur during the  
8 winter. Again, the data that we pulled from NOAA was a  
9 minimum of four hours.

10 In 2009, we had 85 days sustained winds of 23  
11 miles per hour or greater. Maximum duration of those  
12 winds was 48 hours.

13 We had 105 days in 2010, with a maximum  
14 duration of 86 hours.

15 And, again, in 2011, we had 107 days of 23 mile  
16 per hour or greater with a maximum duration of 44 hours.  
17 And those storms can be pretty ugly. And some boats you  
18 have to go out and do fishing, they will go out there.

19 The Newton P. Drury Parkway, one of our scenic  
20 drives. This allows us to the get to the coast through  
21 trails. And as you can see, October 29, the landslide,  
22 it took them over a month to clear it. And, of course,  
23 to give you an idea of the slide, there's a gentleman in  
24 the center of the picture.

25 All of that information together puts -- brings  
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1 us to this chart. And this chart basically talks about  
2 the different quarantines, the 2009 and 2010. When I  
3 compiled this information, the 2011 statistics were not  
4 available.

5 In 2009 the quarantine was from May 1st through  
6 October 31st. And if you look at that 2009 is  
7 represented in green. The green squares represent days  
8 that were harvestable. And these are all minus one  
9 tides or greater.

10 And so what you're looking at is that 6-month  
11 harvest time. We had a total of 52 days that were  
12 available. When you take out that 6 month, you now have  
13 21 days. When you take that information and you cross  
14 it with the 9-foot plus tides, excuse me, 9-foot plus  
15 sustained waves, you're now taking out an additional  
16 eight days. Leaving 13 days of harvesting available.  
17 That's a loss of 75 percent of harvesting opportunities  
18 for the tribes, ceremonial and traditional harvesting.

19 For 2010, the quarantine was from May 1st  
20 through mid November. We had a total of 54 days for the  
21 year of 2010. And with quarantine periods, we lost 21  
22 days. So with -- excuse me. We lost 34 days, leaving  
23 us 21 days.

24 When we look at the 9-foot sustained waves  
25 crossing over those harvestable opportunities, we've

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1 lost another 12 days, leaving us nine days for  
2 harvesting. So 83 percent of the opportunity to harvest  
3 traditional and ceremoniously has been lost.

4 And this does not have 2011, which I pulled  
5 today. The harvest ban -- or excuse me -- the  
6 quarantine was from March 25 to October 31st. We had 49  
7 total days for 2011. After you take out the quarantine  
8 time frame, there are only 12 days left. After you take  
9 out the 9-foot waves that were recorded on those same  
10 days, you are left with seven days with a loss of 86  
11 percent harvesting.

12 So, basically, even though it looks like  
13 there's a lot of time to harvest, it's not done on a  
14 daily basis. It's only done during the winter, because  
15 there is that mandatory 6-month quarantine. So very  
16 little harvesting can be done for lack of access due to  
17 the waves and various other issues that were shown.

18 And here we have one of our deserted beaches  
19 taken January 21, 2011, which was a harvesting day.  
20 There's nobody out there.

21 Thank you.

22 MR. STEVENSON: Do we have anyone else would  
23 who like to give a comment tonight?

24 Anyone else? Okay. Doug Corrigan.

25 DOUG CORRIGAN: Good evening, everybody. Can  
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1 you hear me without the microphone?

2 I'm Doug Corrigan. I was recently appointed to  
3 the Del Norte County Fish and Game Commission Advisory  
4 Commission. So the comments I'm going to give you are  
5 my personal ones and not from the commission, I'll make  
6 that very clear.

7 I really have to applaud the previous speaker  
8 for the information that she provided, because that same  
9 data applies to the recreational -- us recreational  
10 fishermen, too.

11 Basically, what we're saying is we're  
12 self-regulating up here. And for me personally, the  
13 whole process -- and I was involved in the whole -- in  
14 the MLPA process all the way up to the stakeholder  
15 nominee period -- it didn't take into account the  
16 economic situation that we face in Del Norte County.  
17 Anything, any facts -- in other words, nothing was  
18 looked at from 1999 when this law was enacted.

19 And we didn't look at, well, let's see, we took  
20 away the commercial trawls. We've had depth  
21 restrictions put into place. None of that -- unless  
22 somebody can correct me -- none of that was looked at.

23 And what else did I -- let's see what else I  
24 had on my card.

25 The other thing is, I've seen article after  
Page 25

F9-1

F9-2

F9-3

1 article coming out of Southern California that Fish and  
2 Game can't keep up with the enforcement or the  
3 monitoring, the areas that are existing in this state  
4 already.

5 So my question is if they truly are going to  
6 enforce these areas, then what other species are going  
7 to suffer, because you all know -- everybody in this  
8 room knows that we don't have the manpower to deal with  
9 what we have now. And that -- that is not -- that was  
10 not looked at.

11 So it's a matter of priority. It's a matter  
12 that we're self-regulating. And I don't think those  
13 were addressed in the process. And I would like -- I  
14 would like to see those addressed, personally.

15 Thank you.

16 MR. STEVENSON: Thank you.

17 Do we have anyone else that would like to speak  
18 today, or anyone who would like to talk again?

19 George Bradshaw.

20 GEORGE BRADSHAW: How's it going guys?

21 Basically, I came in to see what was going on here and  
22 listen to what people had to say.

23 I'm a local commercial fisherman, third  
24 generation, starting my own business myself now.

25 And through all this I really didn't see, you  
Page 26

F9-3

F10-1



1 know, I don't understand where you guys are getting your  
2 facts allowing you to put this up here. Like he was  
3 just saying, there was already closures put in place.

F10-1

4 And my dad had to a drag boat before that was  
5 bought out through the buyout process. And, you know,  
6 the drag it's also regulated up here already.

7 And then to go along with what he said about,  
8 you know, the south coast down below not being able to  
9 manage what they have, I'm going through a process right  
10 now about the MPA around Point Reyes, you know, was not  
11 printed or anything.

12 There's like 32 boats there in the middle of a  
13 legal procedure going on down there from the lack of not  
14 being able to, you know, police it, I guess.

F10-2

15 When they put this in, it all sounds good, it  
16 sounds great, and then they can't go through and take  
17 care of what they put in.

18 You know, I don't understand the, you know, the  
19 reasoning -- I understand the reasoning, it sounds good  
20 you know. The evidence behind it all is what I'm  
21 lacking to see. You know, and like he was saying, it's  
22 already self-regulated anyway.

F10-3

23 And what she was saying, the weather. I've  
24 been back from San Francisco, I've been back for the  
25 last month and I've been able to go out for six days.

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1 And I mean that's it. I'm going to leave tonight at 3  
2 o'clock in the morning, another weather system is going  
3 to come, and I have to be back in tomorrow evening.  
4 That's all we got, that weather window.

5 It's already so regulated and the pressure here  
6 is not like the pressure down below. It's not the same.  
7 I don't understand how it can all be put together and,  
8 you know, and all the same.

9 And that's all I've got to say.

10 MR. STEVENSON: Thank you.

11 All right. I'm going to call John Corbett back  
12 up.

13 JOHN CORBETT: John Corbett, 1801 Ocean Drive,  
14 McKinleyville, California. Second time commenting.  
15 Very, very briefly.

16 For people that aren't acquainted with the logs  
17 in the water are very, very dangerous. I had a very  
18 fond childhood friend who was killed. And as an  
19 attorney, I've handled several log, severe injuries to  
20 children. You don't go out in it, you don't harvest in  
21 it.

22 And the assumption of harvesting under  
23 recreational use, that you're going out there in 9-foot  
24 waves and dodging logs is unrealistic.

25 Two, the local conditions that I wanted noted,  
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F10-3

F11-1

F11-2

1 and I think are provided for in the ISOR, are exactly  
2 what were presented by Christa.

3 Three, one major element that I think was  
4 overlooked is salmon. I do think salmon is an important  
5 species. And I do want to add a subtlety to my  
6 understanding of what the Science Advisory Team came up  
7 with.

8 They started off with some studies of prior  
9 marine reserves, what worked and what did not. And one  
10 of the concerns that was noted is they didn't have  
11 effectiveness monitoring. So they couldn't tell whether  
12 they were doing a good job or a bad job. And so you had  
13 the arguments of creating them, and then you had the  
14 arguments after they were created and no resolution.

15 And part of the problem with pelagic finfish  
16 was the mere presence of salmon or other pelagic finfish  
17 may or may not reflect the effectiveness of the reserve.  
18 That's quite a ways different than saying they won't  
19 benefit those fish.

20 And if you think about the entire federal  
21 marine reserve system is based on the premise that such  
22 reserves do it. And the Fish and Game Commission has  
23 clearly decided to the contrary, because they have a  
24 1-mile square marine preserve created by regulations at  
25 the mouth of the Klamath. Why? To protect salmon.

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F11-2

F11-3

1           Lastly, a little bit on one of the speakers --  
2   and I did want to say, the rough seas applies to  
3   everybody; commercial, sports. And we did want to make  
4   that clear.

F11-4

5           But on enforcement, I was taking declarations  
6   -- and they'll come in later on -- for the commission on  
7   traditional use. And at the end of the questioning, I  
8   asked the woman involved, and I said, well, have you  
9   ever seen a Fish and Game agent? And they said, no, I  
10   have never seen one of those in my whole life.

11           And so then I said, well, you know, Fish and  
12   Game is thinking that maybe you should get a license.  
13   And they are going why on earth would they think that.

14           Now, the reason I'm bringing it up is they have  
15   been harvesting their whole life here. They haven't  
16   even seen a Fish and Game presence. And so the people  
17   are talking about that you have to have something that  
18   you can reasonably enforce.

F11-5

19           I think it's really a pretty telling comment  
20   that you're not going to have an army up here, you don't  
21   want an army up here. And without that, you're really  
22   going to depend quite a bit on the local and the natural  
23   conditions.

24           So thank you for coming up. We appreciate it a  
25   lot. And we hope that these natural conditions are

F11-6

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1 properly noted in the record as a supplement to the SAT  
2 protection assumptions and specifically addressed in the  
3 EIR.

4 Thank you.

5 MR. STEVENSON: Thank you.

6 Do we have any other individuals who would like  
7 to make comments tonight? All right. Well, with that  
8 I'm going to wrap up the meeting. Thank you once again  
9 for your participation.

10 As I mentioned, we are receiving public comment  
11 up until April 16th. Please do submit comments in  
12 writing. You can also go to the April 11th Fish and  
13 Game Commission hearing.

14 And other than that, have a wonderful evening.  
15 Thanks a lot.

16 (Hearing adjourned at 7:48 p.m.)

17 --oOo--

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F11-6

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CERTIFICATE OF REPORTER

I, ROBIN KOOP, a Certified Shorthand Reporter,  
hereby certify that the proceedings herein were taken in  
shorthand by me, a disinterested person, at the time and  
place herein stated, and that said proceedings were  
thereafter reduced to typewriting, by computer, under my  
direction and supervision;

I further certify that I am not of counsel or  
attorney for either or any of the parties to said  
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DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2012

\_\_\_\_\_  
ROBIN KOOP, CSR No. 5270

## Comment Letter F – Crescent City, CA Public Hearing

Commenter F1: Corbett, John

Response to Comment F1-1

Your comment has been noted.

Response to Comment F1-2

This comment contains statements not related to the environmental review published in the DEIR, but rather related to proposed MPA regulations and/or regulatory sub-options under consideration by the Commission as part of its current rulemaking process conducted pursuant to the APA. See *Response to Comment A1-6*.

Response to Comment F1-3

See *Master Response 5: Natural Constraints and Baseline Conditions*.

Response to Comments F1-4 and F1-5

These comments raise complex issues of law and policy and do not address the sufficiency of the EIR. As a matter of law, the MLPA cannot interfere with any tribal right that has been conferred by the federal government.

Regarding LOPs, the SAT determined LOPs for proposed activities within MPAs based upon the potential impacts to the ecosystems within the MPA, using the best readily available scientific information and according to a decision tree that has been refined throughout the MLPA process. LOPs were assigned to proposed allowed uses within an MPA that identify a particular species by a particular method (SAT 2011a). For information on how the SAT determined LOPs which were then used in some SAT analyses during the north coast MPA planning process, see SAT (2010a, question 6), SAT (2010b, questions 6, 8, and 9), SAT (2010c, question 7), SAT (2010d, question 1), and SAT (2011b).

See also *Master Response 3: Inadequacy or Application of Data Gathered During the MLPA Initiative Planning Process, and Adequacy of the Science Standard*, and *Master Response 6: Levels of Protection (LOP)*.

Response to Comment F1-6

See *Master Response 3: Inadequacy or Application of Data Gathered During the MLPA Initiative Planning Process, and Adequacy of the Science Standard* and *Master Response 6: Levels of Protection (LOP)*.

Response to Comment F1-7

Comment noted. This comment contains statements not related to the environmental review published in the DEIR, but rather to proposed MPA regulations and/or regulatory sub-options under consideration by the Commission as part of its current rulemaking process conducted pursuant to the APA. See *Response to Comment A1-6*.

Commenter F2: Bradley, Steve

Response to Comment F2-1

As noted in the transcript, this comment was responded to at the meeting and no further comments were made that require a response.

Commenter F3: Belchik, Mike

Response to Comments F3-1 through F3-3

See *Master Response 3: Inadequacy or Application of Data Gathered During the MLPA Initiative Planning Process, and Adequacy of the Science Standard* and *Master Response 6: Levels of Protection (LOP)*.

Response to Comment F3-4

The Commission and the Department recognize the deep connection that tribes and tribal communities have with the environment; however, for CEQA purposes, any anthropogenic activities are distinct from the natural environment (PRC, Section 21001[c]).

Response to Comment F3-5

See *Master Response 3: Inadequacy or Application of the Data Gathered during the MLPA Initiative Planning Process, and Adequacy of the Science Standard*.

Response to Comment F3-6

The DEIR is specifically focused on the Proposed Project, which involves proposed regulations for take with the identified MPAs and special closures. See *Master Response 1: Scope of the MLPA and Regulatory Authority* and *Master Response 3: Inadequacy or Application of the Data Gathered during the MLPA Initiative Planning Process, and Adequacy of the Science Standard*.

Commenter F4: Savage, Jennifer

Response to Comment F4-1

Comment noted. The DEIR including a description of the proposed regulations was circulated to solicit public comments regarding the sufficiency of the related environmental analysis. Comments expressing a policy preference are noted and will be considered by the Commission as they contemplate final action.

No changes to the DEIR are necessary.

Commenter F5: McQuillen, Alicia

Response to Comment F5-1

Under CEQA, baseline conditions are existing conditions. Section 15125(a) of the State CEQA Guidelines states:



An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant. The description of the environmental setting shall be no longer than is necessary to an understanding of the significant effects of the proposed project and its alternatives.

Guidelines for the Environmental Setting section of a CEQA document relevant to this comment continue in CEQA Guidelines Section 15125(c):

Knowledge of the regional setting is critical to the assessment of environmental impacts. Special emphasis should be placed on environmental resources that are rare or unique to that region and would be affected by the project. The EIR must demonstrate that the significant environmental impacts of the proposed project were adequately investigated and discussed and it must permit the significant effects of the project to be considered in the full environmental context.

Tribal uses of marine resources in the Study Region were considered and incorporated into the baseline analysis. Exact numbers of take of specific species by tribes were neither available nor necessary for the analysis of the impact of the Proposed Project compared to baseline conditions.

Also, see *Response to Comment A1-4* regarding the analysis of TCPs in the DEIR.

#### Commenter F6: Storr, Charlene

##### Response to Comment F6-1

Comment noted. Gathering practices of tribes and tribal communities were considered in development of the Proposed Project and in the EIR analysis.

See also *Master Response 1: Scope of the MLPA and Regulatory Authority* and *Master Response 3: Inadequacy or Application of the Data Gathered during the MLPA Initiative Planning Process, and Adequacy of the Science Standard*.

#### Commenter F7: Strong, Craig

##### Response to Comment F7-1

These comments raise complex issues of law and policy and do not address the sufficiency of the EIR. As a matter of law, the MLPA cannot interfere with any tribal right that has been conferred by the federal government.

##### Response to Comment F7-2

This comment pertains to how the protection levels provided by MPAs that allow take to continue were considered in the MLPA Initiative planning process. See *Master Response 6: Levels of Protection (LOP)* for further discussion.

Response to Comment F7-3

Comment noted. The DEIR including a description of the proposed regulations was circulated to solicit public comments regarding the sufficiency of the related environmental analysis. Comments expressing a policy preference are noted and will be considered by the Commission as they contemplate final action.

No changes to the DEIR are necessary.

Commenter F8: Norton, Christa

Response to Comment F8-1

Your comment regarding the naturally limited harvesting season at False Klamath Rock for the Yurok Tribe is noted; however, the environmental analysis of the Proposed Project included such natural conditions in the baseline conditions. The Proposed Project would not have an adverse effect on these conditions or on harvesting as it relates to these conditions. No changes to the DEIR are necessary.

Response to Comment F8-2

This comment presents an area of disagreement over an impact conclusion. However, no evidence is offered to support that a different conclusion should be drawn. As such, no further response to the disagreement presented in the comment is necessary.

Commenter F9: Corrigan, Doug

Response to Comment F9-1

*See Response to Comment F8-2.*

Response to Comment F9-2

The primary purpose of the DEIR was to identify and analyze adverse environmental impacts reasonable likely to result from implementation of the set of MPA regulations encompassed under the Proposed Project or alternatives. The document was made available for public review to help identify factual errors and inaccuracies and to obtain information on environmental impacts from public agencies and the general public. Under CEQA, socioeconomic information has a very limited purpose, namely to help in the evaluation of the level of severity of environmental impacts. Socioeconomic impacts themselves are not subject to CEQA only those that lead to adverse environmental impacts. DEIR Appendix B, *Characterization of Consumptive Uses and Associated Socioeconomic Considerations in the Region*, does include relevant socio economic information used in the preparation of the DEIR.

Response to Comment F9-3

*See Master Response 4: Enforcement.*

Commenter F10: Bradshaw, George

Response to Comment F10-1

*See Master Response 1: Scope of the MLPA and Regulatory Authority and Master Response 3: Inadequacy or Application of Data Gathered During the MLPA Initiative Planning Process, and Adequacy of the Science Standard.*

Response to Comment F10-2

*See Master Response 4: Enforcement.*

Response to Comment F10-3

This comment contains statements not related to the environmental review published in the DEIR, but rather related to proposed MPA regulations and/or regulatory sub-options under consideration by the Commission as part of its current rulemaking process conducted pursuant to the APA. *See Response to Comment A1-6.*

Commenter F11: Corbett, John

Response to Comments F11-1 and F-11-2

*See Response to Comment F8-2.*

Response to Comment F11-3

Comment noted. The SAT considered salmon species (*Oncorhynchus kisutch*, *O. tshawytscha*, and *O. clarki*) to be species likely to benefit from MPAs in the Study Region based on a list of scoring criteria approved at their March 16-17, 2010 meeting (SAT 2009, 2010). The MLPA requires that species likely to benefit from MPAs be identified, and the Master Plan indicates that regional lists be developed by the SAT for each region of the coast.

This comment contains statements not related to the environmental review published in the DEIR, but rather related to proposed MPA regulations and/or regulatory sub-options under consideration by the Commission as part of its current rulemaking process conducted pursuant to the APA. *See Response to Comment A1-6.*

Response to Comment F11-4

*See Response to Comment F8-2.*

Response to Comment F11-5

*See Master Response 4: Enforcement.*

Response to Comment F11-6

*See Response to Comment F8-2.*