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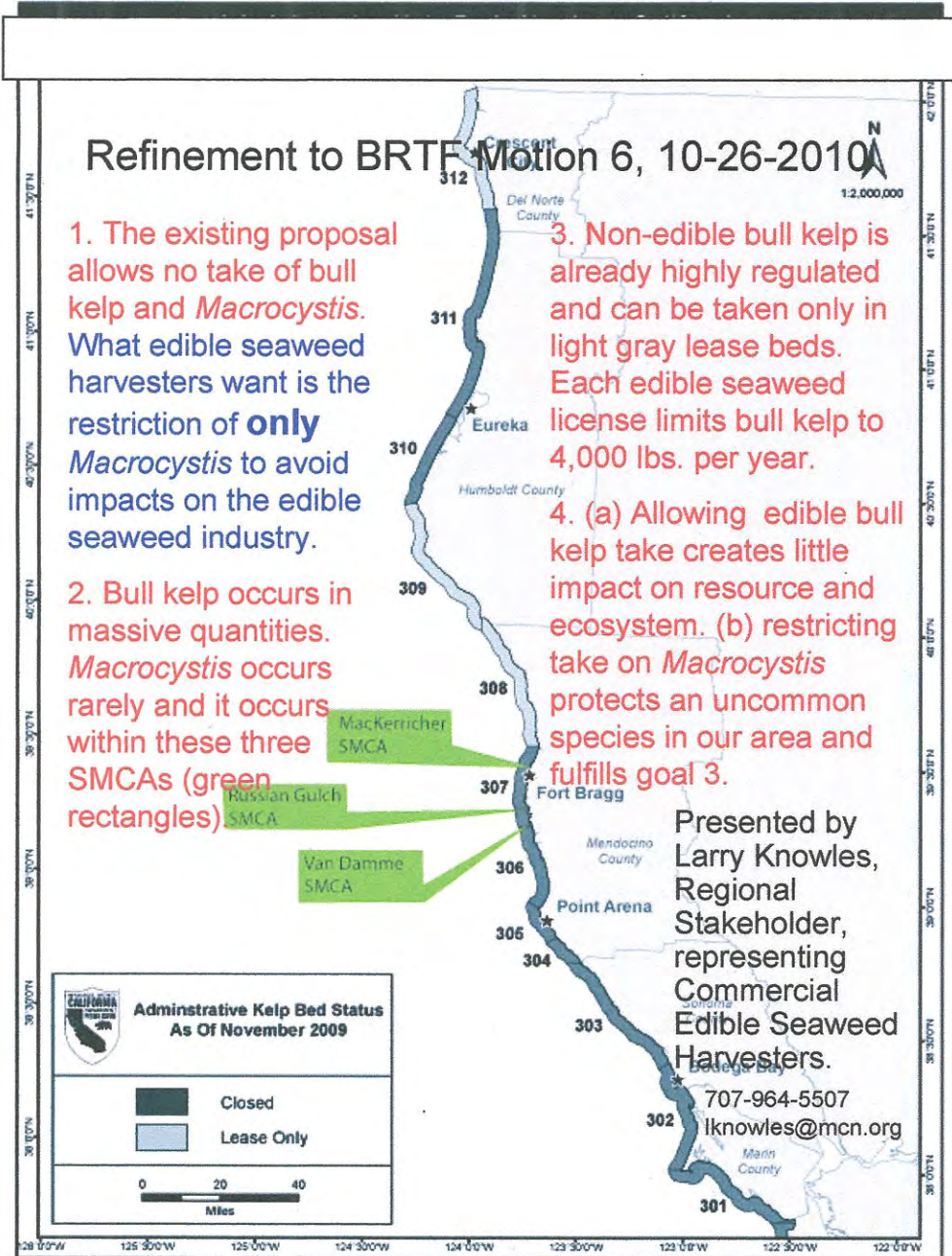
APR 11 2012

COMMISSION MEETING
AGENDA ITEM 2

Larry Knowles

California State Park's SMCAs on the Mendocino Coast & Kelp Lease Beds

AD-1



Approximately 4,000 lbs. of
bull kelp pictured (Commercial Edible
Seaweed License limit per year).



Comment Letter AD – Knowles, Larry

Response to Comment AD-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*.

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CARMEL J. ANGELO
Chief Executive Officer
Clerk of the Board



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COMMISSION MEETING

AGENDA ITEM 2

Kendall Smith

COUNTY OF MENDOCINO
BOARD OF SUPERVISORS

Comment Letter AE

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April 10, 2012

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

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

Dear Regional Manager Vojkovich:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely yours,



John McCowen, Chair

Mendocino County Board of Supervisors

Duplicate of Comment Letter R

Comment Letter AE – Smith, Kendall

This letter was submitted on behalf of the Mendocino County Board of Supervisors and is a duplicate of the submittal by John McCowen, Chair of the Board of Supervisors. The original submittal from John McCowen and the Mendocino County Board of Supervisors is included as Comment Letter R.

See Responses to Comments in Comment Letter R.