

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

RECEIVED AT
 APR 11 2012
 April 10, 2012
 COMMISSION MEETING
 AGENDA ITEM 2
 Beth Werner

Re: Draft Environmental Impact Report for North Coast MPAs

Dear Department of Fish and Game:

Please accept the following comments on behalf of the undersigned organizations. We are writing today to comment on the Draft Environmental Impact Report (DEIR) for the proposed North Coast (NC) marine protected area (MPA) network alternatives.

The NC region of the MLPA differs from other coastal regions of California in its sparse population, rough weather, difficult-to-access coastline and significant current tribal populations with marine harvest traditions, among other factors. For these reasons, the Regional Stakeholder Group (RSG) of the North Coast came together as a community to create a single MPA proposal that would best meet the needs of their study region. The Proposed Project best represents this Unified Proposal, which is broadly supported across diverse interests, such as local commercial and sport fishermen, environmentalists, divers, tribal representatives, local governments, and other coastal users.

The DEIR concludes that the Proposed Project will provide the most substantial benefits to the state of California by protecting marine life and underwater habitats, while also balancing the interests of a wide variety of stakeholders. Additionally, it finds that the Proposed Project will not result in any significant adverse impacts. We agree with these findings and support the Proposed Project.

We generally support the DEIR, but have specific suggestions for improving the accuracy, completeness, and logical consistency of some portions of the document:

- Most importantly, page ES-9 of the Executive Summary and page 8-5 of Chapter Eight mistakenly state that the No-Project Alternative (Alternative 1) “would generally meet the Proposed Project’s objectives.” This finding is inconsistent with the conclusions on page 8-8 that “benefits associated with the Proposed Project would not be realized” by the No-Project Alternative and “benefits to fisheries and habitats would not occur.” It is also inconsistent with findings of the No-Project Alternative for the Central, North Central and South Coast study regions. It is impossible for Alternative 1 to meet the MLPA’s project objectives, which call for the protection and maintenance of species diversity, protection of diverse habitat types in close proximity to each other, and sustained or increased reproduction by species likely to benefit from MPAs, among many other conservation-oriented regional objectives. **For these reasons, Final EIR should correct what can only be a typographical error in both the Executive Summary and Chapter Eight.**
- **Page ES-11 of the Executive Summary and page 8-22 of Chapter Eight should identify the Proposed Project as the “Environmentally Superior Alternative (ESA).”** There is nothing in the California Environmental Quality Act (CEQA) or its guidelines that prohibits the Commission from identifying the Proposed Project itself as the ESA. Page ES-11 and 8-21 acknowledge that “[n]either of the alternatives, nor the Proposed Project, would result in

AB-1

AB-2

significant impacts on the environment,” therefore identification of the Environmentally Superior Alternative focuses on the “relative degree of less-than-significant impacts, as well as the relative degree of potential environmental benefit.” Page ES-10 explicitly says Alternative 2 would “result in reduced long-term contribution to improved habitats or marine species” and page 8-10 says that Alternative 2 would not realize the benefits associated with protection of marine resources at MPA and special closure locations omitted from protection. As acknowledged on the bottom of page 4-56 of the DEIR, the Proposed Project does the best job of protecting marine biodiversity. It should therefore be identified as the Environmentally Superior Alternative.

AB-2

- **Chapter One of the DEIR should include a more thorough background discussion of the unique physical and population characteristics of the North Coast, including but not limited to: the relative inaccessibility of the coastline due to geography, weather, wind and oceanography, and sparse North Coast populations, relative to the rest of California.**

AB-3

- **Chapters Two and Six should specifically mention tribes as entities with whom the Department of Fish and Game should collaborate and co-manage MPAs, in order to enhance North Coast MPA management, enforcement and monitoring.**

AB-4

- Chapter Three mistakenly assumes that the creation of an MPA network in the North Coast would result in increased transit times and distances of fishing vessels as a result of displacement. This assumption does not acknowledge that a broad suite of factors external to the MPA process will almost certainly impact how close or far fishermen travel on any given day. **Chapter Three of the Final EIR should state that the RSG explicitly designed MPA networks to leave open fishing opportunities close to ports and harbors. Any speculation that the Proposed Project may result in vessels traveling farther to reach fishing grounds should be substantiated or deleted.**

AB-5

- Chapters Three, Five and Six suggest that increased non-consumptive use inside MPAs could result in impacts to water quality, historical and archaeological resources, and ocean hazards. Indeed, one of the goals of the MLPA itself is to “improve recreational, educational, and study opportunities.” Therefore, increased use of MPAs for non-consumptive activities is a desired outcome of the Proposed Project. However, there is no justification for assuming that increased use would result in adverse impacts to any resources and **we recommend that any speculation on potential adverse impacts be substantiated or deleted from the Final EIR.**

AB-6

- Chapters Four and Six attempt to quantify the intensity of fishing that would occur as a result of displacement by assuming fishing activity that used to occur within an MPA would then be redistributed to areas outside in proportion to the size of the MPA. The impact calculation incorrectly assumes that fishing activity is uniform throughout the North Coast and that 13% MPA protection necessarily translates to a 13% redistribution of effort. This calculation fails to account for spatial variation in habitats, weather, oceanographic conditions and fishing intensity and the extensive stakeholder input used to design the Proposed Project in the North Coast study region to ensure that MPAs were not sited on the most popular fishing grounds **For this reason, the calculation and methodology on pages 4-54 and 6.5-13 should be deleted in the Final EIR.**

AB-7

- The DEIR itself states on page 4-55 that, “comprehensive review of over 100 no-take reserves worldwide shows that average [biomass] inside reserves increases by 400%” and that “as quantity and size of individuals inside reserves increase, spillover leads to enhanced stocks outside of protected areas” and that “[a]dult spillover and/or larval export to neighboring fished areas could potentially lead to economic benefits to fisheries adjacent to reserve areas.” It also recognizes that any decrease in biomass and density that occurred outside of MPA boundaries as a result of increased fishing effort would be “short-term effect because a gradual and continuous increase in production would be likely.” **For all of these reasons, pervasive undocumented assumptions on displacement impacts that are repeatedly used throughout the entire DEIR should be removed in the Final EIR.**

AB-8

- Chapter Four references Appendix B of the DEIR, stating that this document provides a quantitative analysis of the socioeconomic impacts of the Proposed Project. While the Ecotrust analysis provides useful relative comparisons, **Chapter Four and Appendix B should explicitly recognize the limitations of the Ecotrust data.** These chapters **should further note that Ecotrust’s “worst case” assumption that all displaced effort will discontinue is in direct conflict with the DEIR’s pervasive “displacement” assumptions** that fishermen will shift effort to areas outside MPAs.

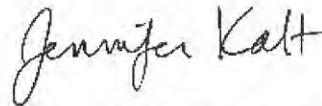
AB-9

We appreciate this opportunity to comment on the DEIR. We support the Proposed Project and look forward to a final EIR with improved accuracy and clarification.

Sincerely,



Beth Werner, Executive Director
Member



Jennifer Kalt, Board of Directors




William Lemos, Co-Director



Carol Vander Meer, Executive Director



Jennifer Savage, North Coast Program Coordinator

Karen Garrison, Co-Director Oceans Program



Gary Graham Hughes, Executive Director

Don McEnhill, Executive Director



Sara Aminzadeh, Policy Director

Scott Greacen, Executive Director
Friends of the Eel River



Comment Letter AB – Werner, Beth

Response to Comment AB-1

The Commission agrees that the No Project Alternative would not meet the basic objectives and goals of the project. While in general CEQA requires that alternatives to a proposed project considered in an EIR meet the basic objectives and goals of the project, this is not true of the No Project Alternative. Rather, 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 (CEQA Guidelines Sections. 15125,15126.6[e]). Thus, the No Project Alternative was included in the MLPA EIR for this purpose. To make this distinction clear, edits to the DEIR have been made. (Please see edits in *Response to Comment S7-1* and Chapter 4 of this FEIR).

Response to Comment AB-2

See *Response to Comment S8-2*.

Response to Comment AB-3

DEIR Section 1.1.5, *Location and General Characteristics of the North Coast Study Region*, is meant as an introduction to the area and is not intended to be an all-encompassing description. The topics listed in the comment are addressed in the physical, cultural, and social resources evaluations in the DEIR. No changes are necessary.

Response to Comment AB-4

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

Response to Comment AB-5

The assumptions used for the air quality and GHG analysis of the DEIR were intended to represent a reasonable “worst-case” scenario of project implementation. The Commission agrees that actual transit times due to displacement might be less than the assumptions used, however in an effort to disclose potential impacts this assumption was used as a conservative approach.

Since the comment does not provide any specific alternative assumptions to support a different quantitative analysis, no further changes to the DEIR are necessary.

Response to Comment AB-6

The evaluation of potential effects due to shifts or displaced nonconsumptive activities as a result of the Proposed Project concluded that “no impact” or a “less-than-significant” impact would occur. The DEIR did not identify any “significant” environmental impacts resulting from the Proposed Project.

Please refer to DEIR Chapter 1 *Introduction*, Section 1.7.1 *Terminology Used in this DEIR*, page 1-35. Descriptions of impact levels are provided below for reference:

No Impact: “No impact” is declared if, based on the current environmental setting, the stated impact would not occur in the context of the Proposed Project, or if the stated impact would not result in an adverse change to existing conditions in the environment.

Less-than-Significant Impact: A project impact is considered less than significant when it does not reach the standard of significance and thus would cause no substantial change in the environmental (no mitigation required). A project impact may also be considered less than significant if the adoption of mitigation measures would avoid the impact or reduce it below a level of significance (mitigation required).

Significant Impact: A project impact is considered significant if it results in a substantial adverse change in the physical conditions of the environment. Significant impacts are identified by the evaluation of project effects in the context of specified significance criteria. Mitigation measures or alternatives are identified to reduce these effects on the environment.

Response to Comment AB-7

See *Response to Comment A6-2*.

Response to Comment AB-8

Comments noted. The Commission acknowledges that MPA regulations preclude certain activities which are presently occurring within the proposed MPA boundaries. The public will continue to participate in these activities and will do so in alternative areas. Thus, the MPAs will in fact displace a certain fraction of the public to adjacent or equivalent areas. Impacts from this displacement and the potential biological benefits of the Proposed Project were covered in DEIR Chapter 4 *Biological Resources* and Chapter 6, Section 6.5 *Vessel Traffic and Hazards*. The conclusion of the DEIR is that the potential biological and air quality impacts of displacement and effort shifts would be less than significant for the Proposed Project. No change to the DEIR is required. Also, see *Response to Comment A6-2* regarding updates to the displacement evaluation in the DEIR.

Response to Comment AB-9

DEIR Appendix B contains the socioeconomic analysis conducted by Ecotrust during the north coast MLPA planning process to make relative comparisons of proposed marine protected area proposals. As you correctly stated, the Ecotrust analyses do not account for effort shifts or displacement and therefore represent a worst case scenario. Appendix B of the DEIR, on page B-19, states that the Ecotrust evaluations represent a worst case scenario. No change to the DEIR is required.

2A

Anita Biedermann - Written Comment for June 29, 2011 Commission Meeting

From: Dan Kruger <dkruger@soperwheeler.com>
To: <ashea@fgc.ca.gov>, <fgc@fgc.ca.gov>
Date: 3/30/2012 4:34 PM
Subject: Written Comment for June 29, 2011 Commission Meeting
CC: <rcopeland@wildernessunlimited.com>
Attachments: MLPA F&G 3-31-12.doc; MLPA 3_30_12 Arvin1.doc; MLPA WU gv 3_31_12.doc

For inclusion in the Commissioners' packets: the body of this email, attachments from Wilderness Unlimited and two third-party biologists.

Re: DISCUSSION OF PROPOSED CHANGES TO SECTION 632, TITLE 14, CCR, MARINE PROTECTED AREAS FOR THE NORTH COAST STUDY REGION.

To the Commission:

Soper Company, the sole property owner of all lands adjacent to the proposed Double Cone Rock SMCA urges the Commissioners to adopt Option B for the following reasons:

1) Option B will save the current private conservation plan that has been in place for years. This conservation plan has resulted in the highest Biomass and Self-Recruitment of any MPA analyzed by the Science Advisory Team's Bioeconomic Model.

AC-1

2) Option B avoids conflict and potential loss. The DEIR states: "Removing Shore-Based Establishment of the Proposed Project would conflict with existing land use activities, including those conducted on private parcels adjacent to proposed MPAs." Those land use activities fund Soper Company's private conservation plan. 100% of all revenues received from Soper Company's agreement with Wilderness Unlimited on that property go directly back into conservation efforts on that property.

AC-2

3) Shore-based recreational take in Double Cone Rock SMCA is insignificant. The DEIR states "Double Cone Rock SMCA option: Revised regulations would allow for greater shore-based recreational marine take. In addition to salmon take, regulations would allow take of cabezon, rockfish, surfperch, surfsmelt, and abalone from shore only. Because this option would allow for the recreational take of additional species, the impact on recreational opportunities would be less than significant."

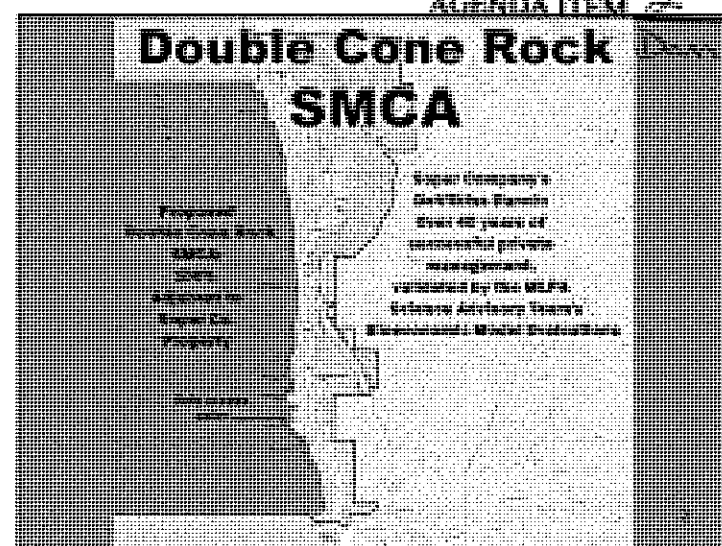
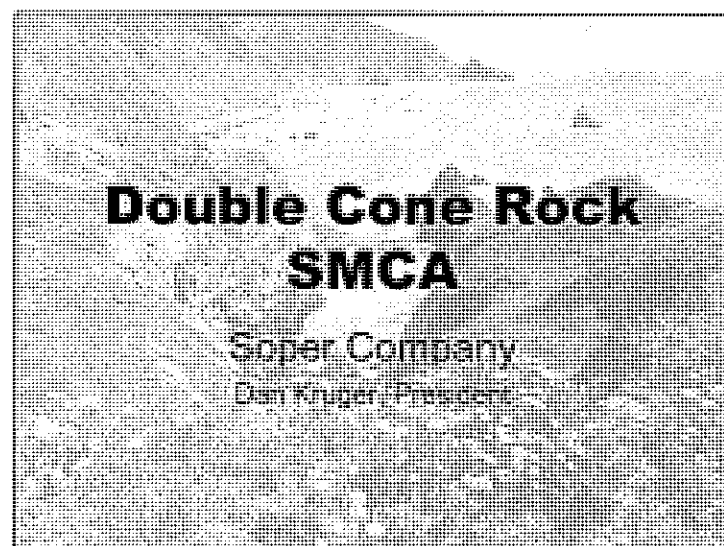
AC-3

Given these reasons, Soper company asks the Commissioners to adopt Option B for the Double Cone Rock SMCA

Sincerely,

Dan Kruger
President
Soper Company
19855 Barton Hill Road
Strawberry Valley, CA 95981

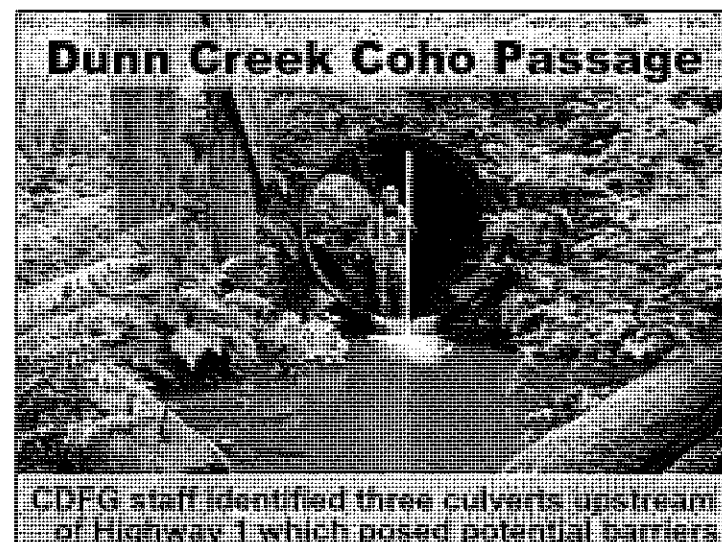
APR 11 2012


COMMISSION MEETING
AGENDA ITEM 2

Dan Kruger

Nearly fifty years of private conservation effort


- Restricted hunting and fishing with more stringent limits than State regulations
- 100% lease fees reinvested into BMPs, habitat, reforestation, restoration projects
- Continued recreational fishing access is critical to continuing these projects.



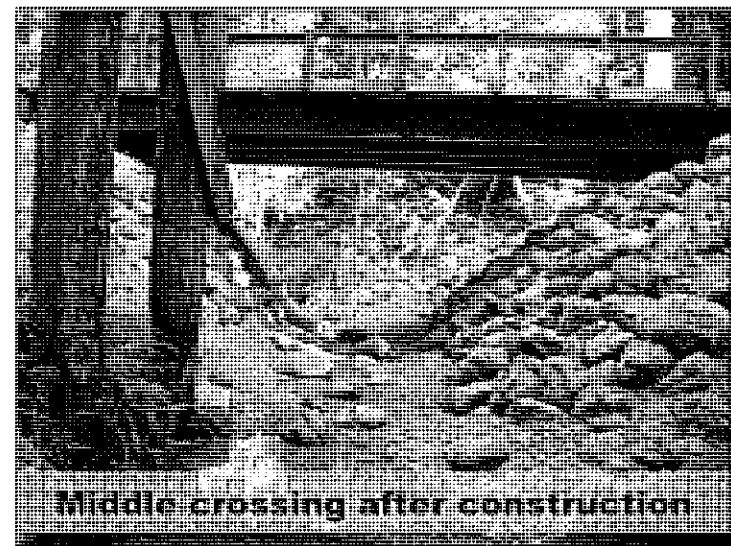
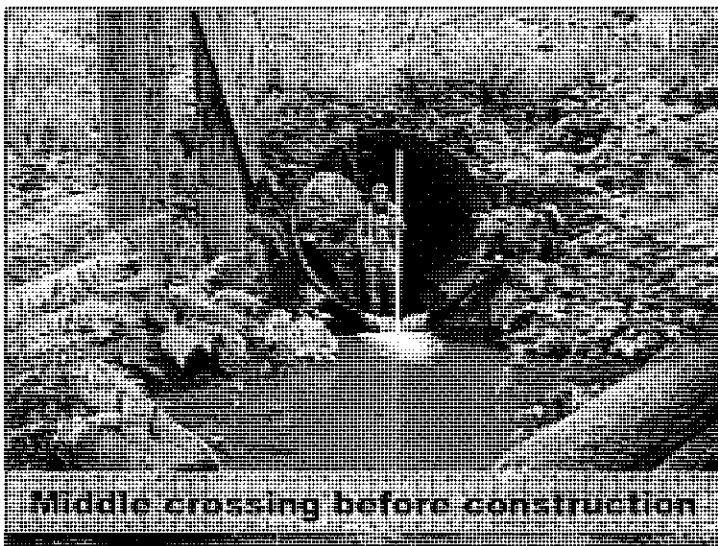
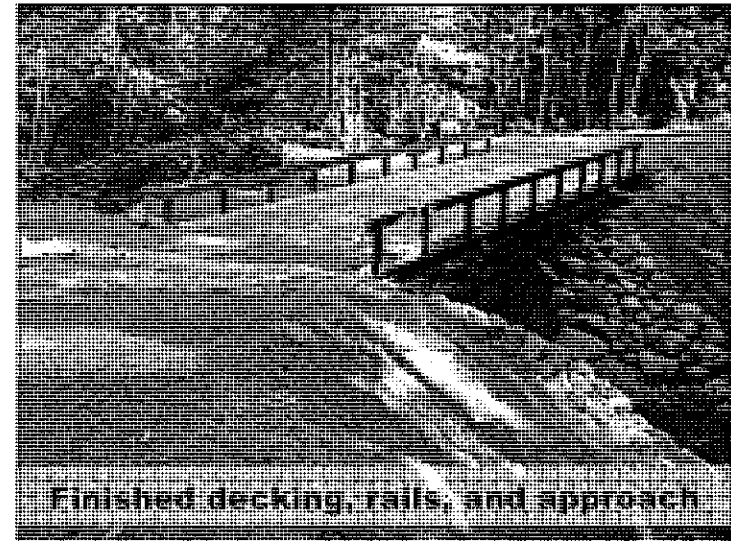
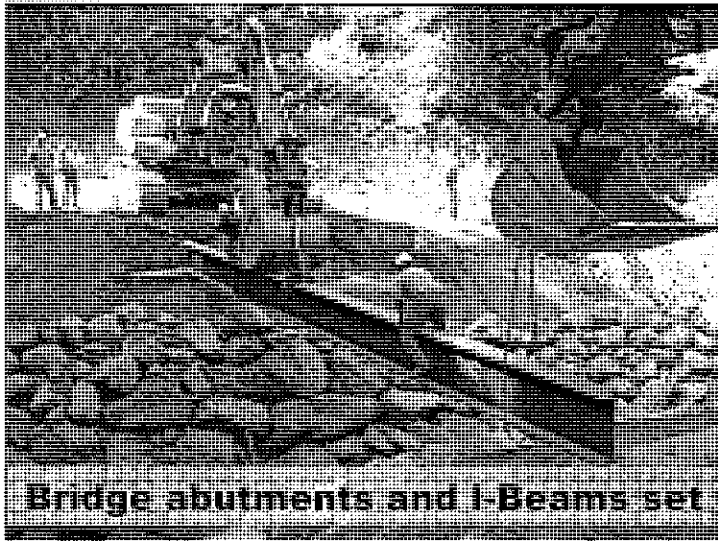
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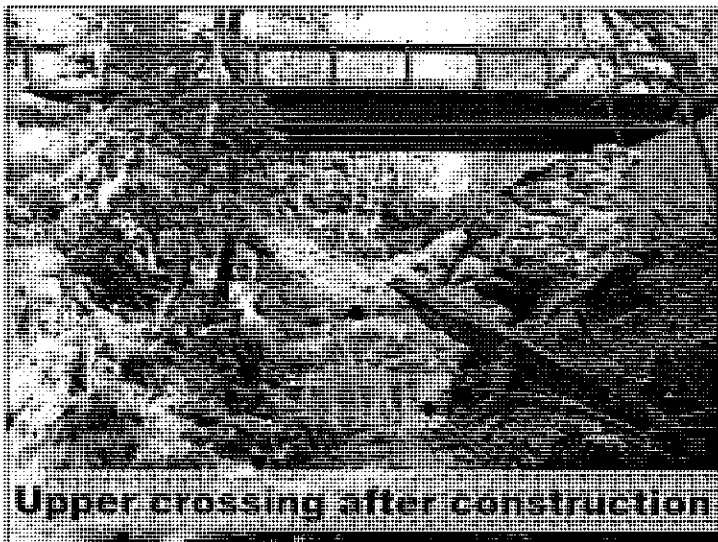
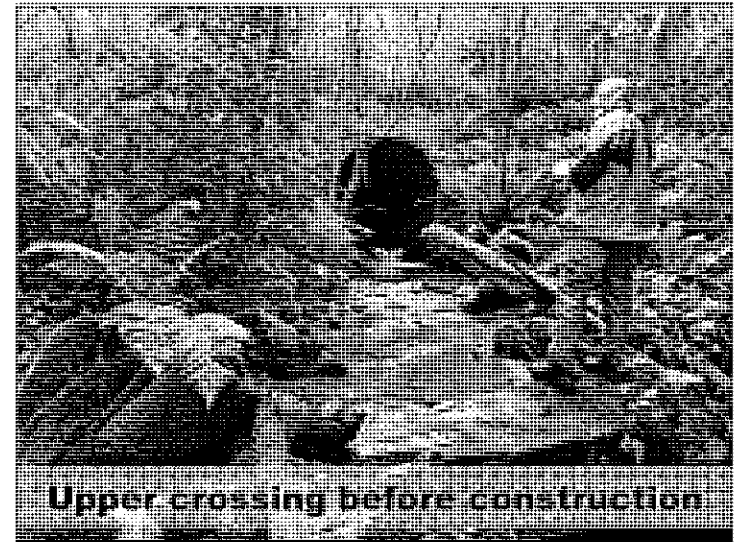
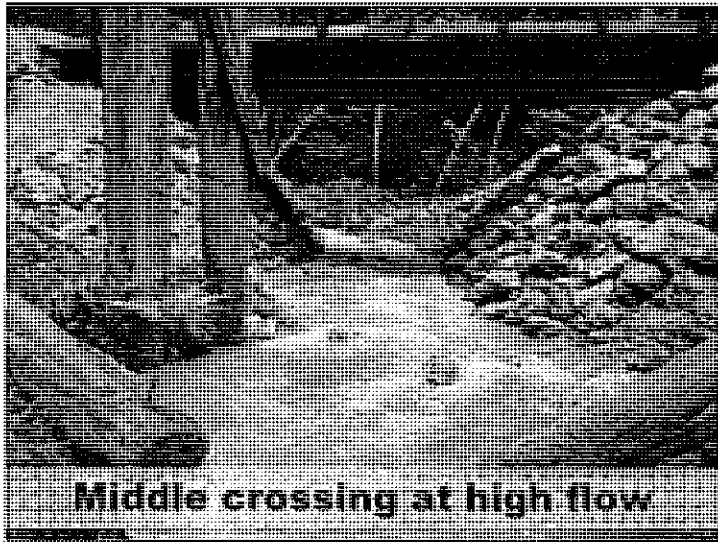
Cong passage is currently blocked downstream by Highway 1. Caltrans plans on a new bridge in 2015.

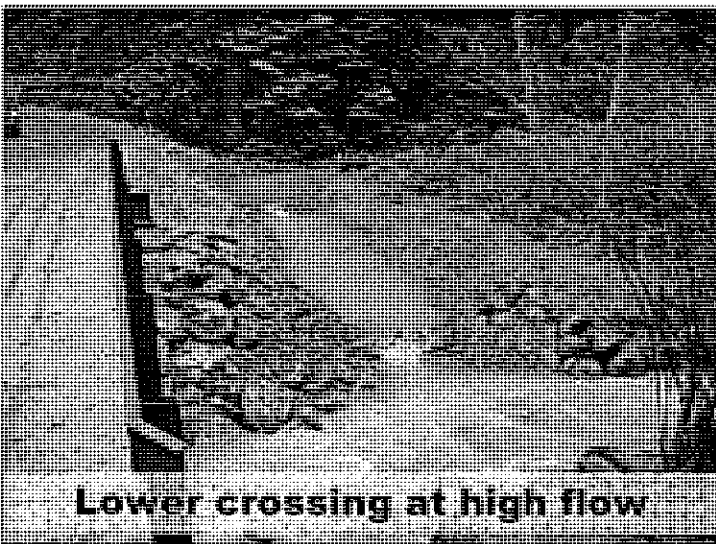
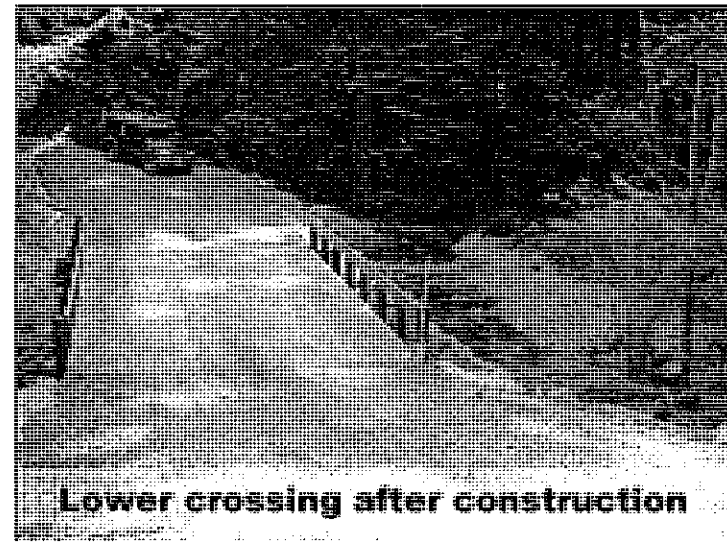
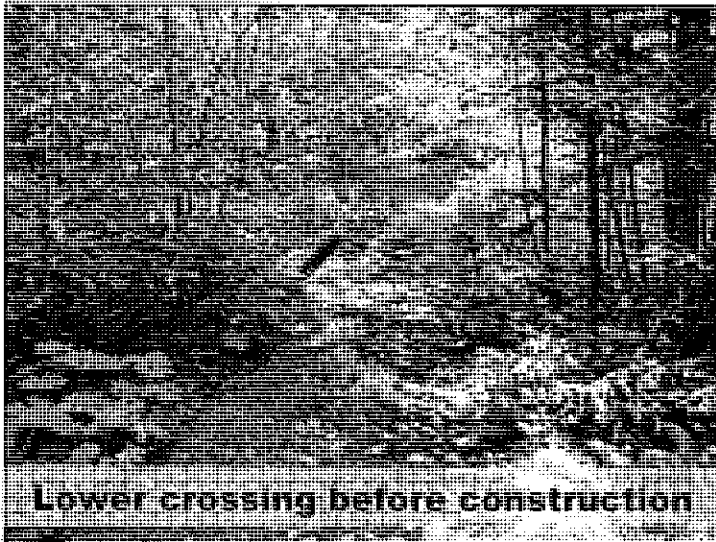
Dunn Creek Coho Passage



Seper Company voluntarily upgraded three crossings for Coho passage to the creek headwaters.

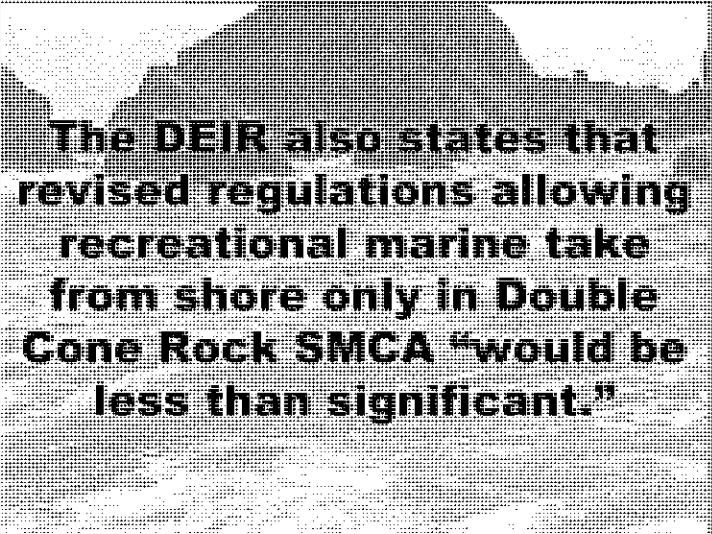






The DEIR states:

"Removing Shore-Based Establishment of the Proposed Project would conflict with existing land use activities, including those conducted on private parcels adjacent to proposed MPAs."



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



Option B saves our current private conservation plan while avoiding conflict

Soper Company asks the Commissioners to adopt Option B for the Double Cone Rock SMCA

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Comment Letter AC – Kruger, Dan

Response to Comment AC-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.

Response to Comment AC-2

Please refer to *Response to Comments AC-1, AG-1, AH-1, and AI-1*.

Response to Comment AC-3

Please refer to *Response to Comment AC-1* above.