MLPA Comments <mlpacomments@horizonh2o.com>

MLPA North Coast DEIS Comments

1 message

Mike Turek <turek_mike@yahoo.com> Thu, Apr 5, 2012 at 10:46 AM
Reply-To: Mike Turek <turek_mike@yahoo.com>
To: "MLPAcomments@HorizonWater.com" <MLPAcomments@horizonwater.com>
Cc: Mike Turek <mturek@fs.fed.us>

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

I would like to thank the California Department of Fish and Game and the MLPA's Science Advisory Team for their work on the DEIS and the opportunity to comment on this document. I have lived on the California North Coast for a little over two years and on the Pacific Northwest Coast for 27 years. I have conducted research on Native American resource management across North America. My professional experience includes 15 years as a Subsistence Resource Specialist with the Alaska Department of Fish & Game (ADF&G), Division of Subsistence in Southeast Alaska. In Alaska I conducted research on subsistence fishing and inter-tidal gathering by Alaska Natives and non natives. My work included interviews, fieldwork and surveys with Alaska subsistence harvesters in more than a dozen coastal communities from Yakutat to Prince of Wales Island. Marine and intertidal resources harvested by Southeast Alaska residents include harbor seals, Stellar sea lions, salmon, halibut, rockfish, herring and herring roe, eulachon, clams, mussels, seaweed, King and Dungeness crab. [i]

The ADF&G Division of Subsistence 30 years of statewide research has found that subsistence harvests are self limiting. Other researchers have come to the same conclusion. Subsistence harvesters take only what they need for their families, trade networks and ceremonial uses. Unlike commercial fishing (financial incentives) and sport fishing (striving to meet bag limits and catch trophy fish) there is no incentive to over harvest for subsistence fishers. Native American cultures also have social and religious/spiritual traditions which effectively limit harvests. Research has also found that indigenous peoples harvest techniques including gear types, harvest timing, and location of gear can result in sustainable harvests over long periods of time (Kittinger 2011, Taylor 1999).

M-1

High Harvester practices are another finding of the ADF&G Subsistence Division. Research has shown that Alaska Native subsistence fishing and hunting patterns include High Harvesters, individuals or family groups who take a significant percentage of the subsistence harvests. These harvests are then distributed within the harvesters' family, community and trade networks. High Harvesters are responsible for supplying subsistence resources for Elders, single heads of households and others who do not have the skills, equipment or the time to harvest for themselves. This tradition is widespread in Native American communities including the North Coast. Due to this tradition individual bag limits are inappropriate for Native Americans.

Based on a large body of evidence resource management agencies can no longer assume that subsistence takes are as potentially detrimental to resources as commercial and sport harvests are. Research on subsistence harvest and use patterns in Southeast Alaska, a region with Native American cultures similar to California's North Coast Native American cultures, supports John Corbett, attorney for the Yurok Tribe, comments published in the March 27, 2012 Triplicate, the "*level of protection assumption" used by the MLPA's Science Advisory Team overestimates the amount of fishing that could be done in the proposed marine reserves*."

The Yurok Tribe's comments to the DEIS (Appendix F) also lists significant natural constraints on marine and inter-tidal harvests including paralytic shellfish poisoning, high winds, closed roads and trails from tree fall, a limited number of very low tides, rough seas, turbidity, rain and extreme weather conditions.

I recommend that the California Department of Fish and Game and the MLPA's Science Advisory Team review

and correct their overestimates of the amount of fishing that could be done in the proposed marine reserves. A more thorough evaluation of Native American subsistence harvest and use patterns on the California North Coast is also necessary. M-1

Thank you,

Michael F. Turek
2257 Fern Street
Eureka, CA 95503
Email: turek_mike@yahoo.com

References

ADF&G Technical Papers

Brock, M. and M. Turek. Sitka Sound Subsistence Herring Roe Fishery, 2002, 2003, and 2006. Alaska Department of Fish and Game, Division of Subsistence Technical Paper No. 327. Juneau, AK. 2007.

Turek, M. F., Ratner, N. Simeone, W.E., Holen, D.L. Subsistence harvests and local knowledge of rockfish *Sebastes* in four Alaskan communities. Alaska Department of Fish and Game, Division of Subsistence Technical Paper No. 337. Juneau.

Turek. M. F., Pedersen, S., Ratner, N. and See, M. Steller sea lions *Eumetopias jubatus*: direct mortality by humans. Alaska Department of Fish and Game, Division of Subsistence Technical Paper No. 338. Juneau, AK. 2008.

Turek, M. F. Prince of Wales Island Subsistence Steelhead Harvest and Use Patterns. Alaska Department of Fish and Game, Division of Subsistence Technical Paper No. 293. Juneau. 2005.

M-2

Books

Keller, R.H. and M. F. Turek. 1998. American Indians & National Parks. University of Arizona Press, Tucson.

Kittinger JN, Pandolfi JM, Blodgett JH, Hunt TL, Jiang H, et al. (2011) Historical Reconstruction Reveals Recovery in Hawaiian Coral Reefs. PLoS ONE 6(10): e25460. doi:10.1371/journal.pone.0025460

Taylor, J.E. 1999. Making Salmon: An Environmental History of the Northwest Fisheries Crisis. University of Washington Press, Seattle.

[i] Anthropologists put Southeast Alaska's Tlingit and Haida Indians into the Northw est Coast Cultural group, a group w hich also includes the Yurok and Tolow a Indians.

MLPA North Coast CEQA Comments04022012.pdf
148K

Comment Letter M – Turek, Mike

Response to Comment M-1

See *Master Response 6: Levels of Protection (LOP).*

Response to Comment M-2

See *Master Response 5: Natural Constraints and Baseline Conditions.* The references listed in the comment letter provide further support of baseline conditions and do not substantially change the conclusions of the EIR.

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MLPA Comments <mlpacomments@horizonh2o.com>

Re: [MLPA Initiative] Draft Environmental Impact Report Now Available for Proposed North Coast MPAs

1 message

David Gurney <jugglestone@comcast.net> Fri, Mar 9, 2012 at 4:42 AM
To: MLPA Comments <mlpacomments@horizonwater.com>
Cc: John Lewallen <lewallen@mcn.org>, Barbara <babs@mcn.org>, Dan Bacher <danielbacher@fishsniffer.com>, Norman de Vall <ndevall@mcn.org>, workingforpeace@gmail.com, Char Flum <cflum@mcn.org>, Elaine and Ed <elained@mcn.org>, David Gurney <jugglestone@comcast.net>

Dear Pam,

We are not able to adequately review the EIR for the MLPA North Coast Study Region without a full, printed copy of the document. The cost you have mentioned is burdensome and prohibitive.

Please consider this a formal complaint against this EIR process, for the denial of access for public review of this document, by your refusal to provide these printed materials without exorbitant charges.

N-1

Sincerely,

David Gurney
Chairman
Ocean Protection Coalition
Fort Bragg, CA

On Mar 8, 2012, at 12:54 PM, MLPA Comments wrote:

> Dear Mr. Gurney,
>
> We are sending you a CD in today's mail to the PO Box listed below. I am sorry, but we are not able to provide a printed copy due to the cost. The CD contains separate pdfs of the main body of the draft EIR and each appendix. You can have a print made from the CD at a Fedex/Kinkos or another printing service.
>
> Sincerely,
>
> Pam
>
> On Wed, Mar 7, 2012 at 3:22 PM, David Gurney <jugglestone@comcast.net> wrote:
>
> > Dear Pam,
> >
> > Please also send the CD copy of the document mentioned to the listed address. Thanks again,
> >
> > David Gurney
> >
> > ---
> >
> > Dear Pam,
> >
> > We cannot afford the $150 for the Draft Environmental Impact Report for Proposed North Coast Marine Protected Areas.

Some of the members of our community do not have computer access, and travel to library with limited time access is burdensome to adequately review the document.

We believe you are legally obligated to supply at least one copy of this document, to be freely accessed by this community, free of charge.

Sincerely,

David Gurney
Co-Chair,
Ocean Protection Coalition

Dear Mr. Gurney,

I apologize for not mentioning this in my previous email, but we need to charge the printing costs and postage. We are still figuring out the exact price. I can estimate that it will be about $150 dollars. It is a very large and heavy document. I can offer to send you the files on a CD for no charge. That way you can easily access them on your computer if you are having difficulty downloading from the MLPA website (http://www.dfg.ca.gov/mlpa/northcoast.asp).

Additionally, there are printed copies available to review during regular business hours at:

- California Department of Fish and Game, 619 Second Street, Eureka, CA 95501
- California Department of Fish and Game, 32330 N. Harbor Drive, Fort Bragg, CA 95437
- Del Norte County Library, Crescent City Branch, 190 Price Mall, Crescent City, CA 95531
- Del Norte County Library, Smith River Branch, 241 First Street, Smith River, CA 95567
- Humboldt County Eureka Branch Library, 1313 Third Street, Eureka, CA 95501
- Humboldt County Trinidad Branch Library, 463 Trinity Street, Trinidad, CA 95570
- Humboldt County Hoopa Branch Library, 10 S. Loop Road, Hoopa, CA 95546
- Humboldt County Ferndale Branch Library, 807 Main Street, Ferndale, CA 95536
- Humboldt County Fortuna Branch Library, 753 14th Street, Fortuna, CA 95540
- Humboldt County Rio Dell Library, 715 Wildwood Avenue, Rio Dell, CA 95562
- Mendocino County Ukiah Branch Library, 105 N. Main Street, Ukiah, CA 95482
- Mendocino County Willits Branch Library, 390 E. Commercial Street, Willits, CA 95490
- Mendocino County Round Valley Library, 23925 Howard Street, Covelo, CA 95428
- Mendocino County Fort Bragg Library, 499 East Laurel Street, Fort Bragg, CA 95437
- Mendocino County Coast Community Branch Library, 225 Main Street,

Point Arena, CA 95468
- Sacramento County Public Library, 828 I Street, Sacramento, CA 95814

Please respond if you would like a CD mailed to you.

Sincerely,

Pam

On Mar 7, 2012, at 1:10 PM, MLPA Comments wrote:

Dear Mr. Gurney,

We have received your request. We will send you 2 printed copies as soon as possible.

On Wed, Mar 7, 2012 at 9:57 AM, David Gurney <jugglestone@comcast.net> wrote:

Mar. 7, 2012

Greetings,

This is a formal request on behalf of the Ocean Protection Coalition for two (2) printed copies of the Draft Environmental Impact Report for Proposed North Coast Marine Protected Areas, to be mailed to the following address as soon as possible:

Ocean Protection Coalition
c/o David Gurney
P.O. Box 2150
Fort Bragg, CA 95437

Thanks very much for supplying these materials,

Sincerely,

David Gurney

On Mar 5, 2012, at 11:29 AM, Melissa Miller-Henson wrote:

Please see message below from the California Department of Fish and Game regarding the draft environmental impact report for proposed marine protected areas on the north coast.

From: DFG News [mailto:DFGNEWS@dfg.ca.gov]
Sent: Friday, March 02, 2012 10:05 AM
To: DFG News
Subject: Draft Environmental Impact Report Now Available for Proposed North Coast Marine Protected Areas

California Department of Fish and Game News Release
March 2, 2012

Media Contacts:
Susan Ashcraft, Department of Fish and Game, (916) 445-6451
Adrianna Shea, California Fish and Game Commission, (916) 653-4899
Jordan Traverso, Department of Fish and Game, (916) 654-9937

Draft Environmental Impact Report Now Available for Proposed North Coast Marine Protected Areas

A Draft Environmental Impact Report (DEIR) is now complete for the Marine Protected Area (MPA) proposals covering California's North Coast Study Region. A 45-day public comment and review period will run through April 16.

The DEIR analyzes the potential environmental impacts of the MPA proposal currently under consideration for this area, which extends from Alder Creek, Near Point Arena in Mendocino County, to the California/Oregon border. The DEIR also analyzes two project alternatives. The MPA proposals are part of the larger Marine Life Protection Act (MLPA) process, which will create new MPAs along the length of California's coastline.

The DEIR was prepared by the California Fish and Game Commission with assistance from the California Department of Fish and Game (DFG) as part of the required environmental review process under the California Environmental Quality Act. The process began in September 2011 with a public scoping phase, during which DFG solicited comments on the range of issues and type of information that should be considered in the DEIR. These comments helped to shape the content of the DEIR released this week.

The DEIR is now available to the public on DFG's website at http://www.dfg.ca.gov/mlpa/impact_nc.asp. Printed copies of the DEIR and related documents are available at the following

public library locations: Del Norte County's Crescent City Branch and Smith River Branch libraries; Humboldt County's Eureka Branch, Trinidad Branch, Hoopa Branch, Ferndale Branch, Fortuna Branch, and Rio Dell libraries; Mendocino County's Ukiah Branch, Willits Branch, Round Valley, Fort Bragg, and Coast Community Branch libraries; Sacramento County Public Library; and at the following DFG field offices:

• California Department of Fish and Game: 619 Second Street, Eureka, CA 95501 (707-445-6493);
• California Department of Fish and Game: 2330 N. Harbor Drive, Fort Bragg, CA 95437 (707-964-9078).

PUBLIC HEARINGS: Three public hearings will be held for the public to present written and/or verbal comments on the DEIR at the following locations and times:

• Fort Bragg: Tuesday, March 20, 2012 from 6:30 to 8:00 p.m. at the Fort Bragg Town Hall (363 N. Main Street, Fort Bragg, CA 95437);
• Crescent City: Wednesday, March 21, 2012 from 6:30 to 8:00 p.m. at the Del Norte County Board Chamber Building (981 H Street, Crescent City, CA 95531); and
• Eureka: Wednesday, April 11, 2012 at the Red Lion Hotel (1929 Fourth Street, Eureka, CA 95501). Note that this is a Commission meeting, at which public comments on the proposed MLPA regulations and the DEIR will be received.

Written comments may be mailed to the following address:

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

Comments may also be submitted via e-mail to MLPAcomments@HorizonWater.com. E-mailed comments must include "MLPA CEQA Comments" in the subject line.

All comments (mailed or e-mailed) must include the commentor's name, address and daytime telephone number.

All comments must be post-marked no later than 5 p.m. on April 16 in order to be considered for inclusion in the Final EIR.

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Please do not reply to this e-mail. DFGNews@dfg.ca.gov is for outgoing messages only and is not checked for incoming mail. For questions about this News Release, contact the individual(s) listed above. Thank you.

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MLPAInitiative@lists.ceres.ca.gov
To subscribe, unsubscribe, or change list options please visit:
https://lists.ceres.ca.gov/cgi-bin/mailman/listinfo/mlpainitiative

Comment Letter N – Gurney, David

Response to Comment N-1

See *Response to Comment A8-8.*

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MLPA DEIR COMMENTS
4/6/2012

My name is Terry d'Selkie, owner of Ocean Harvest Sea Vegetable Company. I am an artisanal seaweed harvester for over 14 years, and a resident of Mendocino County.

<u>My first comments address Chapter 4-6 bull whip kelp</u>. The data this DEIR is based on is flawed and has been shown as being meritless during the MLPA meetings. Even the chair of the science advisory team, and several other Scientists from the science advisory team debated about why the bull kelp coverage being seen daily on drives, was not allowed into the current models. This data has been flawed from the beginning. O-1

My comments and the testimony I made as an artisanal seaweed harvester throughout the MLPA process, are included <u>nowhere</u> in the DEIR especially in subsection 4.6 Kelp Canopy Coverage (pages 4-30) The missing data in this table could be partially reconstructed with the assistance of local experts, via urchin divers and artisanal seaweed harvesters, who have commented on earlier visual presentations of this data several times (Ft. Bragg lecture Dr. Karina Nielsen.) O-2

In appendix C, kelp beds are largely absent from the 23 maps in this appendix. I want to know why. O-3

<u>My second comment is about the analysis of potential effort shift described in Section 4.4</u> which is based on an unscientific model which assumes stasis, homogeneity, and even distribution for key variables that in reality are dynamic, heterogeneous, and unevenly distributed. O-4

<u>My final comment is about the erroneous assumption that the NCSR coastline contains "abundant areas for subsistence fishing and gathering" beyond the proposed marine protected areas (MPA's).</u> There are in fact, limited areas that are accessible by shore for fishing and gathering. This was known by the department as well as by the science advisory board and the regional stakeholders. I want to know why this language is included in this DEIR when it is false. O-5

Comments submitted without hope for change,

Terry d'Selkie
1180 Hoe Road
Ukiah, CA 95482
(707) 694-9496
Ocean Harvest Sea Vegetable Company

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Comment Letter O – d'Selkie, Terry

Response to Comment O-1

Refer to *Response to Comment A5-1*.

Response to Comment O-2

Kelp information is adequately covered within the DEIR for the evaluation of potential environmental impacts by the proposed and alternative projects. Comments made during the MLPA planning process were specific to MPA planning and are not specifically addressed through CEQA. This comment is not related to the adequacy of the DEIR and no further response is warranted.

Also, see *Response to Comment A5-1.*

Response to Comment O-3

Refer to *Response to Comment A5-1*.

Response to Comment O-4

Refer to *Response to Comment A6-2*.

Response to Comment O-5

The comment references text of *Impact EJ-2: Reduced Subsistence Fishing Opportunities for Non-Tribal Minority and Low-income Groups, and Isolated Communities* in the third paragraph of page 6.6-20 in DEIR Chapter 6, Section 6.6 *Environmental Justice*.

Text in the second paragraph on the same page (6.6-20), immediately above the paragraph the comment highlights, recognizes the inaccessible and rugged coastline of the Study Region. For reference, this text is provided below:

> In general, the shoreline throughout the Study Region is inaccessible owing to the ruggedness and undeveloped nature of the region. The proposed shoreline MPAs minimally overlap with existing public coastal access points and would exclude a small portion of the Study Region (less than 13%) from recreational take (including subsistence fishing) opportunities. Potential effects of reduced recreational access from the Proposed Project are discussed in Section 6.3, "Recreation," and these impacts would similarly affect subsistence fishers. Upon implementation of the Proposed Project, subsistence fishers would still have many options available for fishing and gathering within the Study Region.

The DEIR recognizes that there are limited public coastal access points throughout the entire Study Region, including locations of access for seaweed harvesting and other forms of take. Impact EJ-2 notes that the Proposed Project would minimally overlap with existing public coastal access points. Further, as stated in Section 6.3 *Recreation*, in *Impact REC-1: Physical Deterioration of Coastal Beaches/Waters and Recreational Facilities*, proposed take restrictions in the Study Region would be established: 1) offshore (Point St. George Reef SMCA, Reading Rock SMR, Mattole Canyon SMR) where shore-based take would not be affected; 2) in existing MPAs (MacKerricher SMCA, Point Cabrillo SMR, Russian Gulch SMCA,

Van Damme SMCA) where take activities are already restricted; 3) in remote areas or adjacent to private property (South Cape Mendocino SMR, Double Cone Rock SMCA) where access for shore-based take activities would be limited based on geography or property ownership; and 4) adjacent to existing national, state, or county parks where shore-based take activities may be restricted by other regulations. In summary, the amount of coastline that would limit shore-based take activities under the Proposed Project is far less than 13%.

Note that CEQA does not require evaluation of socioeconomic or environmental justice-related impacts. However, the Commission evaluated economic and social effects in the DEIR to identify potential indirect physical impacts on the environment due to changes or displacement in commercial and recreational consumptive use resulting from the Proposed Project. The Environmental Justice evaluation presented in Chapter 6, Section 6.6 is specifically focused on potential disproportionate effects on minority or low-income populations. Within the North Coast Study Region, disadvantaged populations are tribes and tribal community members, minority groups, low-income groups, and isolated communities. The evaluation of these populations did not identify substantial adverse impacts resulting from the Proposed Project that would indirectly impact the physical environment. No evidence to support claims that these findings are inaccurate has been submitted to the Commission. No changes to the DEIR are necessary.

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
California Coastal National Monument
400 Natural Bridges Drive
Santa Cruz, California 95060
Telephone: (831) 421-9430

In Reply Refer To:
1610 (P)
CA-939

April 6, 2012

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

RE: MLPA North Coast Marine CEQA Comments

Dear Commissioners:

I am writing once again in support of the Special Closures associated with the North Coast Marine Life Protection Act (MLPA) initiative. As the manager of the California Coastal National Monument, I strongly support all seven Special Closures identified in the draft environmental impact report and that have come out of the public process and passed on by the Blue Ribbon Committee for consideration for approval by the Commission. All seven of the Special Closures involve rocks or islets that are either within the California Coastal National Monument (CCNM) or partially connected with the Monument (See my letter to the Commission, dated January 28, 2011, for specific comments regarding the seven proposed Special Closures and their relation to the CCNM).

California's North Coast is a critical area for breeding seabirds, supporting the largest concentrations of breeding seabirds in the contiguous United States outside of the Farallones. The rocks and small islands of the CCNM in the North Coast provide breeding habitat for a fair portion of this critical seabird breeding area. These rocks and small islands also provide important haul out areas and rookeries for pinnipeds, especially the federally listed Sellar's Sea Lion. The seven Special Closures help with the protection of some of the key areas for these species. P-1

As a reminder, the California Coastal National Monument is one of the Nation's most unique national monuments. It consists of more than 20,000 rocks, small islands located off the 1,100 miles of the California coastline. Under the responsibility of the United States Department of the Interior's Bureau of Land Management (BLM), the CCNM is part of the National Landscape Conservation System. The Presidential Proclamation that established the CCNM in January 2000 specifically directs the protection of the geologic formations and the habitat that these rocks and small islands (i.e., the portion above mean high tide) provide for seabirds, marine mammals, and other plant and animal life, both terrestrial and marine. In addition, the Presidential Proclamation recognizes the CCNM as containing "irreplaceable scientific values vital to protecting the fragile ecosystems of the California coastline."

The CCNM Resource Management Plan (RMP), which provides the "blueprint" for the management of the CCNM and was completed in September 2005, identified "protecting the CCNM resources and resource values" and "seabird conservation" as two of the six CCNM major implementation priorities. We are, therefore, very supportive of the concept of Special Closures associated with MLPA marine protected areas along California's North Coast region since this concept is consistent with these two CCNM priorities.

I participated on the North Coast Special Closure Work Group with two formal CCNM stewardship partners – the Trinidad Rancheria and the Yurok Tribe – and a variety of other organizations representing the various interests of the North Coast MLPA Shareholders Committee. Although a number of compromises were made that eliminated some of the North Coast's important seabird colonies and pinniped areas, we all agreed on the remaining seven proposed Special Closures. These seven consist of five that are primarily for seabird colonies and two that are primarily for Stellar's sea lion rookies. For a region that contains some of California's most critical seabird colonies and important Stellar's sea lion areas, seven Special Closures are a very small number for such a critical region. P-1

I, therefore, strongly support all seven of these Special Closures as a needed effort to help protect the dwindling seabird habitat and key haul-out areas for pinnipeds along the California coast. I also see the use of Special Closures as a means of applying a more holistic approach to the MLPA's marine protected areas, provides an important tool for helping protect critical seabird and pinniped habitats. The use of this tool will demonstrate that the MLPA initiative is truly an ecosystem approach.

If you have any questions or would like additional information, please contact me at (831) 421-9430 or via e-mail at hhanks@blm.gov.

Sincerely,

/s/ Herrick E. Hanks

Herrick E. Hanks
Monument Manager

cc: Lynda Roush
Field Manager
Arcata Field Office
USDI Bureau of Land Management
1695 Heindon Road
Arcata, CA 95521-4573

2

Comment Letter P – Hanks, Henrick

Response to Comment P-1

Comment expressing support for the Proposed Project and rulemaking is 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.

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CALIFORNIA DEPARTMENT OF FISH AND GAME: MARINE LIFE PROTECTION ACT-NORTH COAST STUDY REGION

Draft EIR- Comment Form

Name: DOUGLAS V. CORRIGAN

Group/Organization (optional):

Mailing Address: 2591 ELK VALLEY RD, CRESCENT CITY, CA 95531

Telephone No. (optional):

Email (optional): corrigad@charter.net

Comments/Issues: LAWS AND REGULATIONS PUT INTO PLACE SINCE the 1999 MLPA WAS PLACED INTO LAW WERE GENERALLY NOT CONSIDERED IN this Phoney AND illegal process. These were LAWS THAT included Depth RESTRICTIONS, GEAR RESTRICTIONS, shorter SEASONS, POSSESSION RESTRICTIONS, etc. NO manpower from California Fish AND GAME will be AVAILABLE for Enforcement or monitoring. MASSIVE Commercial fishing Restrictions including the 2003 COMMERCIAL Vessel permit BUYOUTS. 2008 GROUND fish Restrictions, the fishing RESTRICTIONS of the MAGNUSON-Stevens Fishery AND MGT. ACT WERE NOT Considered. ALSO NOT Considered WERE Reduced BAG LIMITS, IN SEASON Closures, Reduced Hook AND LINE COMMERCIAL operations. I think OUR COMMUNITY has Given up Enough!

CONSIDER - CRAP IN SCIENCE produced MORE RESTRICTIONS ...

Q-1

Q-2

Q-3

Please use additional sheets if necessary.

SUBMIT WRITTEN COMMENTS (POSTMARKED BY APRIL 16, 2012) TO:

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

EMAIL: MLPAcomments@HorizonWater.com

Questions? Please email us or visit our website: www.dfg.ca.gov/mlpa

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Comment Letter Q – Corrigan, Douglas

Response to Comment Q-1

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.*

The MLPA expressly states that MPAs and fisheries management are complementary. (Section 2851[d]). Similarly, the Marine Life Management Act (MLMA) declares that conservation and management programs "prevent overfishing, rebuild depressed stocks, ensure conservation, facilitate long term protection and, where feasible, restore marine fishery habitats." (Section 7055[b]; see also Section 7056[b], [c]).

Although MPAs and fisheries management are complementary, they are not equivalent. The purpose of habitat protection in the MLMA is to advance the "primary fishery management goal" of sustainability (Section 7056). Moreover, that which is being managed is a specific fishery—which may be based on geographical, scientific, technical, recreational and economic characteristics (Section 94)—and so may only provide limited protection of a particular habitat.

Conversely, although the MLPA considers fishery habitat (Section 2851[c], [d]), it also encompasses broader, ecosystem-based objectives that are not limited to *only* fishery management. If only existing fishery conservation and management measures were considered in designing the MLPA networks, then arguably only some of the ecosystem goals and objectives might be met. Other goals and elements would be undervalued (e.g., improving "recreational, educational and study opportunities provided by marine ecosystems" and protecting "marine natural heritage...for their intrinsic value" (Section 2853[b]). The MLPA also states that one of the purposes of the marine reserve component is to generate baseline data that allows the quantification of the efficacy of fishery management practices outside the reserve (Section 2851[e], [f]). This would be difficult to implement if the MPA design itself must consider those very same existing conservation and management measures.

Moreover, it is important to remember that the MLMA is the most comprehensive revision of state marine fishery management procedures in history. The subsequent enactment of the MLPA the following year strongly suggests the Legislature recognized that fishery conservation and management measures alone were inadequate to the task of broad ecosystem protection. Finally, had the Legislature intended existing fishery conservation and management measures to be considered in designing MPAs, then it plainly would have said so, as it did in the MLMA (Section 7083). As it is, the fact that the MLPA allows the Commission to "regulate commercial and recreational fishing and any other taking of marine species in MPAs" (Section 2860(a)) strongly suggests that fishery measures are not intended to be considered in the design of MPAs but may in fact be subject to limitations beyond those already existing under fishery management regimes. Thus, while the design of fishery management measures should properly consider the existence of MPAs, the reverse is not true.

The conclusion that existing fishery management measures are not properly considered in designing MPAs is further bolstered by three "real world" considerations. First, the direction from the Legislature is to use "the best readily available information" and studying the interaction of existing fishery management practices would add another dimension of complexity that retards, not facilitates, the process. Second, the subject of interaction with existing fishery management processes reflects exactly the kind of "scientific uncertainty" acknowledged by the Legislature when it authorized the application of adaptive management to the MLPA process. Third, the unfortunate reality is that existing fishery management processes do not always work. Indeed, as evidenced by the disastrous collapse of the west coast groundfish and the red abalone fisheries, they can fail entirely. Fishery conservation and management measures alone do not necessarily guarantee either fishery sustainability or ecosystem health.

Nevertheless, to the extent practicable, information on existing fisheries management measures was considered in the development of siting alternatives. Presentations were made by Department and federal fisheries management experts, data on the locations and types of existing measures were provided, and changes were made to various proposals in response to comments on other ongoing management. The fact that the final siting alternatives overlap significantly with existing fisheries closures is one indication of the efforts taken to prevent duplication of protection while still meeting the MLPA goals described above.

Response to Comment Q-2

See *Master Response 4: Enforcement*.

Response to Comment Q-3

See *Response to Comments A1-6 and Q-1*.

CARMEL J. ANGELO
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COUNTY OF MENDOCINO
BOARD OF SUPERVISORS

April 10, 2012

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

MLPA North Coast CEQA Comments
c/o Horizon Water and Environment
PO Box 2727
Oakland, CA 94602

Dear Regional Manager Vojkovich:

The Mendocino County Board of Supervisors has been involved in **two** of the study regions covered by the Marine Life Protection Act Initiative (MLPAI): the *North Central Coast Study Region* (NCCSR) covering our southern border to Point Arena, and the *North Coast Study Region* (NCSR) covering Point Arena to our northern border.

Unlike the divisive and contentious process evidenced in the NCCSR, the decision-making process for the MLPAI in the NCSR achieved widespread consensus amongst civic, Tribal, and non-governmental organizations for a unified proposal now referred to as the *Revised North Coast Regional Stakeholder Group MPA Proposal*, or the "Preferred Alternative" in the Draft Environmental Impact Report (DEIR). R-1

We reaffirm our support for the Preferred Alternative, and urge the Department of Fish and Game (DFG) to adopt this proposal, and to work closely with North Coast communities, including Tribes and Tribal communities, in future stages of implementation, monitoring, and evaluation of the marine protected areas (MPAs).

The inclusion in the MPAs of protections ensuring the Tribes' continued traditional use of marine resources is the result of widespread support from all sectors of the North Coast. The DEIR lists ten federally recognized Tribes in Mendocino County that will have continued access to six State Marine Conservation Areas (SMCAs) on the North Coast for the purposes of traditional, non-commercial gathering, harvesting, and fishing of marine species. R-2

As part of our involvement in the MLPAI, we would also like to take this opportunity to review key issues raised by Mendocino County constituents following their review of the Marine Life Protection

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Act, North Coast Study Region, Draft Environmental Impact Report, dated and distributed in March 2012.

We have four areas of commentary: (a) the scope of the MLPAI; (b) the science of the MLPAI; (c) the enforcement of the MPAs; and (d) the economic impacts of the MPAs. Although we recognize that the CEQA process may not be able to address all of our concerns at this time, we trust they will be entered into the public record for future consideration.

(a) SCOPE. According to the 1999 Marine Life Protection Act, "[t]he primary goals of the MLPA are to protect marine life and habitats, marine ecosystems and marine natural heritage…" Mendocino County residents of the NCSR are deeply and passionately connected to the ocean and coastal resources, and are concerned that the Mope's implementation does not go far enough in protecting the ocean.

From the beginning of the MLPAI process, constituents have asked how the MLPAI will address potential impacts of anthropogenic activities potentially far more damaging to the region such as water diversions, oil and gas drilling and transport, seabed/sand mining, military exercises (especially those involving hazardous materials), naval sonar and other forms of acoustic pollution, hydrokinetic power projects (e.g., wave energy), aquaculture projects (and accompanying pollution and escapement) or other forms of industrial development, as well as non-point source pollution (e.g., from "recreational" users who spread non-biodegradable litter and from multiple legal and illegal forestry and agricultural operations). R-3

For example, one of our Regional Stakeholder Group members, Skip Wollenberg, proposed the following wording to be included in Southern Bioregion MPAs:

> "State Waters shall not be occupied by seafloor pipelines and/or sub-seabed slant holes to transport hydrocarbon products from offshore sedimentary basins."

We hope to continue to work on identifying ways in which these significant anthropogenic activities can be prevented from having negative and irreparable impacts on the MPAs established in our region.

(b) SCIENCE. The *Draft Strategy for Public Participation in the MLPA North Coast Study Region* (DFG 2010) outlined a protocol for "joint fact-finding" to collaboratively develop a common knowledge base with constituents. However, formally structured encounters between academic and local experts did not take place during the Marine Life Protection Act Initiative (MLPAI) process in our region. The persons appointed as regional stakeholders did their best, yet that group of 32 individuals represented a limited portion of community expertise. This loss underlies much of what is missing from the DEIR. R-4

The DEIR is based primarily on written archival material and reports provided by the DFG, as evidenced in Chapter 10 (References). As such, it omits critical content contained in hundreds of hours of expert testimony provided verbally during MLPAI meetings in the North Coast Study Region (NCSR), most of which was never documented, and often neither acknowledged nor responded to within the scope of the meetings.

Specifically, the DEIR acknowledges the potential for urchin barrens but does not effectively address their environmental impacts and food web repercussions when MPAs are closed to urchin harvesting R-5

in the absence of predators, or how to avoid their creation (Page 4-48); or the impact from "effort shift" in both commercial and recreational fishing, most especially for abalone. Mendocino County is one of the only regions in the world with sustained populations of abalone, yet these populations are potentially threatened by "effort shift" from the North Central Coast Study Region (NCCSR) to the southern portion of the NCSR due to recent closures and MPAs established in the NCCSR. R-5

Scientifically, some of the most troubling omissions in the Draft EIR include:

- the analysis of potential "effort shift" described in Section 4.4 is based on a model which assumes stasis, homogeneity, and even distribution for key variables that in reality are dynamic, heterogeneous, and unevenly distributed. Implementation of the proposed MPAs will cause disproportionate and uneven "effort shift" across the NCSR, due to dynamic weather conditions, highly heterogeneous substrate, and the constantly changing distributions of marine species and vegetative (seaweed) habitat. R-6
- the lack of a comprehensive analysis of the impacts of limiting access to marine resources by Tribes, Tribal communities, and subsistence harvesters. We support continuing efforts from the California Tribes and Tribal communities, and the DFG, to work together to find solutions that ensure the Project does not impact the diverse and culturally important traditional tribal gathering practices found throughout the North Coast Region. R-7
- an erroneous assumption that equal opportunities existed for involvement in an internet-centric MLPAI planning process where most constituents had to drive 4-16 hours round-trip to attend meetings where they were limited to contributing three minutes of commentary. R-8
- an erroneous assumption that the NCSR coastline contains "abundant areas [for] subsistence fishing and gathering" beyond the proposed marine protected areas (MPAs), despite significant barriers to access including severe weather and wave conditions, lack of roadways along remote regions of coastline, and seasonal, geographical, and species-specific closures . R-9

(c) ENFORCEMENT. The current MPA configuration anticipates that the proposed MPAs, existing within 517 statue miles of shoreline (225 statue miles), would be patrolled by a total of 19 wardens assigned to the region. This averages out to approximately 27 miles of shoreline per warden. Stakeholders have repeatedly expressed their deep concern that this level of enforcement is inadequate. With the addition of more, and more extensive MPAs to the region, we anticipate potential biological impacts of the loss of enforcement capacity that may be an unavoidable result of adding significantly to the workload of the wardens; e.g. wardens on patrol enforcing the MPA regulations are not available to address poaching, trafficking, and water pollution. We are aware that local Tribes have expressed a willingness to partner with the DFG to help meet this need. We strongly support the Tribes in this regard. R-10

(d) ECONOMIC IMPACT. We applaud the inclusion of environmental justice in Section 6.6. Yet this section does not fully address the environmental justice issues faced by constituents in the NCSR. What may appear to be an insignificant macroeconomic impact in a large-scale analysis translates to a significant microeconomic impact in a County with less than 90,000 residents that has been hard-hit by recession. Small-scale family fisheries, which are a substantial portion of the currently viable and sustainable fisheries in Mendocino County, could suffer significant impacts due to displacement effort, as detailed in Section B.3.1 in this EIR. It is also fair to note that small family fisheries were represented in the NCRSG and assisted in the development of the Unified Proposal. R-11

Lastly, echoing the words of a frustrated constituent, providing a handful of printed copies of a 914-page document for the entire population of the northern Mendocino County coastline; copies that were only available at public libraries open a few days a week, or a DFG office that closed at 5 pm R-12

daily (or would have cost $150 to reproduce), meant that the majority of Mendocino County constituents – many of whom work full-time and either have no internet access, dial-up access, or slow-speed satellite access – were unable to adequately review and comment on the Draft EIR. R-12

As leaders of our County, we will be hearing from constituents regarding the MLPAI process and its outcomes for many years to come. We hope the Department of Fish and Game can collaborate with us to effectively address the concerns outlined above, with the joint goal of protecting and enhancing our marine resources and the communities who depend on them.

Sincerely yours,

John McCowen

John McCowen, Chair
Mendocino County Board of Supervisors

Comment Letter R – McCowen, John

Response to Comment R-1 and R-2

Comments 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.

Response to Comment R-3

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

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 R-4

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

Information submitted, including verbally, during the MLPA Initiative Planning Process were considered during development of the Proposed Project and are 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.

Response to Comment R-5

Impact BIO-3 *Adverse Impacts on Marine Species Populations and Habitats Inside MPAs from the Removal of a Human Predator* in DEIR Chapter 4, *Biological Resources* (pages 4-59 and 4-60) adequately address the potential impact of the removal of the human predator, specifically with regard to urchin barrens, and concludes that the impact is less than significant.

While the interaction of MPAs and sea urchin populations is complex and not easily characterized, there is considerable evidence that the establishment of MPAs in nearshore rocky habitats does not necessarily lead to the formation of sea urchin barrens. For example, the Gerstle Cove area in Sonoma County and the South Caspar Point area in Mendocino County were closed to commercial sea urchin fishing in 1990 in part to study recovery rates of fished down sea urchin populations. Urchin populations have increased in both closures and have been surveyed intermittently during the intervening 18 years along with adjacent control sites. In 2008 surveys, preliminary results showed that kelp abundance was almost identical inside and outside the Caspar Point commercial urchin closure area, a sign that despite their relatively high density inside the closure, red sea urchins had not created an urchin barren after nearly two decades.

It is expected that the proposed MPAs will result in the return of naturally balanced ecosystems that can be more resilient to sea urchin barrens.

Regarding displacement of fishing effort for abalone, the Commission does not expect there to be additional pressure on abalone in the north coast due to the emergency abalone closure along the north central coast because it has been lifted. Abalone season is back in full swing except for the new restriction in the Fort Ross area of the north central coast area where the season will open on June 1.

According to abalone report cards, shifts of large magnitude have occurred in the recreational abalone fishery in the past due to annual variations in effort and catch patterns. For example, between 2005 and 2007, the estimated abalone catch in the north central coast study region increased by over 40,000 abalone, or 32%. Some individual site catch estimates, like those for the Fort Ross area, have varied by as much as 90% between 2002 and 2007. So even without the establishment of any MPAs, catch and effort shifts of a large magnitude regularly occur in the recreational abalone fishery. Additionally, the Abalone Recovery Management Plan (ARMP) recommends the use of MPAs as additional protection to assist with the recovery of abalone populations and help support populations in fished areas. The establishment of MPAs as study control sites to assess the impacts of harvest on abalone populations is an essential element of the ARMP.

Regarding displacement of fishing effort, see *Response to Comment A6-2*.

No change to the DEIR is required.

Response to Comment R-6

See *Response to Comment R-5 and A6-2*.

Response to Comment R-7

The impact analysis was based on the potential impacts to existing conditions from the Proposed Project, the design of which involved extensive stakeholder input, including participation by tribes, tribal communities, and subsistence harvesters. See the subsection "Opportunity for Involvement in the MLPA Planning Process" in DEIR Chapter 6, Section 6.6 *Environmental Justice* (pages 6.6-8 through 6.6-12) for more details about local community involvement.

Impacts of limiting access to marine resources by tribes are thoroughly discussed in Impact EJ-1: *Reduced Subsistence Take Opportunities for Tribes and Tribal Communities* and impacts to non-tribal subsistence harvesters are discussed in Impact EJ-2: *Reduced Subsistence Fishing Opportunities for Non-Tribal Minority and Low-income Groups, and Isolated Communities*, both of which are in DEIR Chapter 6, Section 6.6 *Environmental Justice*. The EIR did not identify significant impacts on practices of tribes and tribal community members, or the subsistence fishing community within the Study Region.

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

Response to Comment R-8

There were ample opportunities for public participation in a number of locations throughout the North Coast Region. Please refer to DEIR Chapter 6, 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 R-9

Your comment regarding the natural limitations for take in the north coast is noted. See *Master Response 5: Natural Constraints and Baseline Conditions.*

Response to Comment R-10

See *Master Response 4: Enforcement*.

Response to Comment R-11

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.

The DEIR considered potential economic and social effects to the degree that an indirect physical change in the environment would result from the Proposed Project. As disclosed in the DEIR, indirect impacts on the physical environment would potentially result from displaced fishing efforts. Physical impacts resulting from vessel displacement, including commercial and recreational vessels, include increased emissions of air quality and GHG pollutants, water quality degradation due to spills of hazardous materials from vessels and vessel abandonment, increased oceanic hazards such as vessel collisions. This analysis did not distinguish between large-scale and small-scale commercial fishing vessels. The analysis used commercial fishing license and catch data from the state's Commercial Fisheries Information System. Therefore, potential displacement of commercial fishing activities conducted by all commercial fishing operations in the Study Region were evaluated equally. Overall, no significant impacts on the environment due to displacement of commercial fishing activities were identified in the DEIR.

Response to Comment R-12

See *Response to Comment A8-8.*