

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
PUBLIC COMMENTS ON AGENDA ITEMS 2(A) AND 2(B)  
Meeting - April 11, 2012  
Red Lion Hotel, 1929 Fourth Street  
Eureka, California

REPORTED BY: KATHERINE J. WAYNE, CSR #2854

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3 Jim Kellogg

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5

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1 EUREKA, CALIFORNIA; WEDNESDAY, APRIL 11, 2012

2 10:20 A.M.

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4 MR. MASTRUP: All right. We're going to start  
5 our public comment with dignitaries from various  
6 agencies and the tribes, and the first speaker is  
7 Chairman Thomas O'Rourke from the Yurok Tribe. And  
8 then after that, we'll have Daniel Rockey from the  
9 InterTribal Sinkyone Council.

10 MR. O'ROURKE: Good morning. I'm Thomas  
11 O'Rourke, chairman of the Yurok Tribe. Also the vice  
12 chairman of the Northern California Chairman's  
13 Association.

14 This morning, you know, I would like to speak  
15 on behalf of the Northern California Chairman's  
16 Association. Get my eyes on.

17 First of all, I'd like to acknowledge and to  
18 thank the following individuals and agencies or  
19 parties: Governor Brown's administration, a very big  
20 thank you for acknowledgment of us, the tribes, and all  
21 of the stakeholders. We know that -- that we have  
22 something in common here and -- and that is to preserve  
23 and protect our resources.

24 I'd like to thank Secretary Laird, the Fish  
25 and Game Commission, yourselves. Thank you, Sonke

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1     Mastrup, the executive director of the Commission,  
2     Director Chuck -- Chuck Bonham, Humboldt County Board  
3     of Supervisors, and the many other agencies that have  
4     come together to try to find a solution to this complex  
5     issue.

6             A lot of patience, you know, required by all  
7     of us. You know that it hasn't been easy. It's been a  
8     long haul. And maybe there's -- there's -- there's  
9     light at the end of the tunnel here. I'm hoping.

10            You know, through this process, it's -- it's  
11    opened up -- I'm going to run out of time. It's --  
12    it's opened up an opportunity to be able to work  
13    together with other agencies, state agencies, local  
14    agencies, other stakeholders, you know, to begin to  
15    understand each other, to develop a partnership that  
16    could then, I would think, develop a responsible  
17    management system that all in all will protect our  
18    resources nicely. "Our resources" meaning all of  
19    us. All stakeholders.

20            I -- I think that it's important that the  
21    Commission recognize -- and I believe that they do --  
22    our sovereign rights as independent nations, for that  
23    is what -- what we are. No shoe fits all of us.  
24    You -- you know that -- that. But through working  
25    together, communicating, we can find a solution I

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1 believe that -- that will work for all of us.

2 Now, the Tribal -- the Northern California  
3 Tribal Chairman's Association recently signed a letter,  
4 endorsed a letter from the Smith River Rancheria  
5 recognizing Smith River Rancheria is -- has primary  
6 jurisdiction over tribal matters in their lands from  
7 Point -- Pyramid Point to Point St. George, and -- and  
8 so I don't know whether you've received that letter or  
9 not.

10 I don't know if it's -- if we're going to have  
11 two comment periods on -- on the (A) and (B) at the  
12 same time. Is it -- are we supposed to put these  
13 together? And there's no way that I'm going to be able  
14 to get all of this in 15 seconds.

15 We have a second letter, you know, that  
16 addresses --

17 MR. MASTRUP: You -- you -- you have a little  
18 more time. Yeah, we're -- so if you have comments on  
19 both, please do that now, and we're giving you a little  
20 extra time.

21 MR. O'ROURKE: Okay. So let me get through  
22 this one here first. I'm almost done here.

23 Basically, that I -- I would hope that --  
24 that -- that you would -- that we would follow the  
25 regulations that we laid out. You know, the process

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1 that's laid out. I'd hope that we'd -- we'd stick with  
2 them. That is responsible management.

3 When you wander away from process, prescribed  
4 process, leads to irresponsible management. So I'm  
5 hoping that -- that the Commission and -- and all the  
6 people involved would stick to the process that has  
7 been laid out, whatever that may be.

8 And if we are going to wander or vary from  
9 process, that all stakeholders should be aware prior to  
10 and -- and so that something just doesn't jump up and  
11 bite us, something we're unprepared for.

12 So I believe that that's important in  
13 developing a -- a healthy relationship, something that  
14 works, and -- and it's going to take a good healthy  
15 relationship to make this work between all  
16 stakeholders.

17 And I -- I have a letter here that -- that  
18 comes from the Northern California Chairman's  
19 Association that -- that I would like to read into the  
20 record, and that it's written to Mr. Wayne Donaldson,  
21 SHPO, California Office of Historic Preservation,  
22 Sacramento, California, regarding Northern California  
23 Tribal Chairman's Association request for SHPO/OHP  
24 review and comments on adequacy of Draft Environmental  
25 Impact Report (DEIR), California Marine -- Marine Life  
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1 Protection Act (MLPA) Initiative, North Coast Marine  
2 Protection Areas Project (State Clearinghouse  
3 No. 2011 -- oh, 2011092029.)

4 And it states, "Dear Mr. Donaldson: The  
5 undersigned, comprising members of the Northern  
6 California Tribal Chairman's Association, request your  
7 assistance in reviewing the ade -- adequacy under CEQA  
8 of the subject document, Cultural Resources Chapter 5."

9 And it -- it has a reference here. It says  
10 "Download at [http://www.dfg.ca.gov/mlpa/impact\\_nc.asp](http://www.dfg.ca.gov/mlpa/impact_nc.asp)."  
11 Boy, that's a lot.

12 "Comments are due no later than April 16th,  
13 2012 via e-mail, [mlpacomments@horizonwater.com](mailto:mlpacomments@horizonwater.com).

14 "We are among the 27 named tribes that have  
15 been dili -- diligently participating in this regional  
16 MLPA planning effort. We continue to have concerns  
17 about project impacts on historical resources,  
18 including Native American Traditional Cultural Places  
19 (TCPs) that may be eligible for list -- for listing  
20 because of their associations with cultural practices  
21 and beliefs of living Indian communities that (a) are  
22 rooted in the communities' histories; and (b) are  
23 important in maintaining the continued cul -- cultural  
24 identities of these communities. (TCP criteria as  
25 stated in National Register Bulletin 38, with emphasis

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1 added.)

2 "We are concerned that the new proposed  
3 restrictions on Native American access to and  
4 noncommercial taking of living marine resources in  
5 proposed MLPA protected areas will signifi --  
6 significantly impact certain eligible TCPs.

7 "The DEIR Cultural Resource chapter states  
8 that no cultural resource surveys were conducted. Nor  
9 were tribal tribes" -- "nor were tribes formally  
10 consulted to identify historical resources that may  
11 impact [sic] by the project.

12 "We also question whether this project has a  
13 federal nexus (NOAA? BLM?) such that it constitutes a  
14 federal undertaking subject to section 106 of the  
15 National -- National Historic Preservation Act. Formal  
16 government-to-government tribal consultations to  
17 adequately identify historic properties, assess and  
18 resolve the effects of the undertaking as underlined  
19 [sic] in the regulations at 36 CFR 800 would be  
20 welcomed by tribes. In contrast, this CEQA analysis of  
21 project impacts on significant cultural resources fails  
22 to employ best practices in historic preservation."

23 I -- I would like to thank you for your  
24 time. If -- if you have questions, you know, I'd  
25 certainly welcome them.

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1                   MR. MASTRUP: I assume we'll get a copy of  
2   that letter?

3                   MR. O'ROURKE: Yes.

4                   MR. MASTRUP: Just -- thank you very much.

5                   MR. O'ROURKE: And so that -- we are still  
6   getting the proper signatures for the original so you  
7   can have that. I believe it states here until the  
8   16th. So you will have a copy, or multiple.

9                   MR. MASTRUP: All right. Thank you very much.

10                  MR. O'ROURKE: Thank you.

11                  MR. MASTRUP: All right. Daniel Rockey.

12                  MR. ROCKEY: Good morning, Vice -- Mr. Vice  
13   President and members of the Commission. My name is  
14   Daniel Rockey, Senior. I'm from -- vice chairman of  
15   Sherwood Valley Band Tribe of Pomo Indians, and also  
16   the vice chairman of InterTribal Siskiyone Wilderness  
17   Council. I'd like to read this little statement we  
18   have.

19                  "The Council has been involved from the  
20   beginning in working to find a way to ensure that the  
21   MLPA goals a sustainable marine ecosystems can be  
22   achieved, while at the same time allowing tribal  
23   traditional noncommercial gathering, harvesting and  
24   fishing to continue. We believe the proposed  
25   regulation strikes the right balance between these

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1 goals, and for that reason, we fully support it.

2 "As we near the adoption of the regulation, we  
3 believe it is useful to reflect on the process that got  
4 us to this point. This is the story of what went  
5 right.

6 "From the Council's perspective, the proposed  
7 regulation is the result of an extraordinary  
8 collaboration among the MLPA Initiative, the Regional  
9 Stakeholders Group, the Blue Ribbon Task Force, the  
10 Science Advisory Team, the Department of Fish and Game  
11 and -- and this Commission. We deeply appreciate the  
12 hard work that has been devoted to finding a solution  
13 that tribes can accept and support.

14 "The proposed regulation signals a new chapter  
15 in the developing relationship between the North --  
16 North Coast Indian tribes and the State. California's  
17 policy towards tribes has ranged from ex --  
18 exterminating to self-determination. The proposed  
19 regulation is consistent with the more recent and  
20 enlightened Indian policies of the State so far.

21 "An important key to the success of this  
22 effort was that the MLPA Initiative reached out to the  
23 tribes more than two years ago and generally [sic]  
24 listed -- listened to tribal concerns.

25 "It was not always an easy process. There  
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1     were difficult and contentious issues that had to be  
2     resolved. Many months of good faith efforts on both  
3     sides produced common ground.

4             "The Council has no doubt that the  
5     relationships formed during this process will provide  
6     many opportunities in the future for cooperative and  
7     collaborative efforts between the tribes, the  
8     Department and the Commission.

9             "We look forward to working with you to build  
10    on this historic milestone to ensure that North Coast  
11    marine resources are protected and that tribal  
12    gathering, harvesting and fishing remain as vital  
13    important -- vitally important to tribal culture for  
14    future generations as it has been for our people since  
15    the beginning of time."

16            Thank you.

17            MR. MASTRUP: Thank you. Next will be Hawk  
18    Rosales, executive director of the InterTribal Sinkyone  
19    Wilderness Council. And then after that will be Denise  
20    Padgett with the Smith River Rancheria.

21            MR. ROSALES: Mr. Vice President and members  
22    of the Commission, my name is Hawk Rosales. I am the  
23    executive director of the InterTribal Sinkyone  
24    Wilderness Council, a consortium of ten  
25    federally-recognized tribes in Mendocino and Lake

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1 Counties. I am representing the Sinkyone Council  
2 today. These comments are -- relate to the proposed  
3 regulation.

4 "The Sinkyone Council fully supports the  
5 proposed regulation, consistent with all elements of  
6 the Regional Stakeholder Group's MPA proposal. From  
7 our perspective, the proposed regulation, as it  
8 pertains to the tribes of the southern bioregion,  
9 accurately expresses the tribal take provisions the  
10 tribes, the Department of Fish and Game and the other  
11 parties in this process worked together to develop.

12 "In our view, no changes to the North Coast's  
13 southern bioregion MPAs are necessary before the tribal  
14 take provisions can be adopted.

15 "We thank the Commission and the Department  
16 for working so closely and diligently with the tribes  
17 to achieve this outstanding result.

18 "The Sinkyone Council and federally-recognized  
19 tribes in the southern bioregion (Mattole River to  
20 Alder Creek) support tribal use option 1 as outlined in  
21 the proposed regulation.

22 "We thank the Commission and the Department  
23 for reaching out to and working with the tribes. In  
24 doing so, you have demonstrated a spirit of genuine  
25 collaboration and in our view, a mutually acceptable

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1 outcome has been the result.

2 "By enabling continuation of tribal gathering,  
3 harvesting and fishing in the new SMCA locations, the  
4 regulation ensures that the connection between  
5 subsistence uses and the vitality of tribal culture  
6 will remain strong, and by requiring a tribal  
7 identification card when tribal members exercise rights  
8 under the regulation, the sovereign right of the tribes  
9 to determine their own membership is affirmed.

10 "Thus, the proposed regulation confirms two of  
11 the most important goals of North Coast tribes:  
12 protection of tribal culture, and tribal sovereignty.  
13 We deeply appreciate that you have worked with us to  
14 achieve these important goals.

15 "We believe that together, the tribes, the  
16 Department and the Commission have come a long time  
17 from those first meetings more than two years ago. Our  
18 relationship has significantly improved, and we look  
19 forward to working with you to -- in implementing the  
20 tribal use regulation.

21 "We are committed to the goal of ensuring that  
22 the MPA network and tribal uses will result in  
23 sustainable marine resources for generations to come.

24 "We look forward to June 6, when the  
25 Commission is scheduled to vote on the proposed

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1 regulation. We thank you for your continued commitment  
2 to protect the marine environment and tribal  
3 traditional take in the North Coast's new SMCAs."

4 And I have a statement regarding the -- the  
5 Draft EIR.

6 "Mr. Vice President and members of the  
7 Commission: We participated in the scoping process for  
8 the Draft EIR. The Department and its consultants have  
9 discussed with us and responded to our concerns.

10 "We have carefully reviewed the Draft EIR  
11 document and believe it meets the goal of CEQA to  
12 provide the Commission with the information it needs to  
13 consider the consequences to the environment of  
14 adopting the preferred alternative. We will be  
15 submitting written comments by the April 16th  
16 deadline. Today, I wish to make three points.

17 "First, the Draft EIR correctly concludes that  
18 the tribal take provisions of the preferred alternative  
19 will not cause significant impacts to the environment.  
20 This conclusion is supported by the fact that tribal  
21 use of marine environment has been and continues to be  
22 based on stewardship principles embedded in tribal  
23 traditions.

24 "The conclusion is also supported by the fact  
25 that tribal gathering, harvesting and fishing, which

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1 have occurred since the beginning of time, are properly  
2 considered as integral to the environmental baseline  
3 for purposes of CEQA analysis.

4 "Second, we concur with the information  
5 included in the Draft EIR regarding the history and  
6 cultural practices of tribes in the North Coast  
7 region. Much of this information appropriately comes  
8 from documents submitted by the tribes. We do suggest  
9 that the document include a brief summary of the  
10 sources of information provided by the tribes.

11 "The tribes' information is from a wide  
12 variety of sources, credible sources, such as tribal  
13 elders, tribal cultural preservation projects, and  
14 documentation by anthropologists, historians and  
15 others.

16 "Third, the InterTribal Sinkyone Wilderness  
17 Council continues to fully support the preferred  
18 alternative analyzed in the Draft EIR. The other  
19 alternatives do not provide the same assurances that  
20 tribal traditional uses will continue uninterrupted and  
21 at the same level as before.

22 "The analysis of the Enhanced Compliance  
23 Alternative should include the point that because of  
24 their unique cultural basis, tribal uses cannot and  
25 should not be considered part of recreational uses.

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1 Tribal uses must be separately and distinctly  
2 identified because of the unique history and legal  
3 status of Indian tribes. This is another reason the  
4 preferred alternative is superior to the ECA.

5 Thank you."

6 MR. MASTRUP: Thank you, Hawk. Denise  
7 Padgett has some time ceded to her from the Smith  
8 River Rancheria. Go ahead.

9 MS. PADGETTE: Hi. I'm Denise Padgett, Smith  
10 River Rancheria vice chairman. We have 1474 tribal  
11 members that I'm representing.

12 We're going to read a letter from some of the  
13 tribes. There's Russ coming up. We're going to talk  
14 about the DEIR and the ISOR.

15 "Dear President Richards and Director Bonham:  
16 The purpose of this letter is to call upon you and your  
17 staffs to correct the Draft Environmental Impact  
18 Report -- Report (DEIR), Initial Statement of Reasons  
19 for Regulatory Actions (ISOR), and proposed regulation  
20 as it relates to the identification of the  
21 federally-recognized tribes authorized to fish and  
22 gather within the proposed State Marine Conservation  
23 Areas of Pyramid Point and Point St. George. The  
24 tribes we represent intend to submit additional  
25 comments prior to the April 16th, 2012 deadline, and

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1 this letter focuses only on the specific issue  
2 referenced above.

3 "According to the Commission staff summary of  
4 the June 29th, 2011 meeting, the Fish and Game  
5 Commission adopted Tribal Option 1, to allow  
6 traditional tribal gathering to continue within the  
7 proposed SMCAs by federally-recognized tribes who  
8 submit a factual record with sufficient documentation  
9 confirming current or historical use within specific  
10 geographic areas to the Department of Fish and Game  
11 within 60 days.

12 "Smith River Rancheria, Elk Valley Rancheria,  
13 the Yurok Tribe and the Trinidad Rancheria were four of  
14 the five federally-recognized tribes who submitted a  
15 factual record within the 60-day deadline imposed by  
16 the Commission.

17 "The considerable time constraint imposed by  
18 the Commission played a significant role in the outcome  
19 of those factual records. There was little opportunity  
20 for the federally-recognized tribes within the region  
21 to coordinate with each other with respect to many  
22 critical issues.

23 "A critical issue that was left to be  
24 addressed at a later date is how we as tribes should  
25 address the traditional tribal uses by individuals who

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1 are members of federally-recognized tribes but have  
2 been gathering within the aboriginal ancestral terri --  
3 territory of a different federally-recognized tribe who  
4 has given these individuals permission to gather in  
5 those areas.

6 "Given the time constraints, this was  
7 addressed by asserting within the factual record that  
8 gathering under such -- such circumstances are to be  
9 governed pursuant to intertribal use agreements to be  
10 negotiated between the respective federally-recognized  
11 tribes, and this is not a matter for the State of  
12 California to broach in any manner.

13 "Yet, by identifying all federally-recognized  
14 tribes within the proposed SMCAs of Pyramid Point and  
15 Point St. George who may have individual members who  
16 would have the right to gather there pursuant to the  
17 proposed regulations, the State of California has  
18 imposed upon the tribes their interpretation of whose  
19 ancestral territory those SMCAs lie within. We believe  
20 that careful reading of the factual record would not  
21 have warranted the inclusion of other tribes in these  
22 proposed SMCAs as contained in the Fish and Game  
23 documents.

24 "We have attempted to rectify this problem by  
25 providing correspondence to Commission staff over the

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1 past four months, copies of which are attached. The  
2 ISOR acknowledges receipt of two letters calling  
3 attention to intertribal agreements.

4 "These intertribal agreements are transactions  
5 between the tribes and tribal communities wishing to  
6 take resources within the ancestral territories of  
7 other tribes and tribal communities, and need to be  
8 negotiated between those tribes.

9 "The regulations for the Nor -- North Coast  
10 MPAs will not be changed based on the intertribal  
11 agreements, but will reflect tribal intake and specific  
12 MPAs as they were listed in the factual records  
13 received by the Commission.

14 "This was never the intent of the tribes we  
15 represent. The maps provided in each of our factual  
16 records delineated the areas that are considered to be  
17 Tolowa and Yurok aboriginal ancestral territories.  
18 Pyramid Point and Point St. George are clear -- clearly  
19 within the aboriginal terr -- ancestral territory of  
20 the Tolowa Dee-ni. The correspondence submitted by the  
21 Smith River Rancheria, Yurok Tribe and Trinidad  
22 Rancheria made it clear that touch -- until such an  
23 intergovernmental -- governmental tribal agreement is  
24 negotiated, no tribes other than those of Tolowa  
25 descent should be listed in the Pyramid Point and Point

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1 St. George SMCAs.

2 "Rather than consult with the federally-recog  
3 -- recognized tribes in order to correct their  
4 interpretation of the factual record, Commission and  
5 Department staff have disregarded the efforts of our  
6 tribes who have participated in this process.

7 Since 2009, the federally-recognized tribes  
8 who reside within the North Coast Study Region have  
9 worked tire -- tirelessly in our efforts to educate  
10 represent -- representatives of the Department and  
11 Commission as to the importance of the traditional uses  
12 that have been ongoing throughout this region since  
13 time immemorial.

14 "The DEIR and the ISOR and proposed  
15 regulations do not accurately reflect the current  
16 traditional uses within the proposed SMCAs at Pyramid  
17 Point and Point St. George.

18 "On behalf of the of Smith River Rancheria,  
19 Elk Valley Rancheria, the Yurok Tribe, the Trinidad  
20 Rancheria and Resighini Rancheria, we respectfully  
21 request that the DEIR and ISOR and proposed reg --  
22 regulations be corrected and accurately reflect that  
23 the proposed SMCA of Pyramid Point is within the  
24 aboriginal ancestral territory of Smith River  
25 Rancheria, and the proposed SMCA of Point St. George is

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1 within the aboriginal ancestral territory of both the  
2 Smith River Rancheria and Elk Valley Rancheria.

3 "As a result, the Smith River Rancheria should  
4 be the only federally-recognized tribe listed within  
5 Pyramid Point SMCA, and both the Smith River Rancheria  
6 and Elk Valley Rancheria should be the only  
7 federally-recognized tribes listed within the Point  
8 St. George SMCA.

9 "Further, the DEIR and ISOR and proposed  
10 regulations should be corrected to reflect that  
11 individuals from other federally-recognized tribes  
12 shall be permitted to gather within the proposed  
13 Pyramid Point SMCA only if they possess some form of  
14 documentation issued by the Smith River Rancheria, and  
15 with respect to the Point St. George SMCA,  
16 documentation issued from either Smith River Rancheria  
17 or Elk Valley Rancheria.

18 "Smith River Rancheria, in consultation with  
19 Elk Valley Rancheria and the enforcement staff of the  
20 Department of Fish and Game, will create documentation  
21 that will be issued only to -- only -- issued to only  
22 individuals of other federally-recognized tribes who  
23 have the permission of those respective tribes to  
24 gather in the SMCAs within their ancestral territory.

25 "As al -- always, we stand ready and willing

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1 to work with state officials and consult with the  
2 appropriate agencies in order for the record to be --  
3 accurately reflect the customary uses within our  
4 region."

5 And it's signed by Chairperson Kara Miller,  
6 Garth -- of Smith River Rancheria, Garth Sundberg of  
7 Trinidad Rancheria, Donald McCovey of Resighini  
8 Rancheria, Thomas O'Rourke of the Yurok Tribe,  
9 chairman, and Dale Miller, chairman of Elk Valley  
10 Rancheria.

11 Thank you.

12 MR. MASTRUP: Thank you. Commissioners, we  
13 are going to want to have a little discussion about  
14 this issue, but I wanted to first find out, Russ  
15 Crabtree, you are the next speaker.

16 Are you going to speak to the same basic  
17 issue? So we'll wait until after you're done then.

18 MR. CRABTREE: Okay. Thank you very much  
19 Commission -- Commissioners. For -- my name is Russ  
20 Crabtree. I'm the tribal administrator for the Smith  
21 River Rancheria.

22 I've been involved -- I'm also a North Coast  
23 regional stakeholder, so I've been involved with the  
24 Marine Life Protection Act since it's come to the North  
25 Coast, and that's been since 2009, I believe it

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1 started.

2 This has been a long grueling process. We  
3 went through some trials and tribulations. We're at a  
4 key turning point today, but I want to speak to the  
5 specific issues that are in the Draft Environmental  
6 Impact Report.

7 I also want to speak to the ISOR from a  
8 general standpoint. I'm speaking solely for Smith  
9 River Rancheria.

10 In the Draft EIR, originally there was four  
11 tribes that were listed, Smith River being one of  
12 those. When the ISOR came out, there was an additional  
13 tribe, so now there's five tribes listed in the ISOR.

14 Pyramid Point is in the sole jurisdiction of  
15 Smith River Rancheria, always has been, and as my vice  
16 chair said, if there had been a reading, an accurate  
17 reading of the factually-based record, we should not be  
18 at the -- having this oversight that needs to be  
19 corrected.

20 Point St. George is unique from its standpoint  
21 that there's shared jurisdiction, as the vice chair  
22 said, between Elk Valley Rancheria and Smith River.  
23 We're ready and willing to work with the Department to  
24 come up with the appropriate measures to ensure that  
25 the activities or any other member of any

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1 federally-recognized tribe has the permission going  
2 through within the jurisdiction of Smith River  
3 Rancheria to harvest, gather or do customary uses  
4 within those -- those areas.

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5 And we'll be looking much for the same  
6 factually-based records from individuals that ask  
7 permission to gather within those areas as you have.

8 I want to speak all -- also to the one option  
9 that's out there that you talk about moving the  
10 northerly boundary to Prince Island. Prince Island is  
11 a trust property of Smith River Rancheria. We provided  
12 you a year ago a letter from the Bureau of Indian  
13 Affairs that said that that was under the federal  
14 jurisdiction. That's also the submerged lands that are  
15 associated, that -- that are associated there.

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16 In 1903, that was part of the -- put in place  
17 for the Tolowa Dee-ni so they could gar -- gather,  
18 harvest and do their customary uses, and that's the  
19 aquatic environment that's associated around that 14 --  
20 14-acre rock that is in trust status for the Smith  
21 River Rancheria.

22 So to avoid the conflict, we need to go with  
23 the option that moves the northerly boundary  
24 north. Smith River Rancheria has graciously stepped  
25 forward and said that it would provide signs for

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1 geographical location from the shore bank. We'll  
2 maintain them. There's not a maintenance issue  
3 there.

4 And of course, everyone knows that boating  
5 today is done with GIS. So the coordinates should not  
6 be that difficult from an enforcement standpoint to be  
7 able to address those two issues that Smith River  
8 Rancheria sees in the Draft EIR. Also sees in the  
9 ISOR.

10 I also want to -- and I always end with making  
11 sure that the Commission understands that we have a  
12 mutual reservation of our rights as a tribal sovereign  
13 nation, and we will never cede those.

14 But I do appreciate everything that -- I  
15 appreciate the tribes that have stepped forward; I  
16 appreciate the Department staff that has stepped  
17 forward, the regional stakeholders and all the support  
18 that's come forward for the customary and ceremonial  
19 uses and not to infringe upon the religious practice of  
20 Smith River Rancheria or any tribe in the North Coast.

21 So I commend you for that. I think we're at a  
22 key point. We have come a long, long way, but we have  
23 a long way to go yet.

24 So -- and that -- those are my general  
25 comments about those two issues. So, thank you.

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1 MR. MASTRUP: Thank you, Russ.

2 Commissioners, the Smith River tribe brings up  
3 something that I need to call to your attention,  
4 because it's going to have some potential impacts.

5 When the Commission asked for the factual  
6 records, we got the records that -- records that were  
7 identified by Steve Wertz. And partly due to  
8 inexperience in interpreting tribal factual records and  
9 what they mean, and some confusion about what was whose  
10 territory and traditional use it was, we apparently in  
11 this case in particular added names that, based on  
12 further looking and discussion, shouldn't be on that  
13 list in the ISOR and in the CEQA.

14 So the -- the good news is at least in terms  
15 of the ISOR, you can choose a "No change" option for  
16 those tribes that apparently don't belong on that  
17 list. So that's -- that can take care of that issue.

18 However, the -- the problem when you take --  
19 for example, at Pyramid Point, we have the Yurok  
20 listed. If we take the Yurok off, I think they mention  
21 that there are some tribe -- members from that tribe  
22 that have traditionally always fished by invitation in  
23 some of the Smith River territory.

24 That would prohibit under our current  
25 rulemaking, from them doing that, because the warden

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1 will roll up onto the beach and under the current  
2 regulatory structure, if they don't show them a Smith  
3 River ID, they're going to get a ticket.

4 So we've been working trying to iron this  
5 issue out with several of the tribes, and it looks  
6 like -- and I agree completely with the tribes. We  
7 don't want to be in the business or should we be in the  
8 business of -- of figuring out who has what ID in the  
9 tribes. That's just a bad idea all the way around.

10 But given where we are in the ISOR process, we  
11 can't change that without delaying adoption, but what  
12 we can do is recognizing that these things won't go  
13 into effect until probably very late 2012 and 2013, we  
14 would have the option to start a second notice to do a  
15 cleanup on some of these tribal issues rather than hold  
16 up the whole package.

17 So I just wanted you to be aware of this  
18 issue. It's real, but I still think there's a -- a  
19 rational solution to getting this done, so --

20 (Discussion with Adrianna Shea.)

21 MR. MASTRUP: Oh, and the boundary change,  
22 that's right. Russ brought -- that is an option in  
23 your package. You have -- on Pyramid Point, there's  
24 two options, and I think if I understood Russ, he's  
25 asking you to select the one that's furthest to the

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1 north. There's two rocks.

2 And I think that would avoid this issue about  
3 Pyramid Point, just to be clear. But that is currently  
4 available to you in the rulemaking.

5 Any other questions or thoughts on that?

6 We'll proceed, then.

7 Next speaker is -- first, I want to ask. Did  
8 I get -- Smith River tribe, did I basically get that  
9 right?

10 MR. CRABTREE: Yes.

11 MR. MASTRUP: Okay, thanks.

12 Janet Eidsness from Blue Lake Rancheria and  
13 then Jimmy Smith, County Board of Supervisors, Humboldt  
14 county.

15 I'm not sure I got that last name right.

16 MS. EIDSNESS: Thank you. It's a Norwegian  
17 name, Janet Eidsness. I kept my pop's name and they  
18 added letters when they got to the United States.  
19 Crazy northern Europeans.

20 So again, my name is Janet Eidsness and I am  
21 the tribal historic preservation officer for the Blue  
22 Lake Rancheria tribe, which is located here, and we  
23 want to again welcome you too to the Wiyot homeland  
24 around Humboldt Bay.

25 I was -- I have been given the authorization

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1 from the tribal chair at Blue Lake to speak on behalf  
2 of the tribe regarding issues of the MLPA and  
3 Commissioners, audience, agencies, stakeholders, and  
4 especially other tribal leaders and members and  
5 representatives, it's a pleasure to be here, and it has  
6 been a long road.

7 I guess, Mr. Mastrup, I had a moment earlier  
8 to mention that the Smith -- excuse me, the Blue Lake  
9 Rancheria is also concerned about not having received  
10 notice in writing after the circa June, July 2011  
11 meeting at which the Commission decided that with  
12 tribes submitting factual records, that would be the  
13 basis for then assigning which tribes could continue  
14 with traditional take in certain restricted areas, to  
15 be determined through this process.

16 We did not receive a notice during that 60-day  
17 framework and then therefore were unfortunately not  
18 notified and unaware and did not submit the factual  
19 record.

20 However, the Blue Lake Ranch -- Rancheria  
21 tribal members do have ongoing traditional ties rooted  
22 in history and important to their ongoing tribal  
23 identity for noncommercial cultural usage of marine  
24 resources, specifically in the Samoa Marine MRCA, which  
25 is located over your shoulders through the window on

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1 the coast here.

2 And importantly, the Wiyot Tribe, who supports  
3 addition of the Blue Lake Rancheria tribe as being  
4 recognized as being rightfully eligible to continue  
5 taking living marine resources in the Samoa MRCA per  
6 the proposed regulations described in the DEIR that's  
7 at table 2-1, page 2-20, and I have that letter of  
8 support signed by the vice chair of the -- of the Wiyot  
9 Tribe in support of Blue Lake.

10 I believe this certainly is consistent with  
11 your observation. It's important as a state body to  
12 recognize it's important for tribes to decide among  
13 themselves the appropriate parties.

14 Thank you very much.

15 MR. MASTRUP: Thank you.

16 Jimmy Smith, the Humboldt County Board of  
17 Supervisors.

18 MR. SMITH: Thank you, Sonke.

19 This is a great honor for Humboldt county, to  
20 have the Commission back again. So welcome. It's  
21 great to have you.

22 You're here at the last of the Aleutian goose  
23 migration, tapering down on the black brant migration  
24 through Humboldt Bay, and very close to what we've  
25 identified as a hundred different species of fish here

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1 in Humboldt Bay. So we're so pleased to have you.

2 I wanted to start off my comments by thanking  
3 you all for -- for your staff. We have probably the  
4 greatest Fish and Game staff here locally and  
5 regionally of anywhere in the state, probably arguably  
6 from some other supervisorial districts, but we've been  
7 crunched in the budget, I can tell you, locally with  
8 our enforcement staff. Most noticeably in some of our  
9 science staff, parks, and your folks have stepped up.

10 My district includes a lot of the coastline  
11 that I'm going to talk about here in a second related  
12 to MLPA, but we couldn't do it if we didn't have a  
13 partnership with the folks in the Department of Fish  
14 and Game, who have stepped up numerous times to get us  
15 through very difficult situations, both in enforcement  
16 and accommodating the public interests. So my most  
17 sincere thanks to all of you and -- and to that staff.

18 I did have a letter. I wanted to speak also  
19 as a supervisor who -- who represents a really diverse  
20 area in Humboldt Bay and along the Lost Coast clear to  
21 Mattole River and beyond that.

22 It was an honor for me to be part of the MLPA  
23 team, and you see a roomful of tribal representatives  
24 and stakeholders, and I don't know if we have any other  
25 of Blue Ribbon Task Force members.

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1           But it was also a great honor for me to sit  
2       down with you in Sacramento and talk about how we  
3       generated this plan.

4           It's probably one of the most enthusiastic  
5       groups that I've ever worked with. They worked long  
6       and hard, and they gained my respect throughout a very  
7       detailed process with public input that went on for  
8       days at a time, and some really good statements.

9           So based on that and my district and my  
10      participation on behalf of the Board of Supervisors,  
11      you've -- you've been presented with a letter that came  
12      probably a few days ago that was adopted by my Board,  
13      and I'll just read it. It's really short.

14           It says, "Dear President Richards." And we  
15      would acknowledge this went to all commissioners.

16           "The Humboldt County Board of Supervisors  
17      would like to reaffirm its support for the North Coast  
18      Study Region's unified array. A very diverse group of  
19      stakeholders came together to generate a Marine  
20      Protected Area proposal for Northern California. The  
21      Regional Stakeholder Group and the Blue Ribbon Task  
22      Force have recommended adoption of that document. The  
23      Humboldt County Board of Supervisors supported that  
24      array earlier in the process," and we spoke to that,  
25      and the Board would very respectfully request that the

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1 same array be adopted by the Commission without  
2 deviation.

3 We really appreciate all of the work that  
4 you've done, your tremendous staff. I know it's been a  
5 tremendous amount of input from people and trying to  
6 fit that all together has been just an immense task.

7 So thank you all for your good work, and  
8 thanks for being here in Humboldt. We really do  
9 appreciate that.

10 MR. MASTRUP: Thank you. Jackie Hostler with  
11 the Trinidad Rancheria next.

12 MS. HOSTLER: Good morning to all the  
13 commissioners and on behalf of -- my name is Jackie  
14 Hostler. I'm the CEO of Trinidad Rancheria.

15 I'm here today on behalf of Tribal Chairman  
16 Garth Sundberg and the Trinidad Rancheria Tribal  
17 Council.

18 I would like to thank Governor Brown,  
19 Secretary Laird, Director Bonham and Executive Director  
20 Sonke Mastrup and the entire Commission for your  
21 dedication and efforts to move forward in consultation  
22 with the tribal governments.

23 Trinidad Rancheria makes a full reservation of  
24 rights and specifically asserts the right to regulate  
25 all native Americans within the boundaries of the

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1 Trinidad Rancheria.

2           The rancheria supports the regulatory option 1  
3   and the unified proposal with amendments.  Trinidad  
4   Rancheria also agrees, as per Chairman O'Rourke's  
5   statement and vice chairman of Smith River's  
6   statement -- Chairman Sundberg signed the letter from  
7   the North Coast Tribal Chairman's Association  
8   requesting that the record, the DEIR be corrected  
9   removing the tribes from the two locations, Pyramid  
10  Point and Point St. George.

11           That's a really important letter, and as a  
12   support staff to the tribal chairman, I will make sure  
13   the Commission all gets a copy of that letter as soon  
14   as it's signed.

15                   We support the specific sub-option B and  
16   adopting the regulatory option designation of Reading  
17   Rock as an SMCA.

18           We do not support False Klamath Cove special  
19   closure and request that the Yurok Tribe's request to  
20   develop a cooperative agreement to protect sea birds be  
21   really taken seriously and implemented because, again,  
22   that would prohibit the Yurok tribal members from  
23   approaching Reading Rock, if that special closure were  
24   to take place.

25 We will be also submitting a declaration by  
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1 our tribal historic preservation officer designating  
2 Reading Rock as a cultural property for the Trinidad  
3 Rancheria.

4 One of the rancheria's elders, Joy Sundberg,  
5 who is an original assignee, her declaration of  
6 historical uses will be accompanying -- accompanying  
7 our designation.

8 Specifically, Trinidad Rancheria, together  
9 with the other North Coast tribes, as you've heard  
10 today, commit to continue consultation regarding the  
11 Marine Life Protection Act process, the DEIR, and the  
12 subsequent enforcement that needs to be implemented.

13 But in that process, we will be requesting an  
14 MOU. We would like a cooperative agreement with Fish  
15 and Game and also intertribally, and the North Coast  
16 Tribal chairmen have really come to a place of  
17 problem-solving and of making recommendations as a  
18 body, and that is -- that is the vehicle in place.  
19 That is the -- the honorable chairmen have come  
20 together and put each other's best interests at  
21 heart.

22 So I -- I really reiterate, it's really  
23 important to go to that group as well as the Sinkiyone  
24 Council as you move forward in this process, as you  
25 continue to do that.

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1           The issue that we still have is one of fishing  
2   licenses, and Sonke has been very, very dedicated to  
3   try to work with the tribes and -- and we would  
4   appreciate those cleanups being done.

5           The difficult thing is a lot of times they get  
6   lost in the shuffle. How can we be assured that that  
7   won't get lost in the shuffle? We need somehow to be  
8   assured that those things will be dealt with, if we  
9   move forward.

10           Tremendous thanks to a lot of people.  
11   Assemblyman Chesbro, his staffer Tom Weseloh, and the  
12   numerous other individuals. Special thanks again to  
13   Secretary Laird, to the MLPA staff, and to Executive  
14   Director Mastrup.

15           And Chairman O'Rourke asked me to reiterate  
16   that on behalf of the chairman. We -- we truly  
17   appreciate the work of all of these individuals.

18           There's a lot more that can be said, and we'll  
19   submit our -- our comments, but we appreciate the  
20   consideration, the education, the learning, and the  
21   cooperative spirit that we have been working with  
22   within the last year.

23           Thank you so much.

24           MS. SHEA: Okay. I'm going to call a few  
25   speakers at a time.

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1           Brandi Easter. Looks like she has two cards  
2       ceded. John Corbett, Bill Lemos.

3           MS. EASTER: Executive Director Mastrup,  
4       fellow commissioners, welcome back to the North Coast.  
5       My name is Brandi Easter, and I was a stakeholder in  
6       the Marine Life Protection Act process, rep --  
7       representing the recreational divers, and I, along with  
8       who is standing with me and others who couldn't be here  
9       to join, I just delivered a letter that I would like to  
10      read.

11           "As you know, local stakeholders on the North  
12      Coast worked tirelessly to develop a proposed Marine  
13      Protected Area network in accordance to the Marine Life  
14      Protection Act. The substantial effort and subsequent  
15      accomplishment of the North Coast Regional Stakeholder  
16      Group, or NCRSG, to achieve consensus on a single MPA  
17      network design was a major accomplishment supported by  
18      both conservation and fishing organizations, city and  
19      county governing agencies, harbor districts, our state  
20      elected officials, the Blue Ribbon Task Force, among  
21      others.

22           "We are gratified to see that the California  
23      Fish and Game Commission has honored this effort by  
24      making it a proposed regulation in its Initial  
25      Statement of Reasons, or the ISOR.

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1           "As a result of the June 29, 2011 meeting, the  
2 Commission now has regulatory sub-options for eight of  
3 the Marine Protected Areas in its proposed regulation.  
4 Many of these are based on perceived ease of  
5 enforcement. However, the differences between  
6 sub-options are not trivial.

7           "Each MPA boundary and regulation was  
8 carefully considered and often debated at length by the  
9 NCRSG, and what may appear as minor differences on a  
10 map can have major consequences to those affected  
11 communities.

12           "For this, we ask that you retain the NCRSG  
13 designations, boundaries, levels of take and  
14 coordinates from the proposed regulations for all  
15 sub-options.

16           "This widely supported network design  
17 represents numerous compromises and considerations  
18 regarding ecological and socio-economic issues. We  
19 believe keeping the boundaries and regulations as  
20 recommended by the stakeholders is the best way to  
21 ensure compliance and positive relationship between the  
22 users and the Department of Fish and Game.

23           "Additional placement of boundaries stemmed  
24 greatly from local knowledge provided by people who  
25 best know the coast. We are design -- and were

1 designed for ease of understanding. Shifting of  
2 boundaries from a latitude to an onshore landmark, for  
3 example, is less useful when more fishermen rely on the  
4 GPS than an often foggy coastline. Each recommendation  
5 is based on user experience and DFG guidance.

6 "The tribal use provisions of the proposed  
7 regulation are a result of widespread community support  
8 for formal State recognition and protection of the  
9 North Coast tribes' traditional marine uses, and the  
10 recognition that tribal -- traditional subsistence,  
11 ceremonial and stewardship practices are inextricably  
12 linked to the tribes' spiritual and cultural ways of  
13 life.

14 "We support collaborations between the North  
15 Coast tribes, the California Department of Fish and  
16 Game, and the Department -- and the Commission to  
17 develop ways for preventing negative impacts to tribal  
18 traditional gathering practices.

19 "We also note, with respect to the recent DFG  
20 revisioning, this proposal creates great potential for  
21 the DFG to develop -- to establish collaborative  
22 relationships with other agencies, including harbor  
23 districts and North Coast tribes.

24 "For all these reasons, we strongly encourage  
25 you to continue supporting the recommendations of the

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1 NCRSG as put forth by the Blue Ribbon Task Force, and  
2 adopt the proposed regulation as designed by the  
3 stakeholder group.

4 Thank you very much for your ongoing  
5 support."

6 MS. SHEA: The next speaker is John Corbett,  
7 followed by Bill Lemos.

8 MR. CORBETT: Hello. John Corbett. My  
9 address is 1801 Ocean Drive, McKinleyville,  
10 California. I'm here representing the Yurok Tribe.

11 We are passing out packets that are combined  
12 packets for the Environmental Impact Report and the  
13 regulatory provisions, and so we're hoping that we  
14 don't have to hand out the packet a second time; that  
15 we can have this packet introduced as part of the  
16 record.

17 Second of all, it's a little challenging. We  
18 don't want to have to repeat the exact same testimony  
19 to you in both processes, and so I'm hoping people will  
20 hear it once and then we don't have to give it to you  
21 twice.

22 First, I want to say that the Yurok Tribe  
23 makes a reservation of all rights, and we specifically  
24 assert the right to regulate all Native American's  
25 harvests within our exterior boundaries of our

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1 reservation.

2 We are pleased to par -- to participate in  
3 what's a historic process, and so we want to thank you,  
4 one, for coming up to the North Coast. It's a great  
5 thing and I think you'll get a flavor of the local  
6 area.

7 Two, we of course are thankful to the Governor  
8 Brown administration. We're thankful to Director  
9 Bonham, Secretary Laird, and of course to the Fish and  
10 Game Commission that has allowed this historic  
11 opportunity to happen.

12 The Yur -- Yurok marine relationship goes back  
13 to time immemorial. Over one thousand -- over  
14 thousands of years, such subsistence harvesting has  
15 been an intrinsic part of the environment, and we  
16 appreciate that the EIR notes that and the Commission  
17 has noted that.

18 We also want to paint the landscape a little  
19 bit on the -- on what's just happening on the ground.  
20 There's been no credible scientific report showing any  
21 harm from Yurok ceremonial, religious, cultural or  
22 subsistence harvesting within our ancestral territory  
23 despite thousands of years of this level of harvest.

24 I also want to go -- there have been a lot of  
25 studies of the mussel beds in the North Coast region

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1 and within Yurok ancestral territory, and they all say  
2 one thing. They're robust, they're healthy. We can't  
3 find a problem.

4 And we recently had Dr. Ruiz, who conducted  
5 studies on subsistence harvesting in South Africa,  
6 Portugal and Spain. And he was flying up, because  
7 we're preparing to submit a study proposal, and after  
8 completing the flight and testing some of this stuff --  
9 and of course he's going to do more -- he says, "Well,  
10 why am I doing this? There's not very many people and  
11 all the mussel beds look pretty good, you know, just on  
12 first take."

13 So what we want to say is we don't think you  
14 have a problem, and there's a good record.

15 The tribe supports the regul -- regulatory  
16 option No. 1 in the unified proposal, with a couple of  
17 proposed amendments or clarifications.

18 First, we want to say option 1 is almost  
19 unique. You had sports fishermen, commercial  
20 fishermen, tribes, governments, environmentalists all  
21 completely supported it.

22 And then I will give you the rest of the  
23 overall summary on my next presentation on the  
24 regulatory side. Thank you.

25 MR. MASTRUP: Excuse me, John. We're doing  
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1     them all at once. So we're taking comments on both (A)  
2     and (B) on 2.

3             So if you're going to have a separate set of  
4     comments, why don't you finish that up as quickly as  
5     you can? That would just be more efficient.

6             MR. CORBETT: I -- I -- I can make it very,  
7     very quickly.

8             MR. MASTRUP: Thank you.

9             MR. CORBETT: To red flag three issues. One,  
10    the Smith River issue. I think it's pretty clear. All  
11    the tribes agree what the factual record supports. I  
12    think it was just an error, you know. Correct it.

13            Two, Reading Rock. The Yurok Tribe is going  
14    to be requesting that Reading Rock be taken out of the  
15    marine reserve and converted to a marine resource  
16    conservation area.

17            And No. 3, we have introduced into the record  
18    a letter where we're concerned that a late submittal on  
19    the factual record was submitted by the Resighini  
20    Rancheria, and we want this in the context that there  
21    are other processes, and people can come back later.

22            But that factual record is so weak. We don't  
23    know what it means, and we can't evaluate it and we're  
24    not sure you can either.

25            And so we think it should be taken out until  
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1 the process can be properly vetted and followed.

2 There's a letter in our packet that goes over that.

3 Lastly, in regard to the EIR, we think the  
4 science considered should go well beyond the levels of  
5 protection, and that's required both in order to meet  
6 best available science guidelines and case law as to  
7 what is best available science.

8 The Yurok Tribe has submitted an added  
9 scientific analysis, natural conditions that limit  
10 harvest, Native American harvesting, and many other  
11 factors we think need to be properly considered within  
12 the EIR.

13 We want to give you an overall conclusion, but  
14 you'll get another presentation that we actually think  
15 that harvesting stays available, when you take into  
16 account many of the natural conditions, it's about 10  
17 to 11 days a year.

18 The EIR needs to respond to and incorporate  
19 Yurok materials on environmental justice, cultural  
20 resources, and overall science review by Mike Belchik.

21 Thank you for your time. We do really  
22 appreciate it, and we think we are on the cusp of  
23 something historic.

24 Lastly, having built that up a little bit, I  
25 want to say, after your decision, it's not like it's

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1 going to be a snap of the fingers. There's a lot of  
2 hard work to make this work, and there may very well be  
3 the need for legislative advisement to make it work.

4 But what you can do is carry the weight and do  
5 your part, and that's what we are requesting and that's  
6 what we're hoping, and we think we can build on the  
7 other part to make it work.

8 But I do want to say, I wish it was so easy as  
9 snapping the fingers, but that's really the start of  
10 a longer process.

11 Thank you. We look forward to it. Bye.

12 MR. MASTRUP: Thank you, John.

13 MS. SHEA: We have Bill Lemos, followed by  
14 Beth Werner.

15 MR. LEMOS: Good morning. Vice chair Sutton  
16 and Commission, my name is Bill Lemos. I'd like to  
17 thank you for being here on the North Coast. I'd also  
18 like to extend a "Thank you" to Commissioner Kellogg  
19 for his long service, and congratulations on your  
20 reappointment to the Commission. I appreciate that.

21 MR. KELLOGG: Thank you.

22 MR. LEMOS: I'd also like to thank the members  
23 of the RSG that worked so hard on this -- I was a  
24 member of that panel -- the Blue Ribbon Task force, the  
25 Department and our -- and its assistance to the RSG and

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1 the Blue Ribbon Task Force, and to Secretary Laird for  
2 his continued support, especially on the tribal issues.

3 I'd briefly like to speak to both issues, the  
4 ISOR and the DEIR. We're pleased that the process for  
5 the protected areas moving forward is reaching  
6 conclusion, and we have converged in support for this  
7 unified proposal.

8 As consultant for the Natural Resources  
9 Defense Council, it was particularly pleasing to see  
10 not only the local people coming together, but the  
11 support that we had from our membership throughout for  
12 marine protection.

13 The fact that so many local people worked  
14 together cannot be understated. I think that this  
15 collaborative effort speaks volumes for who we are here  
16 on the North Coast.

17 You know, they said a couple of years ago that  
18 this could never be done, but here we are today  
19 speaking about the unified proposal and its importance  
20 to us as a document that shows how well this community  
21 feels about itself and about its marine resources.

22 With regard to the ISOR, the GPS coordinates  
23 and the take allowances and the prohib -- prohibitions  
24 for listed species all proposed in the MPAs and the  
25 special closures do appear to be in agreement with what

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1 the North Coast Regional Stakeholder Group proposed.  
2 So I'm going to encourage you to look carefully at the  
3 unified proposal as the guiding document for your  
4 decision -- decisions.

5 Where the options exist within these MPAs, we  
6 encourage adoptions of the sub-options that reflect the  
7 intent of the RSG, the unified proposal. In most  
8 cases, that means we're recommending option A or option  
9 1.

10 One potential exception is in the Humboldt Bay  
11 SMRMA, where we defer to ongoing efforts by the  
12 Department and the Harbor and the Wiyot Tribe to come  
13 to a resolution on that particular shape.

14 Many factors have come into account for you to  
15 make this decision. We urge you to choose the  
16 sub-options that are consistent with the RSG's unified  
17 proposal, both because that proposal reflects broad  
18 agreement, and because the RSG carefully balanced  
19 community needs with choices that come close as  
20 possible to meeting science guidelines.

21 We hope the Commission will take particular  
22 care not to make changes that would undermine the  
23 viability of this bare-bones network. Adopting the  
24 sub-options recommended by the RSG looks to us like the  
25 best way to maintain the balance the RSG achieved.

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1           Finally, we've reviewed the DEIR, and I'm glad  
2   Vice chair Sutton brought up that issue of the  
3   no-project alternative generally meeting the proposed  
4   project objectives. I think we put that one to rest,  
5   that that one is not a viable alternative.

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6           We agree with the conclusions that the Draft  
7   EIR is the proposed project that will create the most  
8   public benefits by protecting special productive places  
9   such as Reading Rock, Sea Lion Gulch, Big Flat, Double  
10   Cone Rock.

S7-2

11           The DEIR also helps frame the importance of  
12   restoration projects already underway at places like  
13   Humboldt Bay, the Big River Estuary, and Point  
14   Cabrillo.

S7-3

15           The document appears to comply with CEQA and  
16   the fundamental conclusions of the review are well  
17   reasoned.

S7-4

18           Thank you very much for this opportunity to  
19   give you that input. I appreciate it.

20           MS. SHEA: Beth Werner, followed by Jennifer  
21   Savage and Dan Kruger.

22           MS. WARREN: Well, hello. My name is Beth  
23   Werner and I am the executive director of Humboldt  
24   Baykeeper. Welcome to the North Coast.

25           I'd like to kind of reiterate what everyone

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1 has kept saying. This unified proposal sounds really  
2 nice. The road getting there was really rocky, but we  
3 are here now.

4 Humboldt Baykeeper worked on the unified  
5 proposal both on the Regional Stakeholder and then  
6 outside that group in many, many meetings, and we're  
7 looking at the proposed project because -- we recommend  
8 you adopt the proposed project, that is, because it  
9 most looks like the unified proposal.

10 And the letter before you is signed by  
11 Humboldt Baykeeper, the Northcoast Environmental  
12 Center, Mendo Abalone Watch, Friends of the Dunes,  
13 Ocean Conservancy, NRDC, Russian Riverkeeper, Friends  
14 of the Eel River, the Environmental Protection  
15 Information Center, and the California Coastkeeper  
16 Alliance.

17 This letter highlights specifically a few  
18 areas that we're interested in in the Draft  
19 Environmental Impact Report. I'd like to speak to  
20 three of them.

21 The first one, I'd like to also say thank you,  
22 Commissioner Sutton. I think you did the right job in  
23 identifying that the no-project alternative does not  
24 meet the objectives.

25 It's incon -- excuse me. It's inconsistent

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S8-1

1 with the conclusions on page 8-8 and it does not  
2 benefit fisheries and habitat and does not meet the  
3 goal of the Act.

4 The second point I'd like to highlight is the  
5 executive summary in chapter 8 should identify the  
6 proposed project as the environmentally superior  
7 alternative.

8 There's nothing in CEQA outlining that  
9 there -- nothing in CEQA or its guidelines that  
10 prohibits the Commission from ident -- identifying the  
11 proposed project itself as the ESA.

12 Finally, chapter 4 and appendix B should  
13 explicitly recognize the limitations of the Ecotrust  
14 data. These chapters should further note that Ecotrust  
15 worst case scenario will discontinue and -- well,  
16 excuse me.

17 The worst case assumption that all displaced  
18 effort will discontinue is in direct conflict with the  
19 DEIR persuasive displacement assumptions that fishermen  
20 will shift efforts to areas outside MPAs.

21 There are other points of interest in this  
22 letter, but those are the three most important. Thank  
23 you.

24 MS. SHEA: Jennifer -- Jennifer Savage,  
25 followed by Dan Kruger.

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1 MS. SAVAGE: Greetings, and welcome back to  
2 the North Coast. I'm speaking on behalf of the Ocean  
3 Conservancy. As you know, our organization has been  
4 deeply involved in the implementation of the Marine  
5 Life Protection Act.

6 In addition to sitting on stakeholder groups  
7 on the central, north coast and south coast, we've also  
8 been intimately engaged in the entire span of the North  
9 Coast Marine Life Protection Act process. We served on  
10 the Regional Stakeholder Group, helped design the  
11 region's proposed marine protected areas, and have  
12 attended all meetings related to the implementation of  
13 the MLPA here on the North Coast.

14 As a result, we are extremely familiar with  
15 the details of the Fish and Game Commission's North  
16 Coast proposed project.

17 Given that the Marine Life Protection Act is  
18 designed to achieve conservation goals and advance  
19 environmental protection, we do not expect any of the  
20 proposed MPA networks to result in potentially  
21 significant adverse environmental impacts under CEQA.

22 The CEQA analysis in the DEIR confirms this,  
23 finding that potential adverse impacts are less than  
24 significant for all resource topics.

25 The analysis further finds that the proposed

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1 project will provide the most substantial benefits to  
2 the state of California by protecting marine life and  
3 underwater habitats while also balancing the interests  
4 of a wide variety of stakeholders.

5 The DEI -- the DEIR provides a legally  
6 sufficient and fundamentally sound foundation for the  
7 State's decision and fulfills the purposes of CEQA.

8 We do have suggestions for improving the  
9 accuracy, completeness and consistency, and we will  
10 submit those via written comment.

11 Thank you very much for your continued  
12 attention to this landmark conservation act, and your  
13 ongoing efforts to make the best and most appropriate  
14 decisions for the North Coast.

15 MS. SHEA: Dan Kruger, followed by Larry  
16 Knowles.

17 MR. KRUGER: I have a presentation here.

18 Hello? My name is -- hear me? My name is Dan  
19 Kruger. I am president of Soper Company. I'm here  
20 today to speak about Double Cone Rock SMCA.

21 You may be familiar with this. One hundred  
22 percent of this SMCA is adjacent to Soper Company  
23 property. We have only one access point in that four  
24 miles.

25 We've completed about 50 years of private

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S9-1

1 conservation on this piece of land. This -- the  
2 cornerstone of this is restricted hunting and fishing,  
3 with more stringent regulations than the State provides  
4 for.

5 One hundred percent of those lease fees that  
6 we get back are reinvested back into land. Our partner  
7 in this is Wilderness Unlimited. So continued  
8 recreational fishing access to that single point is  
9 critical to continuing these projects.

10 I wanted to share with the Commission today  
11 some photos of some recent work that we've done using  
12 those funds. This is the Dunn Creek Coho Passage, and  
13 we just finished this up.

14 Department staff identified three culverts  
15 upstream of Highway 1 that posed potential fish  
16 barriers, so we worked with Mendocino County Resource  
17 Conservation District to eliminate those barriers.

18 Soper Company voluntarily upgraded three  
19 crossings for this coho passage to the creek  
20 headwaters. So now the entire watershed is open to  
21 this coho passage. This is us yarding out the old  
22 culverts.

23 Currently the passage is blocked by Highway  
24 1. In 2013, Caltrans is going to remove that blockage  
25 and we should see fish coming up the stream.

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1           This is rock coming in. We had to haul that  
2   from a long distance away. Each one of those rocks was  
3   individually placed in the channel here. That's a  
4   historic train trestle you see in the background. We  
5   worked around that.

6           Then we put in bridge abutments and I-beams  
7   and got ready for the deck. That is what it looked  
8   like when it was finished here. Finished decking,  
9   rails and approach.

10           So I want to show you some before and afters.  
11   So this is the middle -- middle crossing before  
12   construction. You can see that there's a little  
13   barrier to fish passage there.

14           That's what it looked like after we were done.  
15   This is what it looks like at high flow. This photo  
16   was taken probably about three weeks ago, when we had  
17   that rain event.

18           This is the upper crossing. That's what it  
19   looked like after construction. This is what it looks  
20   like at high flow.

21           This is the lower crossing before  
22   construction. This is what it looked like after  
23   construction, and we built a little spawning area you  
24   can see off on the right. The spawning area is working  
25   perfectly, just as designed, because it takes this

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1 tributary, routes it through there, and hopefully we'll  
2 be seeing fish coming up there by 2013.

3 So getting back to what we're talking about  
4 today, the DEIR states that removing shore-based  
5 establishment of the proposed project would conflict  
6 with existing land use activities, including those  
7 conducted on private parcels adjacent to the proposed  
8 MPAs.

9 I think I just demonstrated that right there.  
10 Without those revenues coming in from Wilderness  
11 Unlimited, we can't go ahead and continue this type of  
12 work.

13 The DEIR also states that revised regulations  
14 allowing recreational marine take from shore only in  
15 Double Cone Rock SMCA would be less than significant.

16 So therefore, option B gives us the same level  
17 of protection as option A. Option B continues our  
18 assistance with the Department for enforcement, and I  
19 think the Commission should take a look at that and  
20 talk with the wardens on the ground for details. And  
21 it saves our current private conservation plan while  
22 avoiding any of these conflicts.

23 So therefore, Soper Company asks the  
24 commissioners to adopt option B for Double Cone Rock  
25 SMCA. Thank you.

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S9-3

S9-4

1 MS. SHEA: Larry Knowles, followed by Terry  
2 d'Selkie. I can't really read it.

3 MR. KNOWLES: And I have some time ceded to  
4 me, I believe.

5 MR. MASTRUP: One card?

6 MR. KNOWLES: Yeah, one card.

7 MR. MASTRUP: You have three minutes.

8 MR. KNOWLES: Hello, my name is Larry Knowles.  
9 Commissioners, thank you for -- for hearing my  
10 comments.

11 I'm here representing my business, Rising Tide  
12 Sea Vegetables, and the Seaweed Stewardship Alliance,  
13 which is a group of commercial seaweed harvesting  
14 businesses on the Mendocino coast and up through  
15 Humboldt, Del Norte, and actually south -- southern  
16 Oregon.

17 Specifically, what I want to talk about are  
18 the -- the three SMCAs on the Mendocino coast which  
19 actually are not a part of the Regional Stakeholder  
20 Group unified proposal, and although I'm not in support  
21 of these because I'm supporting the unified proposal, I  
22 wanted to speak a little about them.

23 If you should choose to adopt these, we  
24 have -- the seaweed edible -- the commercial edible  
25 seaweed industry has a couple of problems. The main  
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1 thing is that the no take of bull kelp would be a real  
2 problem for our industry in that it's a -- a very  
3 primary species that we can move into, although we  
4 don't have large amounts of take of it right now.

S10-1

5 The other issue that I wanted to discuss is  
6 that macrocystis actually -- which is the other no take  
7 species in these SMCAs -- is -- occurs in very small  
8 quantities.

9 So it could have a rationale for no take,  
10 because it occurs in such small quantities in very  
11 isolated patches in each one of these SMCAs, and I  
12 could actually identify those exact patches. And  
13 they're literally patches, unlike Southern California.

S10-2

14 So there could be an argument for genetic  
15 biodiversity in that to keep those sound.

16 Bull kelp is highly regulated in the North  
17 Coast. It is only for -- for the edible purposes of  
18 which we are, it can only be taken about 4,000 pounds  
19 a year.

20 For nonedible, it's subject to leased beds,  
21 and you can see from this that the light gray beds  
22 there are the only leased beds on the North Coast. So  
23 these SMCAs aren't even affected by that. They  
24 wouldn't be affected by any kind of lease activity.  
25 And there are no current active leases in the North

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1 Coast, as far as I know.

2 Craig is back there. He would know better  
3 than I.

4 And I also wanted to say that the -- the take  
5 of bull kelp really would provide very, very little  
6 impact. There's a real de minimus impact on the  
7 resource in the ecosystem, whereas macrocystis  
8 could have -- have a problem with any kind of small  
9 amount of take.

10 And this is a slide. Just -- just another 10  
11 seconds.

12 This is a slide that shows about 4,000  
13 pounds. It's probably more like 6,000 pounds of bull  
14 kelp on the surface there, which is the limit per each  
15 license that is issued for edible take. So that gives  
16 you a picture of -- of what kind of volume we're  
17 looking at.

18 And thank you very much, and I look forward to  
19 working with you in the future.

20 MS. SHEA: Next speaker is Terry d'Selkie,  
21 Javier Kinney, followed by Ruthie Maloney.

22 MS. d'SELKIE: Good morning. I think it still  
23 is.

24 This is for you, to have a sample of what you  
25 just saw on the slide there. I'm Terry d'Selkie, owner

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S10-4

1 of Ocean Harvest Sea Vegetable Company. Good morning,  
2 Commissioners and staff. Thank you for your time.

3 I'm here today requesting the adoption of the  
4 unified array with no changes. I would like to  
5 publicly thank the RSG members for their time, their  
6 collaborative efforts, their patience and dedication to  
7 this process.

8 I've been hand harvesting nereocystis frond  
9 tips, what we call bull whip kelp chips, off the  
10 southern point of Russian Gulch State Park for the past  
11 10 years. This access point is one of the only  
12 land-accessible bull whip kelp sites in any of my  
13 current harvesting places. I harvest the frond tips  
14 from about 50 bull whip kelp plants in that area per  
15 harvest year.

16 I'm telling you this because I want to make  
17 sure that the boundaries of the SMCAs are not changed  
18 and that they remain consistent with the  
19 recommendations of the unified array.

20 I'm currently selling this delicious gourmet  
21 treat to customers who are very excited to get bull  
22 whip kelp chips. The kelp chips I've handed around to  
23 you are full of nutrients and vibrancy, and they're a  
24 popular snack for those who have tried them.

25 I want to make sure that you're aware that the

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S11-1

1 seaweed harvesters of the North Coast, along with  
2 scientists, are working towards regulations for hand  
3 harvesting of edible seaweeds on the North Coast.

4 Harvesting of edible bull whip kelp is already  
5 regulated for commercial harvest, as you know, to 4,000  
6 pounds per year per license.

7 We're very well aware of how difficult it is  
8 to find on-shore access spots for harvesting. So thank  
9 you for your support.

10 MR. SUTTON: I have a question, if you don't  
11 mind. I'm a little confused. Forgive our ignorance of  
12 kelp, the industry, but when -- what you call bull whip  
13 kelp, is that the same as bull kelp or is that a  
14 different --

15 MS. D'SELKIE: It is nereocystis.

16 MR. SUTTON: Okay. Now, this previous  
17 presentation said -- referred to it as nonedible bull  
18 kelp, but apparently some of it is edible?

19 MS. D'SELKIE: It is edible. What we harvest  
20 is edible, and we hand harvest the frond tips only.

21 MR. SUTTON: Thanks.

22 MR. MASTRUP: I think there's been a request  
23 to take a five-minute break. Is that long enough?

24 MR. SUTTON: Five minutes, great. Thank you.

25 MR. MASTRUP: All right. So five minutes,

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1 we'll start again.

2 (Recess taken.)

3 MR. MASTRUP: Thank you. My apologies. We  
4 apparently missed Supervisor Kendall Smith from  
5 Mendocino county.

6 If you could come up, we'll get you. So sorry  
7 about missing that. It got lost in the pile.

8 MS. SMITH: Thank you, Vice President. Thank  
9 you, Vice President Sutton and members of the  
10 Commission and staff for convening your meeting here  
11 today in Eureka on the North Coast. We appreciate your  
12 diligent attention and review of this very important  
13 issue.

14 My name is Kendall Smith and I'm a member of  
15 and representing the Mendocino County Board of  
16 Supervisors in its unanimous support for the comments  
17 presented here today.

18 A somewhat more detailed letter has been  
19 submitted in writing to the Department, and I've  
20 provided copies to you. This comment letter addresses  
21 concerns in the Draft EIR, while reconfirming our  
22 support for the unified proposal, and I'll read the  
23 letter in part.

24 The Mendocino County Board of Supervisors has  
25 been involved in two of the study regions covered by

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1 the Marine Life Protection Act Initiative: the North  
2 Central Coast Study Region, covering our southern  
3 border to Point Arena, and the North Coast Study  
4 Region.

5 I'm sorry. The North Central Coast Study  
6 Region covering our border to Point Arena to the south  
7 and the North Coast Study Region covering Point Arena  
8 area to our northern border of Humboldt County.

9 Unlike the divisive and contentious process  
10 evidenced in the North Central stakeholder region, the  
11 decision-making process for the MLPA in our North Coast  
12 region achieved widespread consensus among civic,  
13 tribal and nongovernmental organizations for a unified  
14 proposal now referred to as the Revised North Coast  
15 Regional Stakeholder Group MPA proposal, or the  
16 Preferred Alternative in the Draft Environmental Impact  
17 Report.

18 The inclusion of the MPAs of protections  
19 ensuring the tribes' continued traditional use of  
20 marine resources is the result of widespread support  
21 from all sectors of the North Coast. The DEIR lists 10  
22 federally-recognized tribes in Mendocino county that  
23 will have continued access to six State Marine  
24 Conservation Areas on the North Coast for purposes of  
25 traditional, noncommercial gathering, harvesting and

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1 fishing of marine species.

2 As part of our involvement in the MLPA, we  
3 would like to take this opportunity to review a few key  
4 points raised by Mendocino County constituents  
5 following their review of the MLPA Act in the North  
6 Coast Study Region in the environmental draft  
7 document.

8 We have four areas of concern. The concerns  
9 are the science of the MLPA, the enforcement of the  
10 MPAs, the economic impacts. Although we recognize that  
11 the CEQA process may not be able to address all of our  
12 concerns at this time, we trust that they will be  
13 entered into the public record for future  
14 consideration.

15 One example from the Regional -- from the  
16 Regional Stakeholder Group, Skip Wollenberg proposed  
17 the following wording to be included in the Southern  
18 Bioregion MPAs: "State water shall be occu -- shall  
19 not be occupied by seafloor pipelines and/or sub-seabed  
20 slant holes to transport hydrocarbon products from  
21 offshore sedimentary basins."

22 The concern is that issues such as this --  
23 water diversions, oil and gas drilling and transport,  
24 seabed/sand mining, military exercises, especially  
25 those involving hazardous materials, naval sonar and

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1 other forms of acoustic pollution, hydrokinetic power  
2 projects, aquaculture projects or other forms of  
3 industrial development, as well as non-point source  
4 pollution from recreational users who spread  
5 nonbiological litter from a multitude of legal and  
6 illegal forestry and agricultural operations -- was not  
7 specifically addressed.

S12-1

8 With regard to the science, the Draft Strategy  
9 for Public Participation in the MLPA outlined a  
10 protocol for joint fact-finding to collaboratively  
11 develop a common knowledge base with constituents.

12 However, formally-structured encounters  
13 between academic and local experts did not take place  
14 during the MLPA Initiative process in our region. The  
15 persons appointed as regional stakeholders did their  
16 best, yet that group of individuals, 32, represented a  
17 limited portion of community expertise. The loss  
18 underlies much of what is missing from the DEIR.

S12-2

19 Specifically, the DEIR acknowledges the  
20 potential for urchin barrens, but does not effectively  
21 address their environmental impacts and food web  
22 repercussions when MCAs are closed to urchin harvesting  
23 in the absence of predators, or how to avoid their  
24 creation, pages 4 through 48, or the impact from effort  
25 shift in both commercial and recreational fishing, most

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1 specifically regarding abalone.

2 Mendocino county is one of the only regions in  
3 the world with sustained populations of abalone, yet  
4 these populations are potentially threatened by effort  
5 shift from the North Coast Central Study Region to the  
6 southern portion of the North Coast Study Region due to  
7 recent closures and MPAs established in the NCCSR.

8 An erroneous assumption that equal  
9 opportunities existed for involvement in an  
10 internet-centric MP -- MLPA process, planning process,  
11 where most constituents had to drive four to 16 hours  
12 round trip to attend meetings where they were limited  
13 to contributing only three minutes of commentary, and  
14 the erroneous assumption that the NCSR coastline  
15 contains abundant areas for subsistence fishing and  
16 gathering beyond the proposed marine protected areas  
17 despite significant barriers to access, including  
18 severe weather and wave conditions, lack of roadways  
19 along remote regions of coastline, and seasonal,  
20 geographical and specific -- species-specific  
21 closures.

22 Another concern is regarding enforcement. The  
23 current MPA configuration anticipates that the proposed  
24 MPAs, existing within 517 statute miles of shoreline,  
25 would be patrolled by only 19 wardens assigned to the

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1 region.

2 This averages out to approximately 27 miles of  
3 shoreline per warden. Stakeholders have repeatedly  
4 expressed their deep concern that this level of  
5 enforcement is inadequate.

6 The economic impact, we applaud the inclusion  
7 of environmental justice in section 6-6, yet this  
8 section does not fully address the environmental  
9 justice issues faced by constituents in the North Coast  
10 region.

11 What may appear to be an insignificant  
12 macroeconomic impact in a large-scale analysis  
13 translates to a significant microeconomic impact in a  
14 county with less than 90,000 residents that have been  
15 hard hit by recession.

16 Small scale family fisheries, which are a  
17 substantial portion of the currently viable and  
18 sustainable fisheries in Mendocino county, could suffer  
19 significant impacts due to displacement effort as  
20 detailed in section B.3.1 in the EIR.

21 It is fair to note that small family fisheries  
22 were represented in the North Coast Stakeholder Group  
23 and assisted in the development of the unified  
24 proposal.

25 As leaders in our county, we will be hearing

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S12-8

1 from constituents regarding the MLPA process and its  
2 outcomes for many years to come. We hope the  
3 Department of Fish and Game can collaborate with us to  
4 effectively address the concerns outlined above with a  
5 joint goal of protecting and enhancing our marine  
6 resources in communities who depend upon them.

7 So in closing, I'd like to say probably  
8 nowhere other than Mendocino -- or that Mendocino is  
9 probably a prime example of where the contentious  
10 issues really were expected to hit the ground, and the  
11 process was a very, very good one in that the divisive  
12 and fractured nature that we really thought going into  
13 this process would occur really did not, and we believe  
14 it was because of the leadership that was in place and  
15 your consistent adherence and recommendations for this  
16 process to move forward, especially with regards to  
17 tribal issues.

18 So in closing, we refirm -- we reaffirm our  
19 support for the preferred alternative and urge the  
20 Department to adopt this proposal and work closely with  
21 North Coast communities, including tribes and tribal  
22 communities, in future stages of implementation,  
23 monitoring and evaluation of MPAs.

24 Thank you very much.

25 MR. MASTRUP: Thank you.

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1           A couple of quick things. Not for you. Thank  
2   you.

3           Just for the record, people, I really am  
4   discouraging people reading specific comments about the  
5   EIR in the record. Handing -- if they're written,  
6   those are just as valid and will be addressed. Don't  
7   feel the need to read pages of comments on the CEQA  
8   document. We're running out of time on this issue.

9           And two, I'm going to start holding people to  
10   three minutes. So do watch the time, or I'll start  
11   interrupting you. Thank you.

12           Next speaker.

13           MS. SHEA: Next speaker is Javier Kinney,  
14   followed by Ruthie Maloney, followed by Bob McConnell.  
15           We're still on three minutes.

16           MR. KINNEY: Good afternoon. My name is  
17   Javier Kinney. I currently serve as the director of  
18   the Office of Self Governance for the Yurok Tribe. I'm  
19   here to comment on item 2(A) in regards to the  
20   discussion of proposed changes in the regulatory  
21   matter.

22           Again, welcome, Vice President Sutton and  
23   other commissioners. The Yurok Tribe requests that the  
24   following motion be adopted by the California Fish and  
25   Game Commission: 1, Reading Rock, the tribal take

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1 option B; 2, Reading Rock, SMCA main option B; and 3,  
2 that a "No change" for the specific location of False  
3 Klamath Rock, seasonal special closure.

4 My colleagues again will also be presenting  
5 and following up on that as well.

6 The three points I wanted to share with the  
7 Commission today is -- is No. 1, respect; No. 2,  
8 recognition; and No. 3, understanding.

9 First, in regards to this MLPA process, the  
10 Yurok Tribe highly values the cooperative and actually  
11 partnership of types of actions that have been taken  
12 not only on behalf of tribes, but on behalf of the  
13 California Department of Fish and Game.

14 The respect for tribal rights, cultural  
15 rights, and the traditional knowledge that tribal  
16 peoples bring to the table is invaluable and unique to  
17 this area of the world, and that important respect in  
18 regards to inclusion of tribal governments and tribal  
19 communities and tribal individuals is paramount.

20 In addition, the intertribal relations in  
21 regards to the current progressive, technical and  
22 governmental relationships between tribes again is also  
23 carried out in both traditional and contemporary ways.

24 The second, recognition by the State of the  
25 tribal nation-building efforts that are currently

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1 occurring, again is truly unique throughout the  
2 world.

3 The individuals and the indigenous peoples of  
4 this area have provided for the political, economic,  
5 social and legal rights for the individuals as citizens  
6 living up and down the river and along the coast.

7 These sustainable management practices have  
8 been carried out until today and will be carried out  
9 until tomorrow and further on.

10 And lastly, the understanding. The inclusion  
11 of traditional tribal knowledge in regards to the  
12 scientific principles that are applied to not only the  
13 management of our resources but the understanding of  
14 the life ways and the cultural aspects of importance to  
15 our cultural, ceremonial and political ways of life  
16 should never be compromised and will never be  
17 compromised.

18 And so, again, I encourage and urge you to  
19 push and change that bureaucratic consciousness in  
20 regards to the inclusion of tribal peoples and the  
21 inclusion of tribal ways of life.

22 I believe now there's going to be more fish in  
23 the water because of cooperative relationships and  
24 agreements between the Yurok Tribe and the State of  
25 California, and we've gone beyond the adversarial

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1 aspects of knowing how we live and the way that we  
2 manage our natural resources.

3 So with that, again, please take into  
4 consideration the presentations of our colleagues and  
5 again, on April 11th, you're here in Eureka, and you  
6 heard it here first.

7 And again, I appreciate and wish you the best  
8 of luck in this work, and we'll have a commitment,  
9 again as mentioned by the Honorable Chairman Thomas  
10 O'Rourke, committed to this process to make sure that  
11 solutions are found in a sustainable and respectful,  
12 recognized, and understanding way.

13 Thank you.

14 MS. SHEA: Ruthie Maloney, followed by Bob  
15 McConnell.

16 MS. MALONEY: Good afternoon. My name is  
17 Ruthie Maloney. I am the assistant self governance  
18 director for the Yurok Tribe and today for you, I have  
19 a video that was put together by the Yurok Tribe and  
20 Seventh Generation Fund that demonstrates our  
21 traditional way of life.

22 (Video playing.)

23 "Since time immemorial, the Yurok Tribe has  
24 played an integral role in maintaining balance and  
25 order in the Northern California coastal ecosystem.

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1 The Yurok people's relationship to the ocean is heard  
2 in our stories, is present in our ceremonies, and is  
3 evident in how we gather our foods today.

4 "We go to cook eels, we cook mussels, and  
5 stuff like that. I used to catch all that stuff. We  
6 caught all kinds of fish: sturgeon fish, salmon,  
7 steelhead, eels, candlefish, surf fish. We gathered  
8 all that stuff. We just -- they gathered it up and got  
9 them all dried and we have it all year around. I mean,  
10 that was good.

11 "Sustainable harvesting, you know, there's  
12 that point where you are taking these things and it is  
13 helping other species grow there or it is helping out,  
14 thinning it out a little bit. You know, there's  
15 nothing wrong with that, but going overboard and just  
16 totally killing it all, that's not the Yurok way.

17 "With scientific methods and generations of  
18 cultural knowledge and understanding, the Yurok Tribe  
19 is dedicated to the continued management of our  
20 ancestral coastal gathering grounds and to maintaining  
21 a sustainable relationship with the ocean.

22 "One important area of cultural use for the  
23 Eureka Tribe is Sek-kwo-nar, or Reading Rock. With our  
24 ocean-going canoes, Yurok people from far northern  
25 coastal villages join together with villages as far

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1 south as Trinidad and made a combined journey to  
2 Sek-kwo-nar to harvest mussels and other cultural  
3 resources.

4 "Whether it's on the beaches along Gold Bluffs  
5 or around the Orick area up through along the Klamath  
6 River here, out to Reading Rock, that we continue to  
7 gather these resources. They're important to our  
8 dances. These foods and -- and the shells and other  
9 things we gather out on -- out on Reading Rock area and  
10 on the beaches, it continues the cycle, the cycle of  
11 life for us.

12 "And then these shells and these items that we  
13 use in the -- in the ceremonies, in our high  
14 ceremonies, are -- it's vitally important that we  
15 continue this, because it continues us as a people,  
16 these dances. We've done this for thousands of years  
17 and in a way that has taken care of the resource.

18 "My mother is 102 right now, and she's still  
19 walking around. I think she can attribute a lot of  
20 that strong body and life to things she ate at that  
21 time, and people are asking me too, 'What did she eat  
22 when she was -- as a young person? What did she eat?'  
23 And, you know, it was the things from the natural  
24 foods, from the earth, the fish, the seaweed.

25 "The Yurok Tribe is dedicated to the

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1 protection and long-term management of green wildlife  
2 along the Northern California coastal areas, and we  
3 shall continue to manage the tribe's cultural and  
4 natural resources in a sustainable way."

5 Thank you.

6 MS. SHEA: Next up, Bob McConnell, followed by  
7 Ann Rennacker and David Gurney.

8 MR. McCONNELL: Skue-yen' ue ke-choyhl.

9 [Translation provided by Yurok Tribe: Good afternoon.]

10 Good day. My name is Bob McConnell, and I am  
11 the heritage preservation officer for the Yurok  
12 Tribe. Sorry.

13 I'm a Yurok tribal member and I am a gatherer,  
14 hunter of North Coast resources since I was a little  
15 bitty guy. Believe it or not, that's almost 60 years  
16 that I've been out there doing that. I'm a little bit  
17 older than that, but I don't remember it before that.

18 I'm here today to speak to you about a  
19 resolution from the Yurok Tribe that's included in the  
20 packet that you have regarding the -- the designation  
21 of Sek-kwo-nar as a traditional cultural property.

22 Using the traditional cultural property as  
23 a -- as a designation is a powerful tool that tribes  
24 can use when a property is not readily apparently  
25 built, isn't part of a built environment. And if you  
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1 go out there to Reading Rock or Sek-kwo-nar, you don't  
2 find evidence of that use.

3 So it -- again, it's a powerful tool found in  
4 the National Register -- or not National Register of  
5 Historic Places, but National Historic Preservation  
6 Act, and more specifically in National Register  
7 Bulletin 38.

8 The second thing that I'd like to speak to is  
9 traditional ecological knowledge, and you've heard a  
10 little bit about that in previous speakers, that --  
11 there was a tremendous abundance of resources on the  
12 North Coast. It is unquestioned.

13 At first contact, you can find that evidence  
14 in the extraction-for-profit enterprises developed by  
15 the Euro-Americans when they first came here.

16 What isn't evident, though, is how that came  
17 to be, and I think no credit was ever given to the  
18 Native American people and their use of traditional  
19 ecological knowledge to sustainably harvest these  
20 resources.

21 Very little credit has been given until  
22 recently. Redwood National Park has now realized that  
23 burning is -- of that landscape is -- is why that  
24 landscape looked like it did when they first got here.

25 And there hasn't been those same kind of

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1 studies done for our ocean resources, but I'm here to  
2 suggest that if you do take us out of that equation,  
3 what are we going to end up with? Is it going to be  
4 something very similar to what you now see in the state  
5 of California with our fire prevalence in -- in -- in  
6 our lands?

7 Thank you.

8 MS. SHEA: Thank you. Ann Rennacker, followed  
9 by David Gurney, followed by Alicia McQuillen.

10 MS. RENNACKER: Hello. My name is Ann  
11 Rennacker, and I've lived on the North Coast for almost  
12 30 years. I have a -- long been a deeply connected  
13 advocate for the conservation of the ocean, and I  
14 belong to the Ocean Protection Coalition.

15 We're trying to save California's unique North  
16 Coast. It's one of our most precious resources, and  
17 everyone that lives here loves it. We recreate there.  
18 Commercial and sport fishing has been sustainable. Sea  
19 plant harvesting. The tourist industry with -- now  
20 with the whale watching.

21 And so I -- I thought when I heard about the  
22 proposed MLPA areas that it sounded like a good idea,  
23 but my concern is that this process does not protect  
24 the ocean from -- from wave energy devices.

25 Green Wave has put out a permit -- has been

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1 granted a permit to put huge devices out in our ocean  
2 anchored to the bottom, right off the Point Cabrillo  
3 proposed protected area.

4 And it -- the -- the Blue Ribbon panel was  
5 headed up by a person from the oil industry. It's not  
6 protected from oil drilling. Navy war game testing,  
7 that came to our town and told us what they're going to  
8 do, and which we protested that they could -- their  
9 sonar could injure marine mammals and whales, but they  
10 say, oh, they'll -- they'll have a man on the bow  
11 looking for a whale and if they see one, they'll stop.

12 That didn't seem good enough. So my concern  
13 is that they're going to destroy the pristine beauty,  
14 they're going to damage the whales, and if they -- if  
15 this permit for the Green Wave energy devices goes on,  
16 it will be just right outside of Mendocino, where  
17 everyone can see the noise -- the noisy lights and the  
18 -- they're -- it's a huge array of -- of humongous  
19 devices, that it's very scary.

20 So I'm -- I'm hoping that in this process, you  
21 could look again and try to put some real protections  
22 against ocean industrialization.

23 Thank you.

24 MS. SHEA: David Gurney, followed by Alicia  
25 McQuillen.

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1           MR. GURNEY: Good afternoon. I'm David  
2 Gurney. I'm one of the ones that did not have a happy  
3 experience with the MLPA process.

4           I was unlawfully arrested at a public meeting  
5 for trying to legally record that meeting.

6           MR. KELLOGG: Could you move the mike up  
7 closer to you? Thank you.

8           MR. GURNEY: I was arrested for trying to  
9 legally record that meeting, and also public comment  
10 was unlawfully barred from that meeting in total -- in  
11 blatant violation of the Bagley-Keene Act.

12           But be that as it may, I'm here to -- I'm also  
13 a Merchant Marine officer, licensed with the United  
14 States Coast Guard as a captain, and I decided to look  
15 at some of the maps from this DEIR, and this is a map  
16 on page 2.29 of -- of the document.

17           You notice there's one element that's missing  
18 on this map, and that is the coast itself. There's no  
19 coast on this map, much less a three-mile limit, but be  
20 that as it may, that is their map of Cabrillo. This is  
21 what it really looks like on a chart. It's distorted.

22           And all of their maps do not have coordinates.  
23 They're lined out -- lined out on what looks like graph  
24 paper. None have proper coordinates, nor are they  
25 listed in the document, so it's very hard to identify

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1 these areas on a -- on a map to chart it out.

2 Again, this is the Point Cabrillo -- Cabrillo  
3 closure, which was already there before the MLPA. It's  
4 slightly enlarged. And this is the -- the red area is  
5 an area that we had to file a motion to intervene just  
6 last week, because Green Wave has proposed to install  
7 wave energy machines right off these two closed areas  
8 that were already in existence.

9 Furthermore, this is what the wave energy  
10 proposals from 2008 and '09 look like. The bottom one  
11 is the Mendocino one. They had one that's two times as  
12 big in Fort Bragg.

13 You can see the one off of Eureka. It's  
14 huge. That was from PG&E. These are all wave energy  
15 permits, and I haven't had time to graph the new  
16 closures with the MLPA on this map, but they also  
17 significantly cut down on any areas that commercial  
18 fishermen or any subsistence fishermen can -- can  
19 operate in.

20 This is a map here of lease sale 91 from  
21 1988. The oil industry was in our North Coast region.  
22 The area of the green is the coast. The white area  
23 between the blue, that's the three-mile limit.

24 There's no provisions in these MLPAs for  
25 pipelines or any kind of transfer of hydrocarbons

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1 through the MLPA, which Skip Wollenberg was trying to  
2 get in there.

3 Finally, I'll just leave it at this map is --  
4 is symbolic of the lack of public participation that  
5 was involved in this entire process. The -- the public  
6 was really cut out, despite what people say about the  
7 involvement of stakeholders, tribal members and the  
8 public.

9 Their -- this -- this map says it all.  
10 There's no coast, no three-mile limit. Just a complete  
11 lack of knowledge.

12 To sum it up, I just -- there's -- I've turned  
13 in four pages of my objections, but a full one-quarter  
14 of this area -- this map covers the region. I'll --  
15 I'll be done in 10 seconds.

16 And that whole area, from -- from Point Arena  
17 to the Oregon border, from zero to 100 feet, over 20  
18 per -- 27 percent, they had no idea what was down  
19 there. That's a quarter of the area from zero to a  
20 hundred feet. No idea. Unknown substrata.

21 And I -- I'll leave you to read the rest of my  
22 comments, and thank you very much for the opportunity  
23 to speak today.

24 MR. MASTRUP: Thank you.

25 MS. SHEA: Alicia is on her way up, followed

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1 by Bill Gaines and Ted Romo.

2 MS. McQUILLEN: Hello, Commissioners. My name  
3 is Alicia McQuillen, and I'm the marine resource  
4 coordinator for the Yurok Tribe's Office of the Tribal  
5 Attorney.

6 Again, the Yurok Tribe makes a full  
7 reservation of rights with our participation in this  
8 process. And I see you already have the handouts of  
9 the packets from our -- our office, and the letter that  
10 I address today is included in that packet and it's --  
11 it's first.

12 So what I want to talk about is our -- the  
13 Yurok Tribe's support for the options that are within  
14 the noticed document, specifically the Reading Rock  
15 State Marine Reserve, which we support changed to a  
16 State Marine Conservation Area.

17 So with -- at the June 29th meeting in  
18 Stockton, the Yurok Tribe gave testimony on the  
19 importance and the significance of Reading Rock and the  
20 surrounding area for the Yurok Tribe, and the inclusion  
21 of the sub-option for Reading Rock was reviewed by CEQA  
22 and included for that very reason, because it is so  
23 important for us.

24 So that SMCA designation sub-option before you  
25 reflects the cultural, religious and ceremonial

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1 subsistence gathering purposes which have existed since  
2 time immemorial.

3 Functionally, the difference between an SMR  
4 and an SMCA is very small. Reading Rock is located  
5 several miles offshore and is protected naturally by  
6 the harsh weather conditions of the North Coast, along  
7 with the rough seas and the -- the tidal conditions  
8 that significantly limit the number of days which you  
9 can get out there to harvest.

10 And based on models that you will see a  
11 presentation on soon after here, we have decided or  
12 that the data shows there are on average 10 days per  
13 year to actually go out and harvest mussels, for  
14 example.

15 But this SMCA designation for Reading Rock  
16 would further align the MLPA regulations with an  
17 existing MOU with the Bureau of Land Management which  
18 the Yurok Tribe has -- has executed in 2006, and that  
19 MOU states that the Yurok Tribe is a co-steward of  
20 Reading Rock for the very purposes that we're asking  
21 for that SMCA designation.

22 And I believe this would create better  
23 understanding and conformity with what's happening on  
24 the ground and what has existed since time immemorial.

25 Furthermore, you heard testimony on the Yurok  
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1 Tribe's designation of Reading -- Reading Rock as a  
2 traditional cultural property within the Yurok's  
3 traditional cultural landscape, and this traditional  
4 management has included the continuation of Yurok  
5 ocean-going canoe culture.

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6 Since time immemorial, Ner-er-ner or coastal  
7 Yurok people have used those canoes to access Reading  
8 Rock and False Klamath Rock.

9 So in addition to our request for Reading  
10 Rock, we're asking for a "No change" or "No action" on  
11 the specific False Klamath Rock, because of its  
12 inclusion at the last minute.

13 It deserves proper attention and process,  
14 including all of the stakeholders, including the Yurok  
15 Tribe, to adequately -- adequately make sure there's  
16 enough protection for birds, while not blocking out the  
17 tribe.

18 Thank you.

19 MS. SHEA: Bill Gaines, followed by Ted Romo.

20 MR. GAINES: Members of the Commission,  
21 Commission staff, Department staff, my name is Bill  
22 Gaines and I'm president of the California Outdoor  
23 Heritage Alliance, an alliance of 50 organizations and  
24 entities which care about our wildlife resources and  
25 the future of our hunting traditions here in

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1 California.

2 I'm here today on a couple of points. First  
3 one is to echo the testimony of Dan Kruger from Soper  
4 Company in regards to urging the Fish and Game  
5 Commission to adopt option B in the Double Cone Rock  
6 SMCA.

7 The goal of the MLPA is to protect  
8 California's natural resources. In the case of the  
9 land owned by Soper Company, you know, the -- and  
10 managed by Wilderness Unlimited, the protection of our  
11 natural resources simply could not be improved.

12 The Soper Company and Wilderness Unlimited  
13 conservation agreement has laid some foundation for  
14 some very positive things that are happening on the  
15 ground up on that parcel, as well as offshore, and the  
16 health of the abalone beds, there's testimony to that,  
17 and the photos Mr. Kruger showed you is also testimony  
18 to the very positive things that are happening on the  
19 ground.

20 Eliminating that -- the access for that point  
21 would eliminate the ability of Wilderness Unlimited to  
22 continue to participate in that, at substantial  
23 economic impact to Soper Company. It would harm the  
24 wildlife resources of that parcel.

25 So we do urge the Commission to support option  
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1 B for the Double Cone Rock SMCA.

2 We'd also like to thank the Commission for  
3 their support of the various alternatives which  
4 embraced a tradition of waterfowl hunting on Big River,  
5 Ten Mile and Novarro River estuaries.

6 Waterfowl hunting in these areas is  
7 traditional. It's been going on for many, many years,  
8 and it is done with nontoxic federally-mandated loads.

9 In other words, there is absolutely no impact  
10 on the marine resources from waterfowl hunting in those  
11 areas. It simply is not an MLPA issue, and we  
12 appreciate the Commission's support and embracing of  
13 these time-honored traditions as you work through the  
14 final adoption of the North Coast MLPA.

15 Thank you very, very much.

16 MR. KELLOGG: Thank you, Bill.

17 MS. SHEA: Ted -- Ted Romo, followed by Bill  
18 Bernard, followed by Christa Norton.

19 MR. ROMO: Good afternoon. Ted Romo here with  
20 the California -- I'm also going to be speaking on the  
21 Humboldt Bay project that was presented in front of  
22 you.

23 I would ask you that you support the current  
24 option, which is No. 1, okay, in this diagram.

25 Okay? That this is the one that's been worked on for  
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1 many moons. Okay?

2 It has complete support by the waterfowl com  
3 -- organizations here in Humboldt county. We find that  
4 it's the least intrusive. Okay? For your  
5 information. If you have any questions regarding that,  
6 go ahead and ask me.

7 The other ones I would like to address are 10  
8 Mile Estuary. I've spoken before you on this one, and  
9 again ask you to honor the concept that we originally  
10 agreed on, I thought, that these areas, 10 Mile, Big  
11 River and Novarro River, would retain the right to have  
12 waterfowl hunting, since it does not impact any of the  
13 marine life. Okay? And should be pulled away and out  
14 of consideration. Okay?

15 It should be -- probably all of those should  
16 be SMRMAs, but we've agreed on state conservation  
17 areas.

18 So if there are any questions, that's what my  
19 testimony is at this time. I'll let you guys go.

20 MR. KELLOGG: Thank you.

21 MS. SHEA: Bill Bernard, followed by Christa  
22 Norton, followed by Aaron Newman.

23 And if you all could line up, that would help  
24 speed things up just a little bit.

25 MR. BERNARD: Good morning, Commissioners. My  
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1 name is Bill Bernard and I'm representing CASA at the  
2 moment. I'd like to speak to you basically on agenda  
3 item 2(A) and the Double Cone SMCA there.

4 Commissioners, as you recall, unfortunately we  
5 had the displeasure -- I actually have to say it that  
6 way -- of what amounted to a malady situation where we  
7 had to deal with abalone situations at Fort Ross.

8 Option B here for the Double Cone SMCA might  
9 help alleviate some of that impact effort that's  
10 associated with the fishery when we have to, you know,  
11 address malady issues.

12 You know, I hate to mix, you know, both MLPA  
13 stuff and fishery issues, but unfortunately, the two do  
14 combine at times -- at times, and this particular piece  
15 of property, I've actually fished it myself actually  
16 when I was a very young man.

17 It's difficult to get to. It's shore access  
18 only, and perhaps option B here might be that blending  
19 thing where we kind of mix both groups here, kind of  
20 type of deal, and find a solution here.

21 So that would -- that would -- Option B on  
22 that Double Cone SMCA would definitely help towards  
23 that fishery needs.

24 Thank you very much.

25 MS. SHEA: Christa Norton, followed by Aaron

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1 Newman, followed by Rick Copeland.

2 MS. NORTON: Good afternoon, Commissioners,  
3 Vice President. I am Christa Norton. I am from the  
4 Yurok Tribe. I'm secretary -- excuse me, paralegal.  
5 It's been a long morning.

6 I have the much-anticipated presentation here  
7 of minus one tide harvesting. Just to give you a  
8 little bit of an overview of the Yurok Tribe, we're  
9 over 5700 enrolled members, and about a third of that  
10 live on the Yurok reservation.

11 Not everyone harvests, and when we talk about  
12 harvesting, it's not at every low tide. It's not safe  
13 in our -- in our weather and in our oceans to harvest  
14 at any low tide.

15 So all -- the optimum time to harvest is at a  
16 negative one or lower. The purple that you see here --  
17 this was 2011. The purple that you see is outside of  
18 the harvesting ban -- the harvesting quarantine that  
19 the State provides.

20 The purple diamonds, that's harvesting  
21 opportunities available to the Yurok tribal people.  
22 The red -- the red dots that you see up there are the  
23 sustained nine-foot waves. Those are not safe  
24 harvesting days. We don't -- they don't go out. It's  
25 a little crazy to do that. You're looking at rogue

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1 waves and sneaker waves.

2 The -- like I said, the green that you see  
3 there, that is the harvesting quarantine that actually  
4 started March 25th of 2011 and went through October  
5 31st. It normally occurs -- the quarantine normally  
6 occurs between May 1 and October 31. So they lose the  
7 harvesting opportunities between March and April.

8 This one is 2009 and 2010, and it's a little  
9 bit more information there. You have -- you can't see  
10 the -- the green very well, but this is also located in  
11 your packet that we gave you, in the last section,  
12 No. 4-B, page 4. You'll be able to see the colors much  
13 better there.

14 Your 2009 harvesting quarantine was from May  
15 1st through October 31st, and we had a total of 50 days  
16 available for harvesting. Then we've put the  
17 quarantine in place. We lose 27 days of harvesting,  
18 leaving us 23 days.

19 And then when you include the nine-foot  
20 sustained waves, that only leaves 15 days for  
21 harvesting, and then you have to include the other  
22 adverse weather, your winds, your rain. You do have  
23 heavy rain without nine-foot waves.

24 I believe Mr. Wiseman had a -- a chance to see  
25 some of our weather when they were in Crescent City not

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1 too long ago.

2 2010, we had 54 days, and then 33 days were  
3 taken out by the quarantine. Left a total of 21 days  
4 to harvest, and then 12 days were knocked out by the  
5 nine-foot waves. Left you a total of nine days.

6 All of that is in your packet for more  
7 information. Just to let you know, we don't harvest  
8 365 days a year.

9 Thank you very much.

10 MS. SHEA: Aaron Newman, followed by Rick  
11 Copeland, followed by Autumn Bremer.

12 MR. NEWMAN: Thank you for this opportunity,  
13 and thanks for coming to the North Coast.

14 My name is Aaron Newman. I am currently First  
15 Division Harbor Commissioner, Humboldt Bay Harbor  
16 Recreation Conservation District, and I'm here to speak  
17 in support of the letter that we submitted that I  
18 signed about a week ago and the letter that was read  
19 today by Brandi Easter that we endorsed.

20 I'm also president of the Humboldt Fisherman's  
21 Marketing Association and was a member of the North  
22 Coast Regional Stakeholder Group, representing  
23 commercial fishermen. And just briefly, I'd like to  
24 speak in support of the unified array as forwarded by  
25 the North Coast -- North Coast Regional Stakeholder

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1 Group and approved by the Blue Ribbon Task Force.

2 Thank you very much.

3 MR. KELLOGG: Thank you.

4 MS. SHEA: Rick Copeland.

5 MR. COPELAND: My name is Rick Copeland. I'm  
6 the president of Wilderness Unlimited, representing it  
7 and the Soper Company.

8 Commissioners and Vice President Sutton, thank  
9 you for letting me speak to this. I know Kruger did an  
10 excellent job explaining our position. I want to just  
11 clarify a couple of things.

12 We are in favor of the preferred alternative.  
13 I think that goes number 1. But within that, there's  
14 several sub-options. Double Cone Rock, we're on record  
15 of hoping that you choose Option B. Why?

16 First of all, thank the staff for coming up  
17 with that tool for providing that shoreline access. I  
18 think that goes without saying, that it could be a tool  
19 that could be used in the future.

20 If we take a look at CEQA, which is why we're  
21 here, it's -- both "A" and "B" end up being  
22 insignificant impacts. So it puts them in a playing  
23 field where now we can discuss them.

24 When -- when Double Cone Rock has been  
25 identified in this process as being a linchpin SMCA,

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1 and that -- and that's worth -- worth noting. It's  
2 actually three percent of the entire linear length of  
3 the North Coast, so it's a significant piece. It's  
4 actually the largest SMCA.

5 It's also been said, it happens to be a single  
6 ranch. It has great ocean habitat, marine resources,  
7 has minimal use, tough access, and typically very rough  
8 oceans. We've heard all this before.

9 Private property cannot control directly  
10 marine resources, and that is a -- that's the point.  
11 However, for over half a century, the Soper Company and  
12 Wilderness Unlimited, by controlling the access, the  
13 use, including enforcement, have provided the potential  
14 for this near-shore area to be the best SMCA you have.

15 We're urging you to adopt option B and keep  
16 this significant private reserve intact.

17 Thank you for your time.

18 MR. KELLOGG: Mr. President, I just would like  
19 to make a comment to Rick and -- and first of all, I  
20 want to thank you for your professionalism on -- on --  
21 on your argument.

22 But I just -- I just want to point out, I hope  
23 that the representative from the Soper Company realize  
24 that we wouldn't even have an option B if it wasn't for  
25 your unwavering persistence in representing the members

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1 of Wilderness Unlimited on this issue.

2 And I just want to thank you for -- for your  
3 effort, and Double Cone now has more than one option  
4 because of your efforts. So I just wanted them to be  
5 aware of that.

6 MR. COPELAND: Thank you, Commissioner  
7 Kellogg, and it's good to see you still at the table.  
8 Thank you.

9 MS. SHEA: Autumn Bremer, followed by Judy  
10 Trumper and Walt Lara, Senior.

11 MS. BREMER: Good afternoon, Commissioners.  
12 I'm Autumn Bremer and I'm here representing Pacific Rim  
13 Seafood and the North Coast Sea Urchin Divers, and I  
14 just wanted to point out that during the last two  
15 years, the North Coast Regional Stakeholder Group has  
16 spent countless hours vetting the various MPAs  
17 throughout the North Coast community, and that NCRSG  
18 was able to present a single MPA network that was  
19 supported by the majority of local stakeholder groups,  
20 including, but not limited to, the fishing community,  
21 the conservation community, city and county government  
22 and state elected officials, and also the Blue Ribbon  
23 Task Force.

24 The levels of take, the designations, the  
25 boundaries, the coordinates of each MPA was carefully

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1     crafted over many months by taking into account many  
2     differing local perspectives.

3             Local knowledge and expertise was used to  
4     create every single component of the MPA network that  
5     was presented. The NCRSG knew that a seemingly small  
6     map change could have a dramatic impact on various  
7     local stakeholders.

8             I am -- the sea urchin divers that I am  
9     representing, while they are taking advantage of the  
10    rare calm ocean conditions right now, urge you to  
11    continue to support the proposed regulations as put  
12    forth by the NCRSG and the Blue Ribbon Task Force.

13            Thank you very much.

14            MS. SHEA: Judy Trumper, followed by Walt  
15    Lara, Senior, followed by Richard Myers.

16            MS. TRUMPER: Good morning. I guess it's good  
17    afternoon, Vice President Sutton and Commissioners.

18            I'm Judy Trumper, owner of Pacific Rim Seafood  
19    of Fort Bragg, and Fort Bragg Marine, and we've fished  
20    the coast of California since 1975. My husband, Tom  
21    Trumper, was on the RSG, and I've attended most MLPA  
22    meetings for the past two years.

23            The North Coast Regional Stakeholders spent  
24    countless hours developing an MPA network that was  
25    in -- in accordance with the MLPA Act and accepted --

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1 and acceptable to our diverse North Coast interest  
2 group.

3 Every single MPA and its specific boundaries  
4 were carefully considered by the local expert  
5 knowledge. These boundaries are -- and designations  
6 were set up to create MPAs that satisfied the Act, but  
7 still protected rights such as the tribal traditional  
8 marine uses that are linked to the tribes' spiritual  
9 and cultural ways of life.

10 Please continue to support the NCRSG  
11 recommendations as put forth by the BRTF, and thank you  
12 very much for your time.

13 And as I tell my children, what you do today  
14 is going to affect the rest of your life, so do what  
15 you know to be right.

16 Thank you.

17 MS. SHEA: Walt Lara, Senior, Richard Myers,  
18 and Kevin McGrath is the final speaker.

19 MR. LARA: Skue-yen' ue ke-choyhl. Nek new  
20 lo'oy lo'ogey le-yes. [Translation provided by Yurok  
21 Tribe: Good afternoon. My name is Black Snake.]

22 Good afternoon. My name is Walt Lara, Senior.  
23 I'm a Yurok tribal member. I'm 77 years old and I was  
24 raised on Orick Beach by my grandparents, Mowr-rekw  
25 Jimmy Junior, and Josephine Brown was my grandmother,

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1       came from Chah-pek and 'Es-pew.

2               So I -- I -- I worked -- worked the beaches  
3       for them fishing and listened to the stories about how  
4       they talked about people that went to Reading Rock.  
5       There was one group that went out there that came back,  
6       and the sea was rough and they tipped over on the beach  
7       and one lady that was with them broke her arm, and they  
8       talked about her running the beaches at night because  
9       her arm ached so bad, until she later on got old and --  
10      and passed away.

11              There was another story about Reading Rock  
12      where it got rough while they were out there and they  
13      had to leave this guy on the rock, and he got covered  
14      up with some type of an animal while he was there in  
15      one of those little crevices that was on Reading Rock.  
16      And they went back and got him later when the ocean  
17      calmed down.

18              They had songs that they sang to have the fog  
19      lift and also to calm the sea, and they would sing  
20      those songs. And so in the mornings, I used to walk  
21      the beaches and pick up the fish, the fish that -- the  
22      salmon or whatever other kind of fish. We call it  
23      Me-gaa-'ak. It's a fish that kind of looks similar to  
24      a lingcod, but it was from the deep sea that would come  
25      to shore and eat what they call Moku-chech. That's a

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1     night fish, and they'd eat so much that -- that they  
2     would float ashore, because they couldn't swim any  
3     longer. And our people would pick those up and dry  
4     them and -- and eat them.

5             We caught surf fish. We dried surf fish and  
6     call it key-ges, and it was at fish camp. They called  
7     it the fish camp in Orick where Indian people from --  
8     from Hoopa, Chilula people, Weitchpec, clean up that  
9     way. Some people from Orleans would come down and make  
10    trades for the key-ges that we had.

11            And in later years, we -- they developed a  
12    smoker where they smoked surf fish and -- and my -- my  
13    folks would sell that surf fish so that we could get --  
14    buy food to -- to eat in the stores then.

15            And so this whole thing that -- that had  
16    happened in -- in the -- in the 1900s, you take like  
17    the payment for the State of California to the Indian  
18    people. And that payment was made, and the Indian  
19    people reserved their rights to their hunting, their  
20    fishing and their gathering rights.

21            Okay? Our sanctuary for the Yurok people and  
22    the Ner-er-ner -- that's 'Esaa-ges and Ner'er'ner --  
23    was from Little River in Humboldt county to Damnation  
24    Creek in Del Norte county.

25            That was our sanctuary, which is supposed to

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1 have been approved by the State of California for us to  
2 gather in.

3 In the '70s, in the '70s, 1970s, InterTribal  
4 Council of California had issued out fishing licenses  
5 for the Fish and Game to our Indian people so that they  
6 could fish in that sanctuary area, and we -- we did  
7 that.

8 And at that time, I was the area director and  
9 also the chairman of the InterTribal Council of  
10 California, so it was known at that time that we had  
11 that right to fish there.

12 So and -- and I don't have a recommendation to  
13 any of your -- your numbers of what you should decide  
14 on, but I'm telling you these things so maybe your  
15 decision can be a little -- a little better in  
16 considering our rights to continue to -- to gather and  
17 go out to Sek-kwo-nar, which is Reading Rock, or gather  
18 in O'Men, what they call DeMartin's Beach area out  
19 there.

20 Those are areas we used to gather in and get  
21 what we call cheek. It's a -- it's a money they would  
22 bring out. You see dentillium, like that, is what they  
23 call it now. That's what they would get in that area  
24 so they could get their -- their -- their money for  
25 their trading systems.

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1           And also they would get those little clams for  
2   the Indian dresses that they have and -- and things  
3   like that. It's ceremonial gathering just as well  
4   as -- as for food to eat. And so that's -- that's  
5   what -- what I need to say about that.

6           And I just need to tell you a little bit about  
7   our gathering procedures, is we didn't just keep  
8   fishing in one spot. We fished here, then we went and  
9   fished over here.

10           We didn't take mussels, like scrape them off  
11   the rocks. The old folks would tell us in Indian that  
12   "You pick it. You pick it." You pick the good ones out  
13   of there and then you give the other ones a chance to  
14   grow. And so you -- you know, we had a good system in  
15   how we gathered.

16           And then in these last few years, the National  
17   Park System says you can't drive vehicles on the beach  
18   any longer, because they never did that in the past.

19           Well, we had horses and we had sleds we  
20   dragged up and down there, and right in their brochure,  
21   it shows an -- in -- in early '40s and the '30s, where  
22   there was about a 1932 Packard sitting in the back  
23   behind the cabin in their bro -- brochure. So they did  
24   drive those vehicles on there.

25           And in -- in Gold Bluff area, they had old

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1 Model A Fords that they filled the tires up half with  
2 water and they'd run up and down the beaches with  
3 those.

4 So there's a lot of things that's being used  
5 against our people now to keep us from gathering. An  
6 example, National Park System says we can't take  
7 mussels off the rocks at Gate Point.

8 Well, by -- by telling us we can't do that, we  
9 can't gather mussels -- there's three places there we  
10 gathered mussels. And so that takes away the balance  
11 that the Indians had of picking here and leaving here  
12 and picking over here to -- to -- to allow those other  
13 mussels to grow.

14 And so there's a lot of things that need to be  
15 cleaned up and, you know, I'm -- I'm here to help you  
16 folks. That's -- that's all I can tell you.

17 Thank you very much.

18 MR. KELLOGG: Thank you.

19 MS. SHEA: Richard Myers and finally, followed  
20 by Kevin McGrath.

21 MR. MYERS: Skue-yen' ue koy. Nek new Richard  
22 Myers. [Translation provided by the Yurok Tribe: Good  
23 morning. My name is Richard Myers.] I've been honored  
24 to read a letter from the Yurok Tribe.

25 "President Daniel Richards. Dear President

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1 Richards and Commissioners: The Yurok Tribe requests  
2 that the inclusion of the Resighini Rancheria in the  
3 current proposed regulations is inappropriate. This --  
4 this dismissal should be with the understanding that  
5 Resighini Rancheria can apply in future regulatory  
6 procedures.

7 "This request is made for the following  
8 reasons: A clear 60-day deadline was imposed on all  
9 federally-recognized tribes at the June 9th, 2011  
10 Commission meeting in Stockton, California.

11 "Unfortunately, Resighini Rancheria did not  
12 file a factual record until October 31st, 2011, or well  
13 over two months late. The tribes that filed on time  
14 had to spend many hours of intense effort and no doubt  
15 could have provided a much better factual record if  
16 they had been allowed more time.

17 "Or even greater" -- "of even greater concern  
18 is that there are no facts in the factual record  
19 submittal. The Yurok Tribe, and no doubt anyone else,  
20 cannot evaluate the record due to lack of any  
21 substantial information submitted.

22 "It is important that factual record  
23 requirements by the Fish and Game Commission be treated  
24 seriously. The factual record should be subject to  
25 careful review by the Commission and other tribes

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1 involved.

2 "The Commission limited eligibility to members  
3 of federally-recognized tribes. The submittal appears  
4 to include the practices of all other Yurok Indian  
5 individuals. There are many Yurok individuals that are  
6 not members of any federally-recognized tribe.

7 "Approval of the current letter as factual  
8 record could greatly expand current rights in  
9 unpredictable ways.

10 Sincerely, Thomas O'Rourke, Chairman."

11 My point was to be here today, is a concern  
12 that I have over many of the great places that are  
13 gathered, and one of them is at False Klamath.

14 That is one of the first places that I learned  
15 to do some gathering of certain foods that come from  
16 the ocean, and I'm not going to say what it is, because  
17 everybody in the country will run down there and gather  
18 what I gather.

19 Thank you.

20 MS. SHEA: And, Commissioners, I must  
21 apologize. Though I thought we had one speaker left,  
22 I've left out Paul Weakland. So we have Kevin McGrath,  
23 followed by Paul Weakland.

24 MR. McGRATH: Hi. My name is Kevin

25 McGrath. I am or was a regional stakeholder for the

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1 Shelter Cove area.

2 I've worked tireless -- tirelessly to get  
3 buy-in from the community of Shelter Cove I represent.  
4 When I called a friend of mine and told them DFG has an  
5 alternative, my friend told me to not even forward the  
6 information.

7 My friends fear they will not be heard.  
8 Please stand firm with the work of the North Coast  
9 Regional Stakeholder Group.

10 If in fact you do not keep the boundaries  
11 we've worked so hard for, it will be a slap in all our  
12 faces. Please, if you are honorable people, accept the  
13 work of the North Coast Regional Stakeholder Group.

14 This is all chicken scratch.

15 In the process, we have already lost  
16 approximately 18 percent of our halibut fishery, for  
17 this -- that is the -- that is huge for such a small  
18 community. The Sea Lion Gulch Preserve needs to be  
19 kept in place in alignment with the work of the North  
20 Coast Regional Stakeholder Group.

21 There's no way, with the conditions here on  
22 the North -- North Coast, that we -- we need landmarks  
23 when all our boats have GPS devices. Our -- our  
24 conditions are so adverse down there that I've been  
25 caught out before in the fog, and it is foolish to go

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1 the 26 miles from Shelter Cove to Gorda or the area of  
2 Sea Lion Gulch without a GPS device.

3 The old -- oh, god, I can't read this.

4 The only buy-in for the array has for sure not  
5 come from folks who live or fish on our coast. Correct  
6 me if I'm wrong.

7 Thank you.

8 MR. MASTRUP: Thank you. Paul Weakland. Last  
9 speaker.

10 MR. WEAKLAND: Commissioners, Paul Weakland.  
11 Possibilities, variables of adverse impacts.

12 Well, let's remember that before this all  
13 started, we had 148 Marine Protected Areas in  
14 California in an array. But they were all declared  
15 failures.

16 So then you got Marine Protected Areas put at  
17 the Channel Islands. After five years of monitoring,  
18 you announced there was no detectable or measurable  
19 benefits from these closed areas.

20 How do you verify and validate and guarantee  
21 accuracy and correctness of your findings? You're not  
22 doing that. And this -- this item here on the agenda,  
23 it pretty much proves that the Blue Ribbon task force  
24 (sic) was a waste of time and money.

25 The only thing that these closed areas do is

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S20-1



1   punish the citizens for your failures in properly  
2   managing the resources and deprives them of their  
3   rightful ownership.

4           Is this really the panacea? And will we never  
5   need anything else in the way of marine management?

6           We don't need to worry about the historic  
7   traditional tools of value and worth like bag limits,  
8   seasons and gear restrictions.

9           You still have not answered questions about  
10   how does no fishing zone protect against failed  
11   policies like the Mammal Protection Act and the  
12   overpopulation of seals and sea lions.

13           The unethical researchers, the grant-sucking  
14   parasites, you got to have these so they have something  
15   to do to make money at. The lack of enforcement, the  
16   poaching that continues to go on. Pollution, oil  
17   spills and the environmental changes.

18           Remember that in California, we had 148 Marine  
19   Protected Areas declared failures. Well, now we have,  
20   since 1993, the largest Marine Protected Area closed  
21   fishing zone of anywhere in the world for black  
22   abalone. No abalones, black, were allowed to be taken  
23   in the state of California and all the islands since  
24   1993. That is the largest Marine Protected Area  
25   no-fishing zone for a species anywhere in the world.

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S20-2

S20-3

S20-4

1           Yet, what is the outcome after over 15 years,  
2   16, 18 years of that no fishing for black abalones?  
3   They're on the way to the endangered species list.

S20-4

4           This is clear, convincing and overwhelming  
5   factual evidence that the MPAs are falsely advertised  
6   as cures to all the mismanagement failures of the  
7   past.

8           There is no need or necessity to eliminate  
9   these places for fishing, the best fishing spots and  
10   where people make their livelihood.

11           Now, are we not all created equal? Why would  
12   you give a special interest group, raising one religion  
13   above another, the rights of fishing and harvesting?  
14   So if my skin was a different color and I had a  
15   different religion, I would be able to harvest.

S20-5

16           You know what? You're stepping on the flag,  
17   you're spitting on the Constitution by allowing this  
18   charade, this hoax, what you're doing. It's vile, it's  
19   foul. It demonstrates how wicked, sinister and evil  
20   you are.

21           MR. MASTRUP: Thank you, Paul.

22           Commissioners, that's all the speakers. So  
23   before we break for lunch and an executive session, I  
24   think Mr. Vice President has some comments.

25           (Public comment concluded at 1:02 p.m.)

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## 1 CERTIFICATE OF REPORTER

2

3 I, KATHERINE J. WAYNE, a Certified Shorthand  
4 Reporter, hereby certify that the foregoing proceedings  
5 were held at the time and place therein named;

6 That the proceedings were taken in machine  
7 shorthand by me, a disinterested person, at the time  
8 and place therein stated and thereafter reduced to  
9 typewriting, by computer, under my direction and  
10 supervision;

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

16 In witness whereof, I have hereunto set my  
17 hand this day: April 13, 2012.

18

19

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21 \_\_\_\_\_  
KATHERINE J. WAYNE, CSR 2854

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## Comment Letter S – Eureka, CA Public Hearing

This is the transcript from the Commission's public meeting on April 11, 2012. Note that only Agenda Item 2 was recorded. Also note that responses to public comments relating to the CEQA analysis are addressed below. Responses to comments related to the proposed regulations portion of the meeting agenda will be addressed as part of the Commission's rulemaking process.

### Commenter S1: O'Rourke, Thomas

#### Response to Comment S1-1

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

Additionally, the Department acknowledges that National Park Service (NPS) Bulletin 38 provides guidelines for determining the eligibility of sites for listing as TCPs in the NRHP in order to implement the NHPA. As noted in DEIR Section 5.2.1 *Federal Laws, Regulations, and Policies* of Chapter 5, *Cultural Resources*, page 5-3, 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 is not part of a federal action; thus, the criteria in the statute do not directly apply. Rather, CEQA's definitions regarding a significant impact have been used.

#### Response to Comment S1-2

There is not a federal nexus for the Proposed Project. As stated in DEIR Chapter 5 *Cultural Resources*, Section 5.2.1 *Federal Laws, Regulations, and Policies* (page 5-3), 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."

### Commenter S2: Rosales, Hawk

#### Response to Comment S2-1

Comment noted. The Commission acknowledges the deep cultural connection that tribes and tribal communities have with the environment. However for CEQA purposes, anthropogenic activities are considered distinct from the natural environment (PRC, Section 21001[c]). This is consistent with the MLPA, which distinguishes "human activities" from "natural ecological functions." [FGC Sections 2851(c), 2857(b).] The discussion, then, is necessarily constrained to the environmental effects of take, and not the underlying reasons, cultural or otherwise, which occasioned the take.

#### Response to Comment S2-2

See *Response to Comment A6-1*.

Response to Comment S2-3

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 S3: Padgett, Denise

Response to Comment S3-1

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.

Commenter S4: Crabtree, Russ

Response to Comment S4-1

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*.

Response to Comment S4-2

See *Response to Comment S3-1*.

Response to Comment S4-3

The comment states that the optional change of moving the southern boundary of the Pyramid Point SMCA south 1/3 mile to the northern tip of Prince Island would have an adverse impact on a TCP of the Smith River Rancheria.

The potential impacts of the proposed option for the Pyramid Point SMCA were evaluated in DEIR Chapter 5 *Cultural Resources*, Impact CR-3: *Adverse Impacts on Traditional Cultural Properties and Activities Involving Take by Federally Recognized Tribes*, and Chapter 6, *Environmental Justice*, Impact EJ-1: *Reduced Subsistence Take Opportunities for Tribes and Tribal Communities*.

The issue raised in the comment is specifically addressed in the DEIR in the first paragraph at the top of page 6.6-18 in Chapter 6, Section 6.6 *Environmental Justice*. As stated in the DEIR, tribal take activities would be allowed for recognized members of the Smith River Rancheria. There would be no impact on practices or subsistence take activities conducted by recognized members of the Smith River Rancheria at Prince Island. There would be no conflict with the Proposed Project on federal lands or waters held in trust by the United States for the benefit of the Smith River Rancheria.

Response to Comment S4-4

*See Master Response 4: Enforcement.*

Commenter S5: Hostler, Jackie

Response to Comment S5-1

*See Response to comment S3-1.*

Commenter S6: Corbett, John

Response to Comment S6-1

Comment noted.

Response to Comment S6-2

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.

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

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

Response to Comment S6-3

Comment noted.

Response to Comment S6-4

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

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

Response to Comment S6-5

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

Response to Comment S6-6

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

*See Response to Comment A6-1* specifically regarding the incorporation of factual records submitted by tribes to the Commission as part of the rulemaking process.

See *Response to Comment S6-5* regarding information provided on the natural environmental constraints on the take of marine resources in the north coast.

#### Commenter S7: Lemos, Bill

##### Response to Comment S7-1

Your comment regarding the validity of the No Project Alternative is noted. The Department agrees that the No Project Alternative would not meet the basic objectives and goals of the project. However, CEQA requires that an EIR analyze a No Project Alternative to allow decision makers an opportunity to compare the impacts of approving the action against the impacts of not approving the action (State CEQA Guidelines, Sections. 15125, 15126.6[e]). Thus, the No Project Alternative was included in the MLPA EIR for this purpose. Edits to the DEIR have been made to clarify this point.

DEIR Executive Summary, “Alternatives Considered,” beginning on page ES-9:

The purpose of the alternatives analysis in an EIR is to describe a range of reasonable alternatives to the project that could feasibly attain most of the objectives of the project, including a No Project Alternative. The No Project Alternative allows decision makers to compare the impacts of approving the action against the impacts of not approving the action. Section 15126.6 (b) of the CEQA Guidelines requires that the alternatives reduce or eliminate significant adverse environmental effects of the project; such alternatives may be more costly or otherwise impede to some degree the attainment of the project’s objectives. The range of alternatives considered must include those that offer substantial environmental advantages over the proposed project and may be feasibly accomplished in a successful manner considering economic, environmental, social, technological, and legal factors. The analysis evaluates the comparative merits of the alternatives (State CEQA Guidelines, Section 15126.6[a]).

As noted above, the analysis of the Proposed Project’s effects did not identify any significant adverse impacts. As such, the CEQA criterion that an alternative should reduce or eliminate one or more of the significant impacts of a proposed project was not applicable to the alternatives evaluation. Instead, the alternatives evaluated were considered with the aim of further reducing any of the Proposed Project’s impacts that were already found to be less than significant.

In addition to the No Project Alternative (Alternative 1), the following alternative was evaluated for its potential feasibility and ability ~~The following two alternatives were evaluated for their potential feasibility and their ability to achieve most of the Proposed Project’s objectives while further avoiding, reducing, or minimizing the impacts identified for the Proposed Project.~~

- ~~Alternative 1—No Project Alternative~~
- Alternative 2—BRTF Enhanced Compliance Alternative (ECA)

This alternative was ~~These alternatives were~~ determined to be feasible or potentially feasible, and would generally meet the Proposed Project’s objectives.



DEIR Chapter 8 *Alternatives*, first paragraph of Section 8.3 *Alternatives Considered* on page 8-5:

In addition to the No Project Alternative (Alternative 1), the following alternative was evaluated for its potential feasibility and ability to achieve most of the Project objectives while further avoiding, reducing, or minimizing the impacts identified for the Proposed Project. This alternative was determined to be feasible or potentially feasible, and would generally meet the Proposed Project's objectives. ~~The following two alternatives were evaluated for their potential feasibility and their ability to achieve most of the Project objectives while further avoiding, reducing, or minimizing the impacts identified for the Proposed Project. These alternatives were determined to be feasible or potentially feasible, and would generally meet the Proposed Project's objectives.~~

- Alternative 1—No Project Alternative
- Alternative 2—BRTF Enhanced Compliance Alternative (ECA)

#### Response to Comment S7-2

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

No changes to the DEIR are necessary.

#### Response to Comment S7-3

Comment noted. The purpose of the Proposed Project is to address existing degradation to marine resources. Well-aligned restoration projects could be mutually beneficial.

No changes to the DEIR are necessary.

#### Response to Comment S7-4

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.

### Commenter S8: Werner, Beth

#### Response to Comment S8-1

As noted in *Response to Comment S7-1*, although the No Project Alternative does not meet the Proposed Project's objectives or goals, CEQA requires that an EIR analyze a No Project Alternative to allow decision makers an opportunity to compare the impacts of approving the action against the impacts of not approving the action. To make this distinction clear, edits to the DEIR have been made. (Please see edits in *Response to Comment S7-1* and in Chapter 4 of this FEIR).

In response to your comment regarding inconsistencies between the conclusions of the No Project Alternative analysis on page 8-8 of the EIR, it should be noted that an alternative is evaluated based on the degree to which it would reduce or eliminate one or more impacts of

the proposed project. As stated in Section 8.3.1 of the DEIR, Alternative 1 would avoid displacement effects that are associated with the Proposed Project, though it would *not* result in to benefit fisheries or biological habitats.

No further changes to the DEIR are necessary.

#### Response to Comment S8-2

According to the State CEQA Guidelines, the environmentally superior alternative must be selected from among the alternatives; thus by definition, the Proposed Project cannot be identified as such. However, this does not mean that the Proposed Project is not superior to the alternatives in terms of environmental benefits; in fact, the DEIR makes this very conclusion as identified in the comment.

No changes to the DEIR are necessary.

#### Response to Comment S8-3

DEIR Appendix B, *Characterization of Consumptive Uses and Associated Socioeconomic Considerations in the Region*, contains the socioeconomic analysis conducted by Ecotrust during the north coast MPA planning process to make relative comparisons of proposed MPA proposals. As you correctly stated, the Ecotrust analyses do not account for effort shifts or displacement and therefore represent a worst case scenario. Page B-19 of DEIR Appendix B states that the Ecotrust evaluations represent a worst case scenario. No change to the DEIR is required.

### Commenter S9: Kruger, Dan

#### Response to Comment S9-1

The Commission acknowledges your comment regarding the Proposed Project's potential for conflict on existing land use activities. The Double Cone Rock SMCA Option was developed specifically to address this conflict.

#### Response to Comment S9-2

Potential conflicts with existing land use activities adjacent to the Study Region are evaluated in DEIR Chapter 6, Section 6.1 *Land Use and Utilities*, and Section 6.3 *Recreation*. Specifically, Impact LU-5: *Conflict with Existing Adjacent Land Uses* and Impact REC-2: *Decreased Recreational Opportunities*.

As discussed in these impact statements, the Proposed Project, including the proposed Double Cone Rock SMCA Option, would not significantly impact recreational shore-based fishing activities within or adjacent to the proposed Double Cone Rock SMCA.

Additionally, see *Response to Comment S9-3* below.

#### Response to Comment S9-3

As stated in DEIR Chapter 1 *Introduction* (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, including commercial recreational fishing,

are not considered environmental impacts under CEQA, unless they have relevance to a significant physical impact.

While not considered under CEQA, the Commission considered these factors as part of the regulatory review process. Appendix B *Characterization of Consumptive Uses and Associated Socioeconomic Considerations in the Study Region* includes a detailed discussion of consumptive uses, including commercial and recreational fishing, and socioeconomic considerations, including microeconomic and macroeconomic considerations and fishery displacement and congestion in the Study Region.

CEQA does, however, concern itself with economic or social effects when they cause a physical impact on the environment (Bass et al. 1999 as cited in CDFG 2009). Consequently, this linkage between potential economic or social changes of commercial and recreational consumptive use (as described in Appendix B of the DEIR) and the indirect impact on the physical resources on which those industries depend are addressed in this EIR.

#### Response to Comment S9-4

The commenter is directed to review DEIR Chapter 6, Section 6.3 *Recreation*, and specifically Impact REC-2: *Decreased Recreational Opportunities*. The beneficial fishing opportunities of the proposed Double Cone Rock SMCA Option are identified on page 6.3-22, fourth bullet from the top. The discussion states that increased opportunities for shore-based recreational take would occur under the Option, compared to the Proposed Project. CEQA does not require identification of beneficial impacts; the primary focus of CEQA analyses is to identify and disclose potential adverse impacts on the environment.

The Commission developed the Double Cone Rock SMCA Option with the specific activities of the property owner (Soper Company) and commercial recreation contractor (Wilderness Unlimited) in mind. The proposed MPA regulatory options were fully evaluated according to State CEQA Guidelines. No further analysis is required under CEQA.

#### Commenter S10: Knowles, Larry

##### Response to Comment S10-1 and S10-2

These comments contain 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 S10-3

The comment states that take of bull kelp is currently already highly regulated in the north coast. There is a 4,000 pound per year limit for the take of edible bull kelp and non-edible bull kelp is subject to lease areas. The characteristics of bull kelp are discussed in the DEIR (Chapter 4 *Biological Resources*, p. 4-29 through 4-30) and the consistency of the Proposed Project with existing regulations regarding kelp bed leases is analyzed in Impact BIO-6 (pp. 4-67 through 4-70).

Also review *Responses to Comments A1-1 and A3-1 through A3-3*.

#### Response to Comment S10-4

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 S11: d'Selkie, Terry

##### Response to Comment S11-1

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*.

#### Commenter S12: Smith, Kendall

##### Response to Comment S12-1

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

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

Potential impacts of the Proposed Project on biological resources and water quality potentially resulting from substantial shifts in recreational activities conducted in the Study Region are addressed in *Impact REC-1: Physical Deterioration of Coastal Beaches/Waters and Recreational Facilities* and *Impact HYD-3: Effects of Potential Shifts in Non-Consumptive Recreational Uses on Water Quality*.

##### Response to Comment S12-2

This comment is relevant to the design phase of the MPA process and does comment on the adequacy of the DEIR. Therefore, no changes are necessary.

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 S12-3

The commenter states that the DEIR does not effectively address the environmental impacts or potential for urchin barrens due to the Proposed Project. However, Impact BIO-3, on page 4-60 of the DEIR, adequately addressed the potential impact of the removal of the human predator and specifically addresses urchin barrens, concluding that the impact is less than significant. No change to the DEIR is necessary.

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.

Additionally, see *Response to Comment R-5* regarding fishing displacement and potential impacts to abalone. No change to the DEIR is required.

#### Response to Comment S12-4

See *Response to Comment R-5* regarding abalone harvest, as well as evaluation of fishing effort displacement.

#### Response to Comment S12-5

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 S12-6

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 S12-7

See *Master Response 4: Enforcement*.

#### Response to Comment S12-8

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.

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.

#### Commenter S13: McConnell, Bob

##### Response to Comment S13-1

Your comment regarding the designation of Reading Rock (“Sek-kwo-nar” in the Yurok language) as a TCP is noted. Neither of the proposed options for the Reading Rock MPA would include the rock itself; therefore it has been determined that this information is not necessary as part of the analysis in the EIR. No changes to the DEIR are necessary.

Nevertheless, the proposed option is preferable for the Yurok Tribe since it would designate the Reading Rock MPA as an SMCA that allows traditional tribal take in the area south of the rock instead of an SMR that would prohibit all take in the area south of the rock. This is discussed in Impact EJ-1: *Reduced Subsistence Take Opportunities for Tribes and Tribal Communities* in DEIR Chapter 6, Section 6.6 *Environmental Justice*, on page 6.6-18 in the subsection “Proposed MPA Options.” The text regarding the optional proposal is copied below for reference:

The proposed Option for the offshore Reading Rock MPA would change take restrictions from the SMR level to an SMCA. This Option would allow an exemption for tribal take activities for specific federally recognized tribes, such as the Yurok Tribe. As detailed in Table 2-1 (in Chapter 2, “Project Description”), unlike other SMCAs, this Option would prohibit all take of marine resources except by members of the exempted federally recognized tribes. Non-federally recognized tribes and tribal communities and all other commercial or recreational fishermen would be prohibited from taking marine resources within this area. The boundary for this offshore MPA would not change under this Option. The offshore Reading Rock SMR covers 9.57 mi<sup>2</sup>. This Option would result in the continuation of subsistence take opportunities for specific federally recognized tribes, but overall would affect a small area and a small portion of subsistence fishers in the Study Region. This Option would not significantly or disproportionately affect environmental justice populations near the Study Region.

See *Response to Comment A1-4* regarding the analysis of TCPs in the DEIR and *Response to Comment S1-1* regarding National Register Bulletin 38.

#### Commenter S14: Rennacker, Ann

##### Response to Comment S14-1

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, such as hydrokinetic energy

projects, in the Study Region. As stated in 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*.

#### Commenter S15: Gurney, David

##### Response to Comment S15-1

Comment noted. The maps provide in Figures 2-2a to 2-2c of DEIR Chapter 2 *Project Description*, as well as maps in Figures 8-2a to 8.2c of DEIR Chapter 9 *Alternatives Analysis*, are sufficient for the purposes of the CEQA evaluation; the comment does not address the adequacy of the EIR and thus no changes to the EIR are warranted. However, specific MPA boundary descriptions, including coordinates, are part of the proposed regulations and are available for viewing at: <http://www.fgc.ca.gov/regulations/2012/632ncregs.pdf>.

##### Response to Comment S15-2

See *Response to Comment S14-1*.

##### Response to Comment S15-3

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

#### Commenter S16: McQuillen, Alicia

##### Response to Comment S16-1

Your comment regarding the natural limits to harvesting at Reading Rock has been noted. See *Master Response 5: Natural Constraints and Baseline Conditions*.

##### Response to Comment S16-2

Your comments regarding the designation of Reading Rock (“Sek-kwo-nar” in the Yurok language) as a TCP is noted. Neither of the proposed options for the Reading Rock MPA would include the rock itself; therefore it has been determine that this information is not necessary as part of the analysis in the EIR. No changes to the DEIR are necessary.

The importance of False Klamath Rock to the Yurok Tribe is noted. The analyses of the proposed closure of this area to access and take annually from March through August (see Table 2-1 in DEIR Chapter 2 for the proposed special closure regulations) is included in Impact CR-3: *Adverse Impacts on Traditional Cultural Properties and Activities Involving Take by Federally Recognized Tribes* on pages 5-21 through 5-23 of Chapter 5, *Cultural Resources*

and Impact EJ-1: *Reduced Subsistence Take Opportunities for Tribes and Tribal Communities* on pages 6.6-13 through 6.6-19 in Chapter 6, Section 6.6, *Environmental Justice* of the DEIR.

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

No changes to the DEIR are necessary.

**Commenter S17: Gaines, Bill**

**Response to Comment S17-1**

The Commission acknowledges your comment regarding the Proposed Project's potential for conflict on existing land use activities, including conservation and restoration plans. The Double Cone Rock SMCA Option was developed specifically to address this conflict.

The Commission developed the Double Cone Rock SMCA Option with the specific activities of the property owner (Soper Company), commercial recreation contractor (Wilderness Unlimited), and their clients in mind. No further analysis is required under CEQA.

Comments expressing a preference for specific regulations are noted and will be considered by the Commission as they contemplate final action. See *Response to Comment A1-6*.

**Response to Comment S17-2**

Comment noted. Comments expressing a policy preference are noted and will be considered by the Commission as they contemplate final action. Also see *Response to Comment A1-6*.

No changes to the DEIR are necessary.

**Commenter S18: Norton, Christa**

**Response to Comment S18-1**

Your comment regarding the natural limits to harvesting in the north coast has been noted. See *Master Response 5: Natural Constraints and Baseline Conditions*.

**Commenter S19: Copeland, Rick**

**Response to Comment S19-1**

See *Response to S17-1* regarding conflicts with existing land use activities and the development of the Double Cone Rock SMCA Option.

**Commenter S20: Weakland, Paul**

**Response to Comment S20-1**

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*.



With regard to your comments pertaining to MPAs: in 1999, prior to the implementation of the MLPA, there were 63 MPAs listed in Title 14 Section 632, none of which were formally declared failures. Monitoring results from the first five years post MPA implementation at the Channel Islands can be viewed at:

[http://www.dfg.ca.gov/marine/channel\\_islands/fiveyears.asp](http://www.dfg.ca.gov/marine/channel_islands/fiveyears.asp).

#### Response to Comment S20-2

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 S20-3

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

See *Master Response 4: Enforcement*.

#### Response to Comment S20-4

The MLPA is not a single species management tool that is intended to replace existing regulation. It is however an ecosystem based management measure that is designed to complement existing regulation. Abalone are not the sole focus of the MLPA.

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 S20-5

These comments raise complex issues of law and policy and do not address the sufficiency of the EIR. No further response on this topic is warranted.