Comment Letter A

IN RE  MARINE LIFE PROTECTION ACT

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

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Char Flum        Ed Oberweiser     Carson Bell
Larry Knowles    Rex Gressett      Gabriel Maroney
Bill Maahs       Richard Charter   Elaine Charkowski
Terry d'Selkie   David Gurney      Judy Filer
Jeanine Pfeiffer Tomas DiFore
Tuesday, March 20, 2012 6:30 p.m.

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

PUBLIC COMMENTS

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

DAN HAMBERG: It's not the first time.

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

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

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

And in that letter of October 18th, 2011, the Board of Supervisors raised -- raised three issues that
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
24 And I think many of us on the coast feel really
25 reluctant to see a privatized enforcement system put
26 into place. I mean, the privatization of this entire
27
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.
A forth concern I have, which was not addressed in the board's letter last year, is with regard to the strange way in which the singularly important issue of takes has been handled throughout this process. While both commercial and recreational fishing, urchin, and abalone diving and seaweed gathering are specifically disallowed, nowhere is there a statement made that wave energy, aquaculture, or even oil and gas drilling should be banned. This has caused great unhappiness and distrust of the MLPAI process here in Mendocino County.

Another seeming anomaly is that the Fish and Game Commission has expressed -- or has not expressed a willingness to look at the designation of the Big River Estuary, which allows for waterfowl hunting. And I believe that's something that Bill Lemos is going to address later, so I won't go into it in any depth. But I do believe that this allowance is contrary to good sense. It's also contrary to both what the North Coast Regional Stakeholders Group and the Blue Ribbon Task Force have recommended.

The Mendocino County Board of Supervisors has taken a unanimous position in favor of the elimination of any hunting in the estuary. And we will continue to push the Fish and Game Commission for increased take restrictions in the estuary itself.
Thank you very much.

MR. STEVENSON: Thank you.

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

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

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

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

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

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

Okay. I'm going down to hydrokinetic projects. By the way, National Part Act is No. 6.32.

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

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

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

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

MR. STEVENSON: You have one minute left.

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

This is voting, 6.3.

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

The Navy plans to use sonar for its war equipment testing on the coastal areas. In fact, the Navy is coming to Ft. Bragg this coming Friday. They will be at Town Hall from 5:00 to 8:00. And they have full permits to use sonar and increase sonar on the coast of California. That has not been mentioned. That can cause whale disruption of mating patterns, food security, habitat selection. And this must be specified in the plan.
The economic harm to tourism, fishing, and visitors -- I know, I hear it. You can turn it off -- if marine mammals, fishing, etcetera, were to cease or to be damaged would be irreparable to our economy plus pretty irreparable to the whales.

Thank you.

MR. STEVENSON: Thank you.

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

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

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

But what I'm commenting on today are three SMCAs mainly -- MacKerricher, Van Damme and Russian Gulch -- which are not part of the unified array submitted by the North Coast Regional Stakeholder Group.
They were actually -- they are in the motion, I believe they are in the ECA, a motion put in by Virginia Strom-Martin on October 26, 2010 -- I'd be happy if I got this right.

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

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

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

This would be a classic example by the way of...
effort shift because as it is we've designed our take to really balance on the whole North Coast Region. Those are some primary access points, so having this restriction in take really could concentrate effort. And I think that's it for sake of time. Thank you for being here.

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

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

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

And we never had a problem fishing for salmon. In all the years we had a full season, had a big fleet.
And we first got shut off in the late -- late-'80s. They come down with the -- the statement Golden Rivers.

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

And I don't say anything I can't back up. I keep papers over there in case anybody doubts it. But, anyway, it's hard for me to imagine, because I always believed when I joined the Merchant Marines when 17 that -- I couldn't pass an army physical, because I had a hearing problem -- but I believed we had a government by the people and for the people, and I believed in liberty and justice. And I'm really unhappy with what they have done with the fishing industry.

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

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

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

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

But I do think the potential of our fisheries -- still the hatcheries are capable of doing what they were put there to mitigate the fisheries, because years ago they couldn't take somebody's business away and give it to somebody else, like they were doing the diversions.
So they put hatcheries there to mitigate to the fisheries. And a hatchery today, if they can afford to -- if they got 5,000 eggs of pink salmon to come up there, the big ones, and if they can produce -- if they don't get 90 percent hatch, they are doing something wrong. So they can grow enough fish to fill an ocean full of fish, but they are not going to do it when somebody wants to get rid of the fishing industry.

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

Okay. Thank you.

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

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

I'm owner of Ocean Harvest Sea Vegetable Company. I'm an artisanal seaweed harvester. I would like to address Chapter 4 regarding local kelp in the EIR. I believe the data that it is based on is flawed,
and it has been shown to be meritless during the entire MLPA process. Even the chair of the Science Advisory Team and several other scientists from the Science Advisory Team debated on why the bull kelp coverage -- it was seen daily on drives -- was not allowed into the current models. This data has been flawed from the very beginning.

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

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

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

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

So Dr. Jeanine Pfeiffer, followed by William Lemos.

JEANINE PFEIFFER: Hi. Welcome to our region. You may discover that a couple of our speakers here are a little testy because you missed out on hundreds of hours of comments by folks, and too often those comments were never transcribed. They were never acknowledged. Oftentimes they weren't even listened to or incorporated.

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

So the main concerns that I have as a scientist is where the Environmental Impact Report was not incorporating either verbal public comment or documentation that was provided during the process, or
wasn't using a sufficiently rigorous model.

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

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

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

So what may seem as not a significant impact on the macro scale is very much significant on the micro scale.
And here in Mendocino County, we have less than 90,000 residents. So any time a family household business is eliminated or crippled, it's a huge impact on us.

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

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

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

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

MR. STEVENSON: Thank you.

We'd like to next call up William Lemos,

followed by Ed Oberweiser.

WILLIAM LEMOS: Good evening. Thank you.
William Lemos.

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

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

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

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

So we're pleased to see the environmental review of the North Coast proposal for protected areas moving forward, and particularly pleased that the North Coast communities have converged in support for the
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.
I'm not going to get into the waterfowl issue tonight, but I will in my comments when I provide them later on in my written comments.

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

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

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

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

And we will identify minor factual corrections in our written comments correcting these errors, will strengthen the document. And I have about a three-page list of those minor errors that I will reference by section, most of which are in the southern bioregion.
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
exercises, or the introduction of dangerous wave
technology -- wave energy technology.

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

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

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

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

The range of alternatives considered does not
include prohibition of oil drilling, ocean floor mining,
fish farming, or wave energy machines from marine
protected areas. We have seen in the Santa Barbara
Channel, the San Francisco Bay, and Alaska, and in the
Gulf of Mexico oil drilling harms the ocean life.

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

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

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

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

Again, I urge that the MLPA be put on hold
until sufficient access to the Draft EIR has been given.
to the public and an accurate and scientific mapping of
the coast has been done.

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

Thank you.

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

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

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

What we're talking about with the Marine Life
Protection Act is a small step forward. This process is
being characterized by vilification, slander, by
misrepresentation by professional lobbyists who have
distorted and really destroyed public input. Mr. Martin
and Dr. Pfeiffer are paid lobbyists. They are not
private citizens. They have consistently controlled
this process with their money, their influence and their
connections. Vilification of process has become
I have heard people talk about oil and gas, I've heard talk about not trusting the process. But we must begin. And the Marine Life Protection Act is merely a way to begin. The people need to take this process back.

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

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

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

Mr. Martin drew every line on that map. The areas that we are -- that we are so upset about are a tiny fraction of what they should be.
If instead of everybody hacking away at the wheat, if we agreed that we would share the resource, that we would manage our ocean intelligently, we could have an abundant ocean.

UNIDENTIFIED SPEAKER: Any comments on the DEIR?

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

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

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

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

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

I think that the people should have a say in this. I don't think that you're shouting me down is
going to help anything. And I don't think we should shut up anybody, including those people that want to protect the ocean.

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

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

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

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

UNIDENTIFIED SPEAKER: Time.

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

UNIDENTIFIED SPEAKER: Boo.

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

Thank you very much.

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

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

RICHARD CHARTER: My name is Richard Charter.

And I have worked on behalf of protection for the
Northern California Coast since 1978. Thank you for coming here.

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

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

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

While the recognition granted to our state waters and our region under the proposed network of
Marine Protected Areas cannot directly ban offshore drilling here, the resulting protections can and will strongly discourage the state authorities from any consideration of lifting our existing state waters drilling moratorium within three miles from shore; and, in addition, these Marine Protected Areas will almost certainly help to dissuade federal agencies like the Department of Interior from federal offshore oil and gas leasing beyond three miles from shore due to a key element of the overarching Outer Continental Shelf Lands Act.

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

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

Thank you for your time.
MR. STEVENSON: I'd like to call up David Gurney, followed by Luana.

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

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

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

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

But this is false.

The head of the Western States Petroleum...
Association, Catherine Reheis-Boyd, was on the Blue Ribbon Task Force throughout the process to make sure no restrictions on oil or gas drilling or infrastructure were put into place for these Marine Protected Areas.

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

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

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

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

You have gone on to say that the unknown habitats, quote-unquote, in your EIR covers 127 square miles of this study region. That's 127 square miles that you have no idea what's going on in waters 100 feet or less; in other words, more than a quarter of the...
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.
6
7 Plus the head of your Science Advisory Team was
8 recently arrested on felony embezzlement charges, the
9 co-chair of the Science Advisory Team. How are we to
10 trust data coming from this kind of integrity?
11
12 I won't mention the mapping vessel that struck
13 the whale, illegally, unpermitted with no marine mammal
14 observer.
15
16 The Marine Life Protection Act falsely calls
17 itself an initiative, when an initiative is in fact a
18 process by which the people put something on a ballot to
19 be voted upon. This law was never voted upon by the
20 people of the State of California, nor was the private
21 -- privately funded implementation of this whole process
22 was not okayed by anyone.
23
24 I've gone through the 562 collecting permits
25 that are going to be okayed for our region, wanting to
26 throw all the fishermen off the water.
27
28 People in -- Gabriel -- Gabriel Maroney has
29 ceded his time, so I want to go a couple minutes over.
30
31 MR. STEVENSON: I'm sorry, you can't do that.
DAVID GURNEY: Yes, I can.

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

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

MR. STEVENSON: You can't do that.

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

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

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

UNIDENTIFIED SPEAKER: We've heard enough.

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

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

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

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

UNIDENTIFIED SPEAKER: David.

DAVID GURNEY: I want to object to this procedure right here. A gentleman has legally ceded -- ceded his time to me, four minutes. I want to speak a
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
deleted by June. And then you're going to -- or somehow another one is going to come up with -- a different one you said to replace it.

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

Thank you.

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

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

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

And that's not -- the decision, I just want to clarify also for the process, the Fish and Game
Commission at their June 6th meeting will make a
decision about the proposal and details that are in the
options in their proposal.

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

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

MR. STEVENSON: Thanks, Susan.

I'd like to call up Sheila Dawn Tracy, followed
by Jean Woolhisier.

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

It is well-documented that the process of
public participation and oversight has been corrupted by
overstepping your authority, the MLPA authority, using
intimidation tactics by having independent videographers
removed from the meeting, a violation of the
Bagley-Keene Act.

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

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

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

Also, the -- as Ed Oberweiser commented -- the Navy is going to come and talk to us about their proposed military exercises. I have a problem with the various state agencies or under the guise of the state authority not being in communication with the federal authorities. I really think that in something that affects this community that we really need to open up
1 communication between various state and federal
2 agencies.
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?
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.
15 MR. STEVENSON: Thank you.
16 We'd like to call up Jean Woolhisser, 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.
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.
And I do have a suggestion. You know, I've seen the intensity for nearly a decade that all of us, no matter which side we think we're on, and would it be possible to sign a little piece of paper when you sign in that says, hey, no personal attacks? I mean, would that help facilitate? And then you could just -- because running these meetings has been tough.

Bless you all.

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

GABRIEL MARONEY: Gabriel Maroney.

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

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 the subsistence of 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 by human beings respect for nature and nothing else.

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

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

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

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

Thank you.

MR. STEVENSON: We’d like to call up Elaine Charkowski.

ELAINE CHARKOWSKI: All right. I’ve been a resident of Fort Bragg for about four years. And I’m from Santa Cruz County, and I’m just overcome how...
beautiful it is up here.

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

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

I mean, we're all cutting off our nose to spite our face, and we're sitting here watching this monstrosity unfold. We're supposed to believe it's -- it's a Marine Life Protection Act? I mean, even the paper has raised that, you know, it's supposed to be, you know, taking comments about the possible impacts. I mean, it's ridiculous. All I can do is say we're not stupid, and none of us are fooled by this. And I don't blame these guys getting emotional about the ocean. I mean, it's all we have. I'm just disgusted at the corporate takeover of the world. But we're not fooled, and we all know what a bunch of baloney it is.
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 you 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
of the ocean. Does that make sense? I'm talking about
oil wells, I'm talking about mineral extraction, I'm
talking about wave energy, I'm talking about Navy sonar
demolition testing.

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

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

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

Could I ask that you go back and rewrite in
Chapter 3 an evaluation of those items that I've just
discussed? I would give you a couple of suggestions. And please stop me with my time, so I will try to make this in just three sentence. Address air pollution with Outer Continental Shelf oil leasing, because it will come. 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 to 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.

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 and shipping lanes, pipeline routes over geologic hazards. That's another thing that could be put in your report, is the existence of the -- the earthquake faults in our ocean here.

Fishing industry --

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

JUDY FILER: Okay. Let me just briefly say with fishing, oil pollution contain catches and reduce fish populations, platforms can reduce fishing grounds.
and some underwater structures may foul nets.

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

MR. STEVENSON: Thank you for your comments.

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

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

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

(Hearing adjourned 7:58 p.m.)

--oOo--
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 proceedings, nor in any way interested in the event of this cause, and that I am not related to any of the parties thereto.

DATED this_____day of______________, 2012

________________________________________
ROBIN KOOP, CSR No. 5270
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:
3. Responses to Comments

- 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;
3. Responses to Comments

- 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 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.

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 MPLA. 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.
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, pers. comm., 2011)

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


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 were 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 an 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

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Permits</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>1218 654</td>
</tr>
<tr>
<td>2003</td>
<td>1306 488</td>
</tr>
<tr>
<td>2004</td>
<td>1706 694</td>
</tr>
<tr>
<td>2005</td>
<td>1712 849</td>
</tr>
<tr>
<td>2006</td>
<td>1802 826</td>
</tr>
<tr>
<td>2007</td>
<td>1922 755</td>
</tr>
<tr>
<td>2008</td>
<td>1545 534</td>
</tr>
<tr>
<td>2009</td>
<td>166 606</td>
</tr>
<tr>
<td>2010</td>
<td>1342 385</td>
</tr>
<tr>
<td>2011</td>
<td>868 540</td>
</tr>
</tbody>
</table>

*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
3. Responses to Comments

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.
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.

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 benthic ocean zones.

Enforcement of the MLPA 6.23

The Fish and Game supervision of approximately 517 miles of the North Coast region is unrealistic 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 foreseeable future because of State budget shortfalls. This fact must be accounted for in the inadequate plans for enforcement of the MLPA.

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.

\Copies to the MLPA
and the Fort Bragg Advocate
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.
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

1. 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.² 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.² are "unknown substrata", in other words you don't know whether it's hard rocky bottom, sand, pebbles, Reefs or ???.

The EIR claims that this 127.9 mi.² 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.² 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?

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 bee 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.

What sort of effect will well 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 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.
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.

3. 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 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.

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

5. Private aquaria 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.

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.

   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.

   A. This "Public/Private process" engaged in improper notice of public meetings. The MLPAI 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 MLPAI 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 MLPAI "Initiative engaged in illegal financing of individuals, organizations, agencies, and government entities during their project. (In past days this was known as at bribery.)

E. The MLPAI 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 MLPAI 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.
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 mi² of 0-30m depth zone available in the Study Region, 127.9 mi² (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 door is Marine Conservation Area, which allows some take. There are other designations within the MLPA. This recommended exclusion is documented. At the very least Marine Reserves should have extensive development buffer areas.
Comment Letter D – Anonymous

Response to Comment D-1

See *Master Response 1: Scope of the MLPA and Regulatory Authority.*
3. Responses to Comments

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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.

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.

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.

FISHING INDUSTRY------OCS DEVELOPMENT CAN AFFECT THE FISHING INDUSTRY IN
SEVERAL WAYS. OIL POLLUTION CAN TAINT CATCHES AND REDUCE FISH
POPULATIONS, PLATFORMS CAN REDUCE FISHING GROUNDS AND SOME UNDERWATER
STRUCTURES MAY FOUL NETS.

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
APPEARANCES

MICHAEL STEVENSON, Principal
JILL M. SUNAHARA, Senior Associate
Horizon Water and Environment
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BECKY OTA
Habitat Conservation Program Manager, Marine Region
California Department of Fish and Game
1812 Ninth Street
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PUBLIC SPEAKERS

John Corbett Craig Strong
Steve Bradley Christa Norton
Mike Belchik Doug Corrigan
Jennifer Savage George Bradshaw
Alicia McQuillen
Charlene Storr
Wednesday, March 21, 2012 6:30 p.m.

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

PUBLIC COMMENTS

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

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

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

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

As has been the case with all our presentations, I will, as senior attorney, speak for all the Yurok presenters. These presentations are in the
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.
Second of all, we wanted to point out -- and we think it should be noted for the record -- that the LOP analysis, according to the Science Advisory Team, did not assess the levels of protection per take of one particular group of noncommercial users, e.g. traditional tribal use.

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

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

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

The very fact you can consider and the very fact that Fish and Game Commission adopted a provision for Native American resources is a sign that was a
misstatement of law, and they said that was an integral
part of the LOP. We are satisfied as long as it's duly
noted, or there's a footnote based upon what we've said
somewhere in the EIR that there was no assessment of
traditional native uses by the Science Advisory Team.

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

I'd like to introduce into the record a chart.

It's called "Reading Rock." And it has essentially a
24-hour day. And it says if you sleep eight hours, and
you work eight hours, and you take two hours to do all
your clothes shopping, showering, wash, eating,
shopping, going to family events and weddings, pretty
conservative, I can't do it that quick, and one hour to
harvest up to the maximum limits, that gives you only
five hours driving time.

And what the chart indicates is instead of the
whole State of California, the LOP assumption that it's
just a small area in the northwest corner of California,
and what that means is that it is the assumption that is
in there regarding that the take is the maximum amount
allowed by state and federal law, each and every day,
which is two million users in the marine reserve, is
impossible. It could not happen. And so we wanted to
troduce that into the record. And here, I've got one
for you, too.

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

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

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

MR. STEVENSON: John, your time is up.

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

MR. STEVENSON: Yes, of course.

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

Thank you.

MR. STEVENSON: Let us know if you would like
to speak again at the end.
Next up we have Steve Bradley, followed by Mike Belchik.

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

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

It's hard for me evaluate impact.

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

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

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

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

MR. STEVENSON: Thank you.
All right. So Mike Belchik is next, followed by Jennifer Savage.

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

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

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

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

The LOPs failed to take into account that large
stretches of the coast are already de facto state marine reserves due to inaccessibility, weather, and things like that.

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

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

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

Sir, what I found was a vast body of literature, hundreds of resources evaluating the effects of exclusion of humans, documenting often unpredictable results, oftentimes the opposite of what people expected, and embodying the concept of humans as part of
the ecosystem rather than something that needs to be protected, that the systems need to be protected from. 

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

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

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

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

When, in fact, the goals of the MLPA project, they are to protect the natural diversity, they are to
help sustain and conserve marine life and protect marine heritage, including the protection of representative habitats.

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

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

Thank you.

MR. STEVENSON: Thank you.

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


Regarding the proposed project, it was developed by local fishermen, business leaders, tribal representatives, and conservationists; supported by the Blue Ribbon Task Force and the Fish and Game Commission, as well as our state elected officials and all city and county governments in the North Coast Region.
The DEIR finds that the proposed project will yield the most substantial benefits to the State of California by protecting the most marine, wildlife and habitat, while also balancing the interests of a wide variety of stakeholders.

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

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

Thank you.

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

MS. STORR: I changed my mind.

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

ALICIA MCQUILLEN: Hello. My name is Alicia
McQuillen. And I'm the Marine Resource Coordinator for the Yurok Tribe, also a Yurok tribal member. I live at 60 Grace Lane in Crescent City, California. The Yurok Tribal office is located at 190 Klamath Boulevard in Klamath, California 95548.

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

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

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

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

Thank you.

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

CHARLENE STORR: Hello. I'm Charlene Storr.

4520 North Bank Road, Crescent City, California. Last
I wasn't going to make a comment, but then I realized I do want to make a comment.

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

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

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

So I do know that -- I like the maps, and it's really pretty, and all the colors, and all the designs and everything -- but you can't tie down that something is going to stay there in that one spot or not stay...
there in that one spot. Things move, as you know, and
the population moves, as you know. And the population
of Del Norte has increased greatly. And I can totally
understand that people coming in thinking they have
discovered this county haven't really discovered it
because we've been here. And we've been here and we
will always be here. And we are survivors and we will
not give up easily.

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

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

MR. STEVENSON: Thank you.

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

CRAIG STRONG: Hi. Craig Strong, 7700 Bailey
Road, Crescent City. And I was on -- a member of the
science team, as you know, and I've been following this
And I start off with a question, which is a follow-up to some of the other Yurok speakers. Is it was my understanding that we are were not addressing tribal uses simply because there is no legal infrastructure to set apart tribal traditional, ceremonial take from sport fishing. And therefore it was written in as sport fishing as sort of a placeholder.

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

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

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

One final comment is in spite of being on the
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
9 And this represents a compromise, that's all
10 I'm saying.
11
12 Thank you.
13
14 MR. STEVENSON: All right. I'd like to call
15 Christa Norton.
16
17 CHRISTA NORTON: Can everyone hear me from
18 here? Okay.
19
20 My name is Christa Norton, and I am with the
21 Yurok Tribe. And I'm very happy to be here tonight. I
22 put this presentation together to kind of give the DEIR
23 people, for lack of a term, I put this together in less
24 than eight hours to give you an idea of what we go
25 through in our tribal and ceremonial harvesting.
26
27 Okay. First off, this is False Klamath Rock,
28 the one in the very back. And it's basically seasonal,
29 seasonal closer. It's 300 feet in diameter around the
30 rock. And this rock is key during the low tides for
31 harvesting, ceremonial and traditional.
The closure is traditionally going to be through March, excuse me, March through August, which can potentially take two months of the gathering window away from the tribal harvesting.

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

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

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

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

Many of the Native Americans learn to watch for the PSP by watching the waves, the luminescence, the...
1 glow, and that came from the algae putting off this
glow.

And here we've just got our lovely sea foam
right off the rocks and the white caps themselves.
The best times for harvesting are your minus
one tides or lower. And you typically have less than 55
per year. In 2009 we had a total of 52 days; 2010 was
54, and 2011 was 48 days. These figures do not include
any bad weather, they do not include the 6-month
mandated quarantine or any extensions.

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

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

And in 2009 we had a 117 days where there were
a minimum of four hours of 9-foot or greater sustained
waves. That makes it very dangerous to go up on the
In November of 2009, we had a 94-hour period where you had 9-foot or higher waves. And November is one of our harvesting months.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

When we look at the 9-foot sustained waves
crossing over those harvestable opportunities, we've
lost another 12 days, leaving us nine days for

harvesting. So 83 percent of the opportunity to harvest
traditional and ceremoniously has been lost.

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

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

And here we have one of our deserted beaches
taken January 21, 2011, which was a harvesting day.

There's nobody out there.

Thank you.

MR. STEVENSON: Do we have anyone else would

who like to give a comment tonight?

Anyone else? Okay. Doug Corrigan.

DOUG CORRIGAN: Good evening, everybody. Can
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
article coming out of Southern California that Fish and
Game can't keep up with the enforcement or the
monitoring, the areas that are existing in this state
already.

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

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

Thank you.

MR. STEVENSON: Thank you.

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

George Bradshaw.

GEORGE BRADSHAW: How's it going guys?

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

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

And through all this I really didn't see, you
I don't understand where you guys are getting your facts allowing you to put this up here. Like he was just saying, there was already closures put in place. And my dad had a drag boat before that was bought out through the buyout process. And, you know, the drag it's also regulated up here already.

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

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

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

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

And what she was saying, the weather. I've been back from San Francisco, I've been back for the last month and I've been able to go out for six days.
And I mean that's it. I'm going to leave tonight at 3 o'clock in the morning, another weather system is going to come, and I have to be back in tomorrow evening. That's all we got, that weather window.

It's already so regulated and the pressure here is not like the pressure down below. It's not the same.

I don't understand how it can all be put together and, you know, and all the same.

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

MR. STEVENSON: Thank you.

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

JOHN CORBETT: John Corbett, 1801 Ocean Drive, McKinleyville, California. Second time commenting.

Very, very briefly.

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

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

Two, the local conditions that I wanted noted,
and I think are provided for in the ISOR, are exactly what were presented by Christa.

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

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

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

And if you think about the entire federal marine reserve system is based on the premise that such reserves do it. And the Fish and Game Commission has clearly decided to the contrary, because they have a 1-mile square marine preserve created by regulations at the mouth of the Klamath. Why? To protect salmon.
Lastly, a little bit on one of the speakers -- and I did want to say, the rough seas applies to everybody; commercial, sports. And we did want to make that clear.

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

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

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

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

So thank you for coming up. We appreciate it a lot. And we hope that these natural conditions are
properly noted in the record as a supplement to the SAT protection assumptions and specifically addressed in the EIR.

Thank you.

MR. STEVENSON: Thank you.

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

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

And other than that, have a wonderful evening.

Thanks a lot.

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

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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 proceedings, nor in any way interested in the event of this cause, and that I am not related to any of the parties thereto.

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


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.
3. Responses to Comments

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


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


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 socioeconomic 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 (Oncorhyncus 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.