



MLPA DEIR Comment

1 message

Amy Atkins <AAtkins@trinidadrancheria.com>

Mon, Apr 16, 2012 at 1:41 PM

To: "MLPAComments@HorizonWater.com" <MLPAComments@horizonwater.com>

Please accept the attached letter as formal comment to the MLPA Draft Environmental Impact Report as submitted by the following tribes:

- Smith River Rancheria
- Yurok Tribe
- Trinidad Rancheria
- Elk Valley Rancheria
- Resighini Rancheria

Thank you,

Amy Atkins

Executive Manager

Trinidad Rancheria

(707) 677-0211 ext. 2702



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04.04.12 MLPA EIR Comment RE Pyramid Point and Point St. George.pdf

644K



April 4, 2012

Dan Richards, President
California Fish and Game Commission
P.O. Box 944209
Sacramento, CA 94244-2090
(916) 653-5040-Facsimile

Charlton H. Bonham, Director
California Department of Fish and Game
1416 Ninth Street
12th Floor
Sacramento, CA 95814
(916) 653-7667-Facsimile

**Re: Marine Life Protection Act, North Coast Region-Request for Correction
Concerning the Traditional Tribal Gathering within the Proposed Pyramid Point
and Point Saint George Marine Conservation Areas**

Dear President Richards and Director Bonham:

The purpose of this letter is to call upon you and your staffs to correct the Draft Environmental Impact Report ("DEIR"), the Initial Statement of Reasons for Regulatory Action ("ISOR") and proposed regulations as it relates to the identification of the federally recognized tribes authorized to fish and gather within the proposed State Marine Conservation Areas (SMCAs) of Pyramid Point and Point Saint George. The Tribes we represent intend to submit additional comments prior to the April 16, 2012 deadline, and this letter focuses only on the specific issue referenced above.

AS-1

According to the Commission staff summary of the June 29, 2011 meeting, the Fish & Game Commission adopted Tribal Option 1, to allow traditional tribal gathering to continue within the proposed SMCAs by "federally recognized tribes who submit a factual record with sufficient documentation confirming current or historical use within specific geographies to DFG within 60 days." (emphasis added) Smith River Rancheria, the Elk Valley Rancheria, the Yurok Tribe and the Trinidad Rancheria were four of the five federally recognized Tribes who submitted a factual record within the 60 day deadline imposed by the Commission.

AS-2

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

AS-2

A critical issue that was left to be addressed at a later date was how we, as Tribes, should address the traditional tribal uses by individuals who are members of a federally recognized tribe, but have been gathering within the aboriginal ancestral territory of a different federally recognized tribe, who has given those individuals permission to gather in those areas. Given the time constraints, this was addressed by asserting within the factual record that gathering under such circumstances are to be governed pursuant to inter-tribal use agreements, to be negotiated between the respective federally recognized tribes, and this was not a matter for the State of California to broach in any manner.

Yet by identifying all federally recognized tribes within the proposed SMCAs of Pyramid Point and Point Saint George who may have individual members who would have the right to gather there pursuant to the proposed regulations, the State of California has imposed upon the Tribes their interpretation of whose ancestral territory those SMCAs lie within. We believe that a careful reading of the factual record would not have warranted the inclusion of other tribes in these proposed SMCAs as contained in the Fish and Game documents.

We have attempted to rectify this problem by providing correspondence to Commission staff over the past four months, copies of which are attached. The ISOR acknowledges receipt of two letters, "calling attention to intertribal agreements. These intertribal agreements are transactions between tribes and tribal communities wishing to take resources within the ancestral territories of other tribes and tribal communities, and need to be negotiated between those tribes. The regulations for the NCSR MPAs will not be changed based upon intertribal agreements but will reflect tribal take in specific MPAs as they were listed in the factual records received by the Commission." (F&GC Initial Statement of Reasons, page 7, emphasis added)

AS-3

This was never the intent of the Tribes we represent. The maps provided in each of our factual records delineated the areas that are considered to be "Tolowa" and "Yurok" aboriginal ancestral territories. Pyramid Point and Point Saint George are clearly within the aboriginal ancestral territory of the Tolowa Dee-ni'. The correspondence submitted by the Smith River Rancheria, Yurok Tribe and Trinidad Rancheria made it clear that, until such an intergovernmental tribal agreement is negotiated, no tribes other than those of Tolowa descent should be listed in the Pyramid Point and Point Saint George SMCAs.

Rather than consult with the federally recognized tribes in order to correct their interpretation of the factual record, Commission and Department staff have disregarded the efforts of our Tribes who have participated in this process. Since 2009, the federally recognized tribes who reside within the North Coast Study Region have worked tirelessly in our efforts to educate representatives of the Department and Commission as to the importance of the traditional tribal uses that have been ongoing throughout this region since time immemorial.

The DEIR, ISOR and proposed regulations do not accurately reflect the current traditional tribal uses within the proposed SMCA's of Pyramid Point and Point Saint George. On behalf of the Smith River Rancheria, the Elk Valley Rancheria, the Yurok Tribe, the Trinidad Rancheria and Resighini Rancheria, we respectfully request that the DEIR, the ISOR and proposed regulations be corrected to accurately

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reflect that the proposed SMCA of Pyramid Point is within the aboriginal, ancestral territory of the Smith River Rancheria, and the proposed SMCA of Point Saint George is within the aboriginal, ancestral territory of both the Smith River Rancheria and Elk Valley Rancheria. As a result, the Smith River Rancheria should be the only federally recognized Tribe listed within Pyramid Point SMCA, and both the Smith River Rancheria and Elk Valley Rancheria should be the only federally recognized Tribes listed within Point Saint George SMCA. Further, the DEIR, ISOR and proposed regulations should be corrected to reflect that individuals from another federally recognized tribe shall be permitted to gather within the proposed Pyramid Point SMCA only if they possess some form of documentation issued by the Smith River Rancheria, and with respect to Point Saint George SMCA, documentation issued from either the Smith River Rancheria or Elk Valley Rancheria

AS-4

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

AS-5

As always, we stand ready and willing to work with state officials and consult with the appropriate agencies in order for the record to accurately reflect the customary uses within our region.

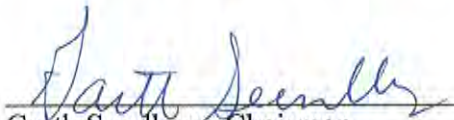
Sincerely,



Kara Brundin Miller, Chairperson
Smith River Rancheria



Thomas O'Rourke, Chairman
Yurok Tribe



Garth Sundberg, Chairman
Trinidad Rancheria



Dale Miller, Chairman
Elk Valley Rancheria



Donald McCovey, Chairman
Resighini Rancheria

Enclosures

cc: Honorable John Laird, Secretary, California Natural Resources Agency
Sonke Mastrop, Executive Director, California Fish and Game Commission
Becky Ota, Habitat Conservation Program, Marine Resources, California Department of Fish and Game
└ Horizon Water & Environment

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Director Bonham
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Cher-Ae Heights Indian Community of the Trinidad Rancheria



November 28, 2011

Russ Crabtree, Tribal Administrator
Smith River Rancheria
140 Rowdy Creek Road
Smith River, CA 95567

Mr. Crabtree,

It has come to my attention that there is some concern regarding the content of the factual record the Trinidad Rancheria submitted to the Department of Fish and Game concerning the proposed Marine Conservation Areas within the North Coast Region, specifically in relation to Point St. George and Pyramid Point.

The Trinidad Rancheria in no way intended to indicate that it asserts any authority or jurisdiction over Tolowa ancestral territory and respectfully apologizes for any misunderstanding pertaining to our factual record. The Trinidad Rancheria included the map, "Fig. 4-Proposed Marine Protected Areas (MPAs) within Yurok Ancestral Territory and Traditional Fishing Grounds", to illustrate the Proposed Marine Protected Areas within the North Coast Study Region. We in no way intended this map to illustrate cultural jurisdiction over the area or to imply that Trinidad Rancheria members would have fishing and gathering rights at Pyramid Point and Point St. George without explicit authorization from the Smith River Rancheria.

The authority to regulate gathering at traditional places within Tolowa ancestral territory naturally rests with the Smith River Rancheria. The Trinidad Rancheria does not claim Pyramid Point or Point St. George to fall within Yurok ancestral territory and want to ensure that the Department of Fish and Game Regulations are clear regarding fishing and gather at these locations. If in fact, the situation arises where inter-tribal use agreements are created and negotiated on a government to government basis, between our two sovereign nations, it will be with the absolute acknowledgement of the Smith River Rancheria's right of jurisdiction over its ancestral territory.

AS-6

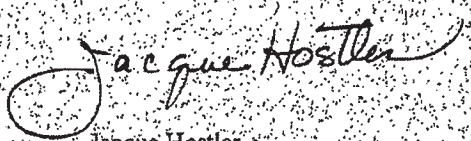
www.trinidadrancheria.com

1 Cher-Ae Lane • PO Box 630 • Trinidad, California • 95570 • 707.677.0211 • 707.677.3921 (fax)

The Trinidad Rancheria is confident that we will be able to create inter-tribal agreements to address individual fishing and gathering rights within the proposed MPA's and recognize that fishing and gathering within the ancestral territory of the Tolowa Dee-ni' will only occur with the permission of the Smith River Rancheria. It was never our intention to insinuate otherwise, nor would we attempt to circumvent the sovereign rights of the Smith River Rancheria.

I hope that this clarifies the Trinidad Rancheria's position regarding Pyramid Point and Point St. George. Please accept my sincere apologies for any confusion that has occurred.

Thank You,

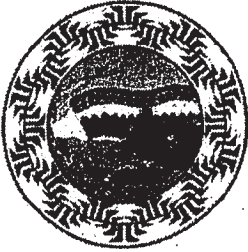


Jacque Hostler
Chief Executive Officer
Trinidad Rancheria

CC: Anna Kimber, Attorney
Law Office of Anna Kimber

Sonke Mastrup, Executive Director
Fish and Game Commission

AS-6



YUROK TRIBE

190 Klamath Boulevard • Post Office Box 1027 • Klamath, CA 95548

Phone: 707-482-1350 • Fax: 707-482-1377



February 14, 2012

Russ Crabtree, Tribal Administrator
Smith River Rancheria
140 Rowdy Creek Rd
Smith River, CA 95567-9525

Dear Mr. Crabtree,

It has come to our attention that there is some confusion regarding the Yurok Tribe's intentions in including Pyramid Point and Point St. George State Marine Conservation Areas (SMCAs) in the *Yurok MLPA Marine Plan Factual Record of Use* presented to the Fish and Game Commission September 15, 2011.

The Yurok Tribe in no way intended to assert authority or regulatory jurisdiction over the Pyramid Point or Point St. George State Marine Conservation Areas in our inclusion of information on those sites in our Factual Record. The inclusion of these sites was merely to acknowledge historic Yurok use under traditional, Tolowa authorized inter-Tribal use agreements and allow flexibility for formal Inter-tribal use agreements to be negotiated and authorized by the Smith River Rancheria. The Yurok Tribe respects and defers to the sovereign, federally recognized authority of the Smith River Rancheria to manage use at Pyramid Point and Point St. George State Marine Conservation areas.

As we have discussed throughout the MLPA process it is imperative for us to reach agreement between Tribes regarding traditionally shared or permitted use areas without the State of California's influence or dictation.

The Yurok Tribe appreciates the good working relationship we have with Smith River Rancheria and hopes to continue to work together in order to protect our inalienable sovereign right to traditionally fishing and gathering for generations to come.

Sincerely,

A handwritten signature in black ink, appearing to read "T. O'Rourke".
2-14-12

Thomas O'Rourke
Chairman Yurok Tribe

CC: Sonke Mastrup, Director Fish and Game Commission



Smith River Rancheria

140 Rowdy Creek Rd, Smith River, CA 95567-9525
Ph: (707) 487-9255 Fax: (707) 487-0930

Kara Brundin Miller
Chairperson

Denise Padgett
Vice Chairperson

Loren Bommelyn
Council Secretary

Joel Bravo
Treasurer

Marian Lopez
Council Member

Dr. Joseph
Giovannetti
Council Member

Lenora Hall
Council Member

Russ Crabtree
Tribal
Administrator

November 30, 2011

Mr. Sonke Mastrup, Director
California Fish & Game Commission
1416 Ninth Street, Suite 1320
Sacramento, CA 95814
SMastrup@fgc.ca.gov

RE: Addressing State Marine Conservation Areas Pyramid Point and Point St. George

Dear Mr. Mastrup:

I am following up on our earlier conversation regarding the concerns of the Smith River Rancheria with respect to the proposed regulations addressing the State Marine Conservation Areas Pyramid Point and Point St. George.

In the September 27, 2011 report to the Fish & Game Commission, both the Cher-Ae Heights Indian Community of the Trinidad Rancheria and the Yurok Tribe were identified as being authorized to take marine resources within both Pyramid Point and Point St. George. This report is contrary to the factual record submitted by both Tribes, which included a map, which clearly indicated both these SMCAs fall within the aboriginal and ancestral territory of the Tolowa people.

Although there may be individuals of Yurok descent who have fished and gathered within the ancestral territories of the Tolowa people, those practices have occurred pursuant to the authorization of the Smith River Rancheria, the federally recognized Tribe that has exerted jurisdiction over individuals within these areas since time immemorial. The factual record submitted by both Trinidad Rancheria and the Yurok Tribe made it clear that any individual's right to fish and gather within those MPAs would be conducted pursuant to an "inter-tribal use agreement," an agreement which has not been negotiated.

Until such an agreement is negotiated between the Smith River Rancheria and any other federally recognized tribe, it would be premature for the proposed regulations to identify any other tribe as being authorized to fish and gather within the Pyramid Point and Point St. George proposed SMCAs.

Waa-saa-ghitlh-'a~ Wee-ni Naa-ch'aa-ghitlh-ni
Our Heritage Is Why We Are Strong

When this issue was brought to the attention of the Cher-Ae Heights Indian Community of the Trinidad Rancheria, they were quick to correct the record by sending a letter to me, a copy of which is enclosed.

Any individual tribal member's fishing and gathering activities within these MPAs can only occur with the permission of the Smith River Rancheria. Until such time as an inter-tribal use agreement can be negotiated between the Smith River Rancheria and other federally recognized tribes, the regulations prepared by the Department of Fish & Game must be corrected to reflect the factual record: that the Pyramid Point and Point St. George SMCAs are not within their ancestral territory of the Cher-Ae Heights Indian Community of the Trinidad Rancheria and the Yurok Tribe, but instead fall within the territory of the Tolowa Dee-ni of the Smith River Rancheria.

AS-6

Please feel free to call if you have any questions.

Sincerely,



Russ Crabtree
Tribal Administrator
Smith River Rancheria

Enclosure

cc: Becky Ota
California Department of Fish & Game

Waa-saa-ghitlh-'a~ Wee-ni Naa-ch'aa-ghitlh-ni
Our Heritage Is Why We Are Strong

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Comment Letter AS – Atkins, Amy

Response to Comment AS-1 through AS-5

Comment noted. These comments do not address the sufficiency of the EIR.

However, this comment contains statements 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 AS-6

This comment is a duplicate of Comment L-7. Please see *Response to Comment L-7*.

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Testimony of Richard Charter on the Marine Life Protection Act North Coast Study Region DEIR, March 20, 2012:

My name is Richard Charter, and I have worked on behalf of protection for the Northern California Coast since 1978. Thank you for coming here.

As the patient process leading us here has proceeded since the passage of the California law in 1999, some key trends now unfolding in our world's oceans have validated the reasons why restoration measures are a good idea. These trends include carbon-induced acidification of our oceans, downward population trends in seabirds throughout the oceans as reported recently by the IUCN, and the dangerous emergence of offshore oil drilling as a political football in an election year.

AT-1

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

AT-2

While the recognition granted to our state waters in our region under the proposed network of marine protected areas cannot directly ban offshore drilling here, the resulting protections can and will strongly discourage the state authorities from any consideration of lifting our existing state waters drilling moratorium within three miles from shore, and in addition, these marine protected areas will also almost certainly help to dissuade federal agencies like the Department of Interior from federal offshore oil and gas leasing beyond three miles from shore, due to a key element of the overarching "Outer Continental Shelf Lands Act". This federal law requires the Secretary of Interior to balance what the federal law calls "relative environmental sensitivity" against potential development of offshore oil and gas resources. Obviously, any formal recognition of sensitive areas within state waters cannot help but be an important indicator to federal decisionmakers, reminding them once again of their mandate to avoid our region as a target for offshore oil and gas drilling.

AT-3

For these and other reasons, I am here to stand in support of the Proposed Project.

Thank you for your time.

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Comment Letter AT – Charter, Richard

Response to Comment AT-1

The comment identifies current and trending conditions within the Study Region. Existing and reasonably foreseeable projects and regulations were evaluated in the DEIR. Specifically, Chapter 7 *Other Statutory Considerations*, Section 7.5.2 *List of Cumulative Projects Considered*, provides a discussion of reasonably foreseeable projects and regulations, including GHG emissions and global climate change. Section 7.5.3 *Cumulative Impacts* addresses potential effects of the Proposed Project's contribution to cumulative impacts.

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

Response to Comment AT-2

Comment noted.

Response to Comment AT-3

Comments noted. The DEIR, including a description of the proposed regulations, was circulated to solicit public comments regarding the sufficiency of the related environmental analysis. Comments expressing a policy preference are noted and will be considered by the Commission as they contemplate final action. No changes to the DEIR are necessary.

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United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Pacific Regional Office
2800 Cottage Way
Sacramento, California 95825

APR 16 2012

Transmitted via E-Mail and U.S. Mail

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

RE: Draft Environmental Impact Report, California Marine Life Protection Act Initiative
North Coast Marine Protected Areas Project, State Clearinghouse #2011092029

Dear Sir/Madam:

The U.S. Bureau of Indian Affairs (BIA), Pacific Regional Office, as trustee on behalf of several Indian reservations and rancherias within the North Coast Marine Protected Areas Project, submits the following response to the California Department of Fish and Game's Draft Environmental Impact Report, California Marine Life Protection Act Initiative North Coast Marine Protected Areas Project, State Clearinghouse #2011092029.

We would like to recognize the California Natural Resources Agency, Fish and Game Commission and the Department of Fish and Game for your efforts to act in protecting California's marine ecosystems and biological diversity that are vital to the state and nation. We applaud the Resource Agencies for consulting with Federally recognized tribes, unrecognized tribes and tribal communities in receiving and working with their recommendations to find a solution to ensure that the Proposed Project would not affect the diverse and culturally important traditional tribal use and gathering practices taking place on ancestral territories throughout the north coast, through either avoidance of identified areas or inclusion of take allowance that would accommodate (not impede) tribal gathering and harvest (MLPAI 2010f).

The BIA has provided correspondence to the California Department of Fish and Game related to proposals that have potential adverse and serious effects to ancestral custom and use areas within the North Coast Study Area. Listed are our primary comments:

Section 1.1.7 Resource-Base Agencies and Commission: this section, under Federal Agencies, Commissions and Programs, failed to recognize the U.S. Bureau of Indian Affairs who has jurisdiction and regulatory responsibilities over marine resources within the Klamath River. The BIA Pacific Region has the trust responsibilities and jurisdiction with regard to potential effects of the proposed action on Indian trust lands and trust natural resources for 103 Federally recognized tribal governments. The BIA supports Tribal management activities that include

AU-1

resource management, provision and enforcement of hunting and fishing activities on trust lands. Public Law 93-638 contracts are executed with tribal fish and wildlife programs and individual fish and wildlife resource tribes throughout the country to accomplish various resource management objectives set by tribal governments.

AU-1

Section 2.3 Proposed Project: Tribal Gathering Option 1 – within this section, pertaining to SMCA’s and SMRMA, by specific tribal users, where a factual record can be established that shows ancestral take or tribal gathering practices by a federally recognized tribe in that specific MPA.

Comment: The BIA suggests that consultation be initiated with tribal governments regarding ancestral use areas, and discuss how other tribal governments would claim historic use within the SMCAs’ and SMRMA, before regulations are codified for tribal users within the MPAs.

AU-2

4.3 Environmental Impacts - Biological Resources – Impact BIO-6: Impacts on an Adopted Natural Communities Conservation Plan, Habitat Conservation Plans, or Local, Regional, State or Federal Policies or Ordinances for the Protection of Biological Resources (Significance Criteria D and E),

p 4-69. The last paragraph – The MLPA has similar goals to the existing plans and policies. The Proposed Regulations would be consistent with existing local, state, and federal policies and ordinances protecting biological resources; thus, no adverse impact would occur to existing local, state, or federal plans and policies. The options to the Proposed Project would slightly modify some of the MPA boundaries from those of the Proposed Project. The existing policies and plans for these option are identical to those described above for the Proposed Project, with the following additions:

- Pyramid Point SMCA option: The option would move the southern boundary 0.33 mi south, where it would abut Prince Island. This would add additional protection next to Prince Island, which is currently managed by the BLM and Smith River Rancheria.

Comment: The conclusion regarding the Level of Significance: No Adverse Impact, as it pertains to local, regional, State or Federal Policies, does not recognize the Smith River Rancheria jurisdiction. The proposed option listed above would further impact the Smith River Rancheria land use. The bordering marine waters would be regulated under State Marine Conservation Area regulation. The Federal Submerged Lands Act of 1953 confers ownership of the submerged lands and marine resources within 3 nm of the mean high-tide line to coastal state lands of California. The BIA on behalf of the Smith River Rancheria agrees that the Pyramid Point SMCA option, would adversely impact land use of Smith River Rancheria jurisdiction lands, including Pyramid Point and Prince Island.

AU-3

Smith River has notified the State Fish and Game Commission and the Blue Ribbon Task Force that the Commission should adopt a policy of avoidance as it pertains to the Smith River Rancheria boundaries. The proposed location of Pyramid Point State Marine Conservation Area (SMCA) and the suggested option to move the southern boundary 0.33 miles south, where it would abut Prince Island, would severely and adversely impact the land use, customs and traditions of subsistence gathering of marine resources on Indian lands.

The State's jurisdiction borders the Indian lands and has the effect of changing the historic traditional custom and use of the Smith River Rancheria lands. Due to the proximity of the SMCA, it has the direct affect of regulating land use.

AU-3

Additionally, the South Humbolt Bay SMRMA option would move the eastern border to the eastern shore of the bay, and the northern border would move slightly south. This option if implemented, would change historic and future land use. This would impact the customs and traditions of subsistence gathering of avian and marine resources for the Table Bluff Rancheria.

AU-4

7.6 Mandatory Findings of Significance: the Department has concluded that No Significant impact would result from the Proposed Project, and as such, the Proposed Project would not adversely affect the quality of environment or cause substantial adverse effects on human beings, either directly or indirectly.

Comment: For Alternative 2 – BRTF Enhanced Compliance (ECA), Indian land and traditional custom and use of marine resource as the lands that border Indian lands will be subject to regulatory conservation practices. The proposed allowable uses for take regulation grants tribal uses that is similar to recreation take. This is a respectful position, although, it does not fully recognize the sovereignty of the tribal governments.

AU-5

In conclusion, we recommend that the Commission of Fish and Game consult with the tribal governments regarding the North Coast Study Area SMCA and SMRCA and the co-management between federally recognized tribes and the Department of Fish and Game. Thank you for the opportunity to submit these comments.

AU-6

Should have any questions, please contact Douglas Garcia, Regional Water Rights Specialist, at (916) 978-6052 or myself at (916) 978-6000.

Sincerely,



Regional Director

cc: Superintendents, CCA, NCA
Tribal Chairperson, CA North Coast

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Comment Letter AU – Garcia, Douglas

Response to Comment AU-1

The Commission recognizes that the U.S. Bureau of Indian Affairs (BIA) is actively involved with tribal governments in the Study Region.

The Proposed Project would not conflict with BIA's jurisdiction or regulatory responsibilities over marine resources in the Klamath River, and would not establish regulations within the Klamath River. In addition, the Proposed Project would not conflict with BIA's jurisdiction or regulatory responsibilities on Indian trust lands or trust natural resources. Finally, the Proposed Project would not conflict with BIA funding support, under Public 93-638, for administration of tribal management activities, including resource management and hunting and fishing activities on trust lands.

Response to Comment AU-2

These comments do not address the sufficiency of the EIR. However, this comment contains statements 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 AU-3

The southern boundary of the Pyramid Point SMCA additionally provides a fixed geographic reference delineating the MPA. The Commission disagrees that this would severely and adversely impact land use. The Smith River Rancheria provided a factual tribal record for inclusion in the rulemaking file that identified what living marine resources they took. This take is expressly allowed to continue in the proposed regulations.

Response to Comment AU-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*.

Response to Comment AU-5

Comment noted. This comment raises complex issues of law and policy and does not address the sufficiency of the EIR. No changes to the EIR are necessary.

Response to Comment AU-6

Comment noted. These comments do not address the sufficiency of the EIR. No further response is warranted.

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**FINAL COMMENTS on the Marine Life Protection Act
North Coast Study Region Draft EIR
by David Gurney, April 16, 2012**

Please note for the record that at a hearing on the North Coast Draft EIR on March 20, 2012, in Fort Bragg, California, David Gurney was assaulted at the podium by Resources Legacy Fund Foundation (RLFF) privately contracted MLPAL facilitator Michael Stevenson, with 'Horizon Water and Environment.' Mr. Stevenson attempted to push Mr. Gurney away from the podium, when David Gurney requested a few extra seconds to wrap up his comments. Mr. Gurney had been formally ceded time by another speaker, Mr. Gabriel Maroney. Mr. Maroney's speaker card, requesting that his time be ceded to David Gurney, is part of the public record.

AV-1

Mr. Gurney's comments were critical of the DEIR, and so Mr. Stevenson forced the issue by threatening to shut down the meeting unless Mr. Gurney relinquished his request to finish his comments.

At a previous DEIR "scoping meeting" on Sept. 28, 2011, David Gurney was introduced by his full name by Mr. Stevenson. Yet in the 'Horizon' Draft EIR report, on page A-5, from that Sept. 28, 2011 scoping meeting, Mr. Gurney is listed as the "anonymous speaker."

AV-2

For the record, David Gurney's comments from that Sept. 28, 2011 DEIR 'scoping session' are transcribed, verbatim, below:

"I'll be very brief. I just want to ask the same question that I asked in April 2010 when I was actually arrested for asking this same question, which is: Why the MLPA has not officially provided protection from oil and natural gas exploration and drilling, as well as wind and wave energy development?"

AV-3

And I'm wondering through this Environmental Impact process, if those issues are going to be dealt with?

AV-4

One of the stakeholders, whose name I can't remember right now, who passed away during the process, (Skip Wollenberg) was trying to get laws put into place that prevented pipelines and development from offshore drilling (that would go through the benthic zones of marine protected areas) to be put into place along with the MPA's, and I don't think that was dealt with.

AV-5

We could take a lesson from the Gulf where there are many wildlife refuges, many protected areas that were totally destroyed by the Gulf oil spill, which ironically happened that same day, April 20, 2010, when I was told I couldn't videotape MLPA public meetings. I was arrested the next day for asking the same question that I'm asking right now.

Also, why is there no mention of other industrial developments like commercial fish farms, and as I said before, wind and wave energy development?

So I'm just wondering if the CEQA process is going to delve into these issues?

Thank you."

AV-6

Members of the Fort Bragg community repeatedly and respectfully asked the MLPAI "Initiative" to address these issues, including the above comments on wave energy. In fact, as stated, this writer was unlawfully arrested at a public MLPAI meeting, on April 21, 2010, for trying to respectfully ask a question regarding wave energy in relation to this MLPAI project.

AV-7

And yet on April 6, 2012, ten days before the deadline for these comments, I was obliged on behalf of the Ocean Protection Coalition to file a "Motion to Intervene" with the Federal Energy Regulatory Commission - for a 2012 "GreenWave" wave-energy permit on a large fifteen (15) square-mile ocean tract, less than one-half-mile offshore of two MLPAI State Marine Reserves: the Point Cabrillo SMR, and the Russian Gulch SMR.

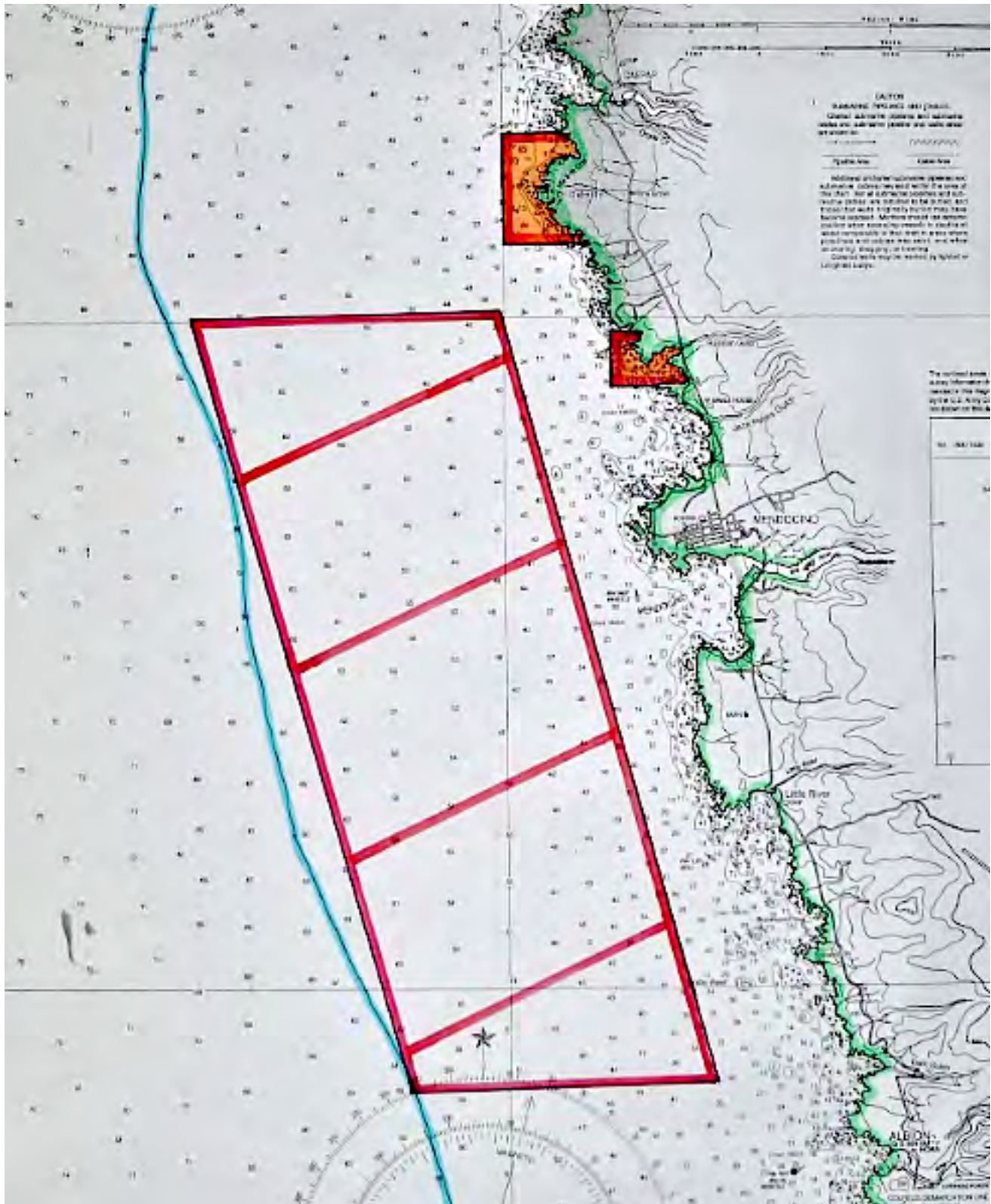
Does this DEIR seriously claim that an approximately fifteen (15) square-mile tract for wave energy machines would have "no significant effect" on two MLPAI State Marine Reserves, less than half-a-mile away?

This DEIR fails to address my comments from the scoping session on the effects of wave energy projects, and other human impacts on MPAs, in general.

AV-8

Repeated attempts by the MLPAI to silence and/or limit discussion by the public on the lack of significant ocean protection by this project have been duly noted in light of the present permit application by GreenWave, for a wave energy tract adjacent to new State Marine Reserves, recently approved by the MLPAI.

A map of the two coastal reserves, and the large wave-energy permit area, appears on the next page:



Point Cabrillo & Russian Gulch SMRs, w/ 15 sq. mi. "GreenWave" energy permit area just offshore

A copy of the federally filed 'Motion to Intervene' on the "GreenWave" wave-energy project:

**Motion to Intervene in FERC Docket No. P-14291-000,
GreenWave Mendocino Wave Park Project
GreenWave Energy Solutions, LLC**

Ocean Protection Coalition
P.O. Box 1006
Fort Bragg, CA 95437
Tel: 707-961-1339
jugglestone@comcast.net

April 6, 2012

**THE OCEAN PROTECTION COALITION'S MOTION TO INTERVENE
AND COMMENTS REGARDING PRELIMINARY APPLICATION**

INTERVENER STATUS OVERVIEW

Intervener status is requested because the Ocean Protection Coalition (OPC) has a long and honored historical record for the care and protection of California's North Coast, and the Mendocino Coast in particular. As a local Mendocino Coast organization, OPC represents a wide range of coastal constituents, in the precise area most affected by GreenWave Energy Solution LLC's (GreenWave) proposed project.

For 35 years, the OPC has represented those who have a deep spiritual and economic connection to the ocean, including recreational and commercial fishers, sea-vegetable harvesters, a vibrant tourist industry, and a passionate conservation and environmental community - all deeply concerned with the protection of wildlife, habitat, and food resources on our coast. The OPC has been successful in advocating for the protection of these vital resources, including plants, shellfish, birds, fish, marine mammals, and the ocean ecosystem as a whole. We have been central in the dialog of our community for the protection of ocean wilderness from oil and gas drilling, and other destructive forms of ocean industrialization.

STATEMENT OF FACTS AND POSITION

When GreenWave filed its original preliminary permit P-13053 in 2008, a significant public outcry resulted. Over the course of well over a year, contentious public meetings were held, involving GreenWave, and the Pacific Gas and Electric Company, who were co-applicants on a similar project proposal, just north of GreenWave's present area of interest. These agencies were informed in official public comment during FERC's first public meeting, that the small fishing port of Noyo Harbor, the only safe harbor within 120 miles of the proposed permit areas - was too small, and inappropriate to accommodate this type of industrial project.

After extensive meetings, review, and numerous objections expressed by local interests, over one year later, the Mendocino Coast community was summarily informed by P.G.&E. that they were canceling their permit, because our harbor was - "too small, and inappropriate to accommodate this type of industrial project."

During GreenWave's first preliminary permit application process in 2008-9, The Ocean Protection Coalition submitted a lengthy Motion to Intervene, Docket # P-13053. Some of the important issues our community found surrounding this wave energy project, and the many reasons it was found unacceptable for the Mendocino Coast, may be found in this public records document.

In the course of the original GreenWave permit proposal P-13053 in 2008-9, OPC spent literally hundreds of hours becoming well-versed in the field of ocean hydro-kinetic power systems. An educational PowerPoint slide-show was presented before the Mendocino County Board of Supervisors, the Humboldt Bay Harbor Commission, and other community groups and meetings. Informative articles were also written and published by OPC on the subject.

At the time of GreenWave's original permit application, up until the present, many have expressed feelings that GreenWave has no serious intention or purpose with this proposal, beyond irresponsible speculation, and that GreenWave is engaging in what is

known in the industry as "site sitting" - a scheme of speculative control over areas of interest, for no legitimate purpose other than retaining the permit itself, that engages the public and federal agencies in a process that is frivolous, fraudulent and negligent.

GreenWave has already established a track record of filing such a frivolous permit application, only to have it lapse and expire in an untimely manner.

Additionally, in the past two years, the State of California's Marine Life Protection Act 'Initiative' has designated two "Marine Protected Areas": The Point Cabrillo State Marine Reserve, and the Russian Gulch State Marine Conservation Area, both of which are less than a mile from GreenWave's present Docket # P-14291 proposal. These MPA no fishing restriction zones, under the authority of the California Natural Resources Agency, were painstakingly set aside specifically for the protection of habitat, fish, and wildlife. Wave machine installations adjacent to and seaward of these conservation areas are an industrial development inimical to the very idea of ocean wildlife protection.

Grey Whales and their offspring travel right through the area of GreenWave's proposed permit, on their bi-annual migrations, and could become entangled in the underwater power cable grids and extensive anchoring systems needed for wave energy "farms." The noise emanating from these machines, and the pollution from marine paint, construction materials, diesel fuel and hydraulic fluids, used for installation and maintenance, are totally inappropriate to be placed in, near, around, or adjacent to Marine Conservation Areas. This proposal threatens the wildlife that these conservation areas were set aside to protect.

The permit area is also in a coastal navigation zone heavily used by commercial and recreational vessels, many without radar. The installation of any obstacle in these open waters would create a dangerous navigational hazard, particularly in the fog or during storms.

CONCLUSION

Because of, and not limited to the above, the Ocean Protection Coalition believes we have an important and relevant place at the table as interveners in this matter.

On behalf of our organization, we respectfully request the Commission to accept and grant the Ocean Protection Coalition's timely Motion to Intervene, to obtain party status in the above referenced proceedings related to GreenWave Energy Solutions, LLC's application for a preliminary permit #P-14291, to begin evaluation for the "GreenWave Mendocino Wave Park", in an ocean area designated directly west (0.5 miles) and adjacent to the town of Mendocino, an exclusive priority zone some 2.5 miles wide, 6.9 miles long, and extending from just north of Albion, to just south of Caspar, at the coordinates: 39° 20.024'N 123° 50.014'W; 39° 20.001'N 123° 53.009'W; 39° 14.238'N 123° 50.870'W; 39° 14.327'N 123° 48.018'W, on the Mendocino Coast of California.

Sincerely,

David Gurney
Chairman
Ocean Protection Coalition (OPC)

Ann Rennacker
Secretary/Treasurer, OPC

Char Flum
Steering Committee, OPC

John and Barbara Stephens-Lewallen
Steering Committee, OPC

Ed Oberweiser
Steering Committee., OPC

Judy Filer
Steering Committee, OPC

CERTIFICATE OF SERVICE

I, David Gurney, declare on this day April 6, 2012, that I have hereby served by first class mail or electronic email, a letter to the Federal Energy Regulatory Commission Secretary Bose, and to each person designated on the official service list compiled by the Commission, the Ocean Protection Coalition's 'Motion to Intervene' and this Certificate of Service, in the above referenced proceeding.

Richard Ahrens	Richard Ahrens 79 Forest Drive, The Woods 43300 Little River Airport Road Little River, CALIFORNIA 95456-9612 UNITED STATES rmnn@mcn.org	
Fishermen Interested in Safe Hydrokinetics	Elizabeth Mitchell 17555 E Kirtlan Way Fort Bragg, CALIFORNIA 95437 UNITED STATES Bethmi@mac.com	
GreenWave Energy Solutions, LLC	William Bustamante Vice President GreenWave Energy Solutions, LLC 223 East Thousand Oaks Blvd. Suite 307 Thousand Oaks, CALIFORNIA 91360 UNITED STATES bbustamante@greenwaveenergysolutions.com	Wayne L Burkamp President GreenWave Energy Solutions, LLC 6859 The Turn Oakland, CALIFORNIA 94611 wburkamp@gmail.com
Institute for Fisheries Resources	Glen Spain NW Regional Director INSTITUTE FOR FISHERIES RESOURCES PO Box 11170 Eugene, OREGON 97440-3370 UNITED STATES fish1lfr@aol.com	
Mendocino County	Terry Gross Deputy County Counsel COUNTY OF MENDOCINO County Administration Center 501 Low Gap Road, Room 1030 Ukiah, CALIFORNIA 95482 UNITED STATES grosst@co.mendocino.ca.us	
National Marine Fisheries Service	David White Hydraulic Engineer NOAA National Marine Fisheries Service 777 Sonoma Avenue Suite 325 Santa Rosa, CALIFORNIA 95404 UNITED STATES david.k.white@noaa.gov	Kathryn L Kempton Attorney-Advisor NOAA Office of General Counsel - Southwest 501 W. Ocean Blvd., Ste. #4470 Long Beach, CALIFORNIA 90802 Kathryn.Kempton@noaa.gov
Ocean Protection Coalition	David Gurney Chair, Ocean Protection Coalit 18230 Oklahoma Lane P.O. Box 2150 Fort Bragg, CALIFORNIA 95437 UNITED STATES jugglestone@comcast.net	
Ocean Protection Coalition	Char Flum 310 N Harold Fort Bragg, CALIFORNIA 95437 UNITED STATES cflum@mcn.org	Ann B Rennacker Docket No. P13053, Green Wave 31200 Sherwood Rd Fort Bragg, CALIFORNIA 95437 annxpress@live.com
Ocean Protection Coalition	Judy Filer Judy Filer 19283 Benson Lane Fort Bragg, CALIFORNIA 95437 UNITED STATES jhfiler@comcast.net	Ed M. Oberweiser Mr. Ed Oberweiser 126 N. Corry Fort Bragg, CALIFORNIA 95437 elained@mcn.org
Surfrider Foundation	Angela Howe Litigation Manager Surfrider Foundation PO Box 6010 San Clemente, CALIFORNIA 92674-6010 UNITED STATES ahowe@surfrider.org	

I declare under the penalty of perjury that the foregoing is true and correct, executed on April 5, 2012 at Fort Bragg, California.

_____/s/_____

David Gurney

Finally, these questions remain, regarding the oppressive, top-down and undemocratic process of the privatized MLPAL "Initiative":

1.) Why was I arrested at an April 21, 2010 MLPAL public meeting for trying to respectfully ask a question related to wave energy and oil development? Why were these questions, raised repeatedly by the public throughout the MLPAL process, never adequately addressed? Why are we now, before the North Coast MLPA has even been adopted, already having to deal with wave energy permits adjacent to "Marine Protected Areas"? Why does this DEIR list ocean industrial development as having "no significant effect"?

AV-9

2.) Why were Bagley-Keene Open Meeting Laws grossly and flagrantly violated at public meetings of the MLPAL, and why was the public and the press prohibited from openly recording these public MLPAL meetings?

AV-10

3.) Why is the California Attorney General's Office defending private MLPAL contractor Ken Wiseman for these Bagley-Keene and other violations, when Mr. Wiseman, by his own account, is a privately-paid contractor for the Resources Legacy Fund Foundation, and not a state-paid employee?

AV-11

Additional comments on Horizon Water and Environment's DEIR:

DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR)
for the NORTH COAST STUDY REGION
Submitted by David Gurney, April 16, 2012

I. Science related aspects of the Draft EIR

1.) Chapter 1.4 — **"Topics Dismissed From Detailed Analysis—Mineral Resources"**

The issue of protection of Marine Reserves from oil/gas drilling and infrastructure, or any other ocean industrialization projects, in or around Marine Reserves, was not addressed, and was deliberately kept off the table during the entire MLPAL process.

AV-12

The president of the "Western States Petroleum Association," Catherine Reheis-Boyd sat on the "Blue Ribbon Task Force" throughout the MLPAL process, representing a gross conflict of interest.

2.) Chapter 6-4 of the the Draft EIR states: “scientific and educational research” will have “no significant impact.” Yet the EIR identifies 20 organizations, institutions, and governmental agencies, and four non-governmental organizations (NGOs), with an interest in these marine reserves.”(pg. 6.4.3)

AV-13

In addition, the EIR states there are now 562 “scientific collecting permits” valid for our Marine Region. (pg. 6.4-8)

I question whether 562 loosely regulated “scientific collecting permits” - for the potential take of fish in Marine Protected Area closures - will have “no significant impact” on the ocean or the culture of the North Coast region.

3.) Seventeen Native American Tribes from throughout Northern California have expressed a renewed interest in harvesting marine resources in the “North Coast Study Region,” as a result of the MLPAI. The increased pressure on marine resources has not been addressed as an “impact” by this Draft EIR for the North Coast region.

AV-14

In my opinion, neither the California nor the United States Constitution allows for special, discriminatory access to the ocean for spiritual, scientific or subsistence use of marine resources, based on criteria described in item II. 8. below.

4.) In Section 4.3 of chapter 4: “**Biological Resources**” the EIR states: “the majority of the study region’s habitats occur in areas 100 m or shallower. In fact 93% of the study region occurs in water 100 m or less.” The section lists as “unknown habitats” 127 mi.² of the marine study region from 0 to 30 meters deep. In a strip coastal habitat from Point Arena to the Oregon border, to three miles out, the EIR identifies 127 square miles as “unknown habitat” in the 0 to 98 foot depth range. According to the DEIR figures, this is over a quarter (27%) of the study region, from the shoreline, 0 to 98 feet deep.

AV-15

The EIR also claims on page 4-31, in section 4.3 – “**Environmental Setting**“ that the 127.9 mi.² or 27% pof the region is “unknown substrata.” This represents a severe lack of data for the process of choosing MPAs.

5.) The MLPAI’s sonar mapping vessel, working to identify undersea habitats through marine mapping, struck and killed a 72 foot blue whale. The vessel at the time was operating illegally without a valid permit, and without the required marine mammal observer onboard, whose job it is to spot whales and avoid such accidents during hydrographic operations.

AV-16

The data supplied by a contractor willing to violate the law in both the permitting and operation of their sonar surveys must be called into question, along with the gap of over 25% of the critical 0 - 100ft habitat

in the Study Region. As a result the entire Marine Mapping project needs to be re-done, for credible and usable scientific data to be used implementing meaningful marine protected areas.

AV-16

6.) Mr. Ron LeValley, Co-Chair of the MLPai “Initiative’s” ”Science Advisory Team” , was recently arrested on felony fraud and embezzlement charges. Although we do not know the outcome of these allegations, the very fact and circumstances of this arrest call into question the integrity of the entire scientific process used in the MLPai.

AV-17

In my opinion, the science used for implementation of the MLPA needs to be fully and independently investigated and verified following Mr. LeValley’s felony arrest. Otherwise, the science for this DEIR cannot be considered valid.

The standards for the “best readily available science” used in the MLPai project may need to be set higher.

7. Members of the MLPai and its science team have improperly secured jobs and grants for themselves to “research & monitor” new MPAs, in a blatant display of cronyism and nepotism with this privatized process. Perks, hotel rooms, meals, travel expenses, per diems, and “grants” - were freely offered through the Resources Legacy Fund Foundation (RLFF) throughout the MLPA process, to both individuals and organizations.

AV-18

II. Analysis of other improper/illegal actions by the MLPai

1.) The privately funded implementation of the MLPA, nor the law itself, was ever voted on by the people of this state, though this project alters the California State Constitution (See: Article 1, Section 25), which guarantees equal ocean access to all Californians.

AV-19

2.) California, through the Department of Fish and Game and the Fish and Game Commission, already has “statutory authority to determine season and conditions” under which any plant or animal species may be taken. Hence the MLPA limited access program is unnecessary under existing law, as any or all species may be listed, in both time and place, by “seasons and conditions.”

AV-20

3.) The MLPA process called itself an “Initiative.” But an Initiative in California has a specific legal definition. An initiative is the process of collecting signatures for a measure to be put on the ballot, and then voted on by the people.

AV-21

The MLPAI “Initiative” was not an initiative.

4.) Private aquariums will be allowed take in the new Marine Protected Areas, under the legal umbrella of “education and research.”

The people who funded this “Initiative” (through the RLFF) own the Monterey Bay Aquarium, contractors for them “take” marine resources for profit, on behalf of their own and other private, public, and commercial aquariums. A vested conflict of interest in the creation of the MLPA “Initiative” is being granted exclusive rights to “take” within MPA’s they have devised.

5.) The privately funded “Initiative” violated numerous law in the course of it’s 2009-2011 process in the North Coast Region. Among the violations committed during the North Coast MLPAI “Initiative” process:

a.) The MLPAI repeatedly violated Bagley-Keene open meeting laws by improperly noticing their public meetings. It changed the location of a Sept. 2009 meeting without proper notice, and it announced a follow-up meeting for the following evening, all without proper notice and in violation of B-K.

b.) Members of the public, while seated in the audience, were repeatedly and improperly approached by initiative staff during public meetings.

c.) The MLPAI engaged in secret, non-noticed meetings with Tribal representatives, without oversight or proper representation of the public, in violation of Bagley-Keene Open Meeting laws.

d.) The MLPAI seriously violated Bagley-Keene open-meeting and civil rights laws, by prohibiting public comment and press coverage at some of their public meetings. This writer was repeatedly harassed for trying to legally record MLPAI public meetings. I was finally falsely arrested, and charged with “disrupting” the meetings, for legally asserting rights under the Bagley-Keen Open Meetings Act.

The Mendocino County District Attorney categorically refused to prosecute the false charges and arrest by the MLPAI.

e.) The MLPAI “Initiative” engaged in the illegal financing of individuals, organizations, agencies, and government entities throughout the course of their project.

f.) The MLPAI misleadingly called itself an “Initiative,” when in fact an “initiative is a specifically defined process of obtaining signatures to put a measure on the ballot, to be decided by the voters. The Initiative process is clearly defined by the California Secretary of State and the Office of the Attorney General.

(Other MLPAI “Initiative” violations may be referenced in Section I of this document.)

6.) I object to the naming of the Ten Mile State Marine Reserve after Skip Wollenberg. Mr. Wollenberg staunchly insisted that marine protected areas have, written into law, an absolute prohibition of underwater pipelines, cables or any other infrastructure related to industrial development, oil and gas drilling.

AV-26

I believe Mr. Wollenberg would have demanded that these prohibitions be in place, before his name would be attached to any MPA.

To do less is disrespectful Skip Wollenberg's memory.

7.) It is illegal and unjust to delegate access to the ocean for only certain individuals, for the take of plants and animals, or access for spiritual communion, public or private, or for subsistence food gathering – on the basis of race, religion, national origin, cultural identity, professional, economic or scientific status.

AV-27

The access to interrelate with nature should be based solely a human being's respect for nature.

In my opinion, abrogation of these rights is a violation of both the United States, and the California Constitutions, and the essence of equality, civil rights, and fair play.

8.) The end result of denying access to areas already severely regulated to public, and opening these MPAs up to 562 "scientific take" permits, twenty research and educational organizations, seventeen tribes, four NGO's, possible oil/gas interests, energy interests, aquaculture interests, Navy testing and training, and the increased pressure on other areas from displaced fishing interests, will have the opposite effect of that intended by the MLPA in the first place.

AV-28

9.) Finally, how can a Draft EIR - be paid for by the same private parties (the RLFF) - who financed the MLPA "Initiative" in the first place, and still claim to be independent, fair, accurate, just, or comprehensive - or even legal?

AV-29

The gross conflict of interest in the financing of this EIR by the same private funding sources as the project itself, should be cause for this EIR to be invalidated.

III. Other Observations: MAPS INACCURATE, NO COORDINATES

AV-30

The maps and descriptions of MPA's are unsatisfactory. Coordinates for locating MPAs are not included. Maps presented in this DEIR are unprofessional and inaccurate.

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Comment Letter AV – Gurney, David

Response to Comment AV-1

The comment constitutes unsubstantiated narrative and opinion. No changes to the DEIR are required.

Response to Comment AV-2

The comment constitutes unsubstantiated narrative and opinion. No changes to the DEIR are required.

Response to Comment AV-3

See *Master Response 1: Scope of the MLPA and Regulatory Authority* for a discussion on the MLPA jurisdictional authority.

Response to Comment AV-4

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.

Nonetheless, the DEIR did consider potential cumulative impacts of the Proposed Project and reasonably foreseeable future projects, such as hydrokinetic energy projects, in the Study Region. See *Master Response 2: Analysis of Other Activities within the North Coast Study Region*.

Response to Comment AV-5

Comment noted. This comment does not address the sufficiency of the EIR. Also, see *Master Response 1: Scope of the MLPA and Regulatory Authority*.

Response to Comment AV-6

The Proposed Project does not include regulations on commercial fish farms (aquaculture projects) 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.

The DEIR did consider potential cumulative impacts of the Proposed Project and reasonably foreseeable future projects, such as hydrokinetic energy projects, in the Study Region. See *Master Response 2: Analysis of Other Activities within the North Coast Study Region*.

Aquaculture projects are discussed in DEIR Chapter 3.1, *Agricultural Resources*, Section 3.1.2 *Regulatory Setting*, and Chapter 7 *Other Statutory Considerations*, page 7-9. These sections provide further discussion on the current regulatory status of aquaculture projects within federal and state waters.

Response to Comment AV-7

Comment noted. This comment does not address the sufficiency of the EIR. Also, see *Master Response 1 Scope of the MLPA and Regulatory Authority*.

Response to Comment AV-8

See *Response to Comment S14-1*.

All comments provided during the scoping period were considered in the environmental impact analysis, per State CEQA Guidelines Section 15084(c). Further, the State CEQA Guidelines do not include specific provisions for providing responses to comments received during the scoping period (see State CEQA Guidelines sections 15082 and 15084).

Response to Comment AV-9

For the question on the public meeting on April 21, 2012, see *Response to Comment AV-3*.

For the question on public input during the MLPAI Process, see *Master Response 3: Inadequacy or Application of Data Gathered During the MLPA Initiative Planning Process, and Adequacy of the Science Standard*.

For the question on regulatory authority of the MLPA, see *Master Response 1: Scope of the MLPA and Regulatory Authority*.

For the question on evaluation of effects on ocean development projects, see *Responses to Comments AV-4, AV-6, and AV-8*.

Response to Comment AV-10

This comment speaks to the MLPA planning process and does not address the sufficiency of the EIR. Moreover, there were ample opportunities for public participation in a number of locations throughout the North Coast Region. Please refer to DEIR Chapter 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 AV-11

This comment raises complex issues of law and policy and does not address the sufficiency of the EIR. No further response is warranted.

Response to Comment AV-12

This is a duplicate comment. See *Response to Comment AF-1*.

Response to Comment AV-13

This is a duplicate comment. See *Response to Comment A11-3*.

Response to Comment AV-14

This is a duplicate comment. See *Response to Comment AF-3*.

Response to Comment AV-15

This is a duplicate comment. See *Response to Comment A11-4*.

Response to Comment AV-16

This is a duplicate comment. See *Response to Comment A11-5*.

Response to Comment AV-17

This is a duplicate comment. See *Response to Comment AF-6*.

Response to Comment AV-18

This is a duplicate comment. See *Response to Comment AF-7*.

Response to Comment AV-19

This is a duplicate comment. See *Response to Comment AF-7*.

Response to Comment AV-20

This is a duplicate comment. See *Response to Comment AF-7*.

Response to Comment AV-21

This is a duplicate comment. See *Response to Comment AF-10*.

Response to Comment AV-22

This is a duplicate comment. See *Response to Comment AF-11*.

Response to Comment AV-23

This is a duplicate comment. See *Response to Comment AF-7*.

Response to Comment AV-24

This is a duplicate comment. See *Response to Comment AF-7*.

Response to Comment AV-25

This is a duplicate comment. See *Response to Comment AF-7*.

Response to Comment AV-26

This is a duplicate comment. See *Response to Comment AF-13*.

Response to Comment AV-27

This is a duplicate comment. See *Response to Comment AF-14*.

Response to Comment AV-28

This is a duplicate comment. See *Response to Comment AF-15*.

Response to Comment AV-29

This is a duplicate comment. See *Response to Comment AF-7*.

Response to Comment AV-30

This is a duplicate comment. See *Response to Comment S15-1*.