Appendix C

Scoping Report

North Central Coast
Marine Protected Areas Project
Environmental Impact Report

Summary of Public Scoping Comments

Prepared for:

California Department of Fish and Game
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July 2008

Jones & Stokes. 2008. North Central Coast Marine Protected Areas Project - Environmental Impact Report Summary of Public Scoping Comments. July (J&S 00447.08.) Oakland, California.

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Introduction

On behalf of the California Fish and Game Commission (Commission), the California Department of Fish and Game (Department) will be preparing an Environmental Impact Report (EIR) for the North Central Coast Marine Protected Areas (MPAs) Project (project). Pursuant to the requirements of the California Environmental Quality Act (CEQA), the Department released a Notice of Preparation (NOP) on June 9, 2008, initiating the scoping period for the EIR. During this period, the Department held three scoping meetings to present a brief summary of the proposed project and receive oral comments regarding the scope of the EIR. Scoping meetings were held at the following locations and times:

- Tuesday June 17, 2008 in Pacifica at the Best Western Lighthouse Hotel at 105 Rockaway Beach Avenue;
- Wednesday June 18, 2008 in Sausalito at the USACE Bay Model Visitor Center Multi-Purpose Room at 2100 Bridgeway;
- Thursday June 19, 2008 in Gualala at the Gualala Arts Center at 46501 Gualala Road.

The public meetings were attended by approximately 4 people at the Pacifica meeting, 10 people at the Sausalito meeting, and 17 people at the Gualala meeting. Also in attendance was the following staff representing the Department of Fish and Game and the environmental consultant for the proposed project.

<u>Department of Fish and Game</u>
- Matt Erickson, Associate Biologist

<u>ICF Jones & Stokes</u>
- Jeff Thomas, Senior Project Manager
- Marissa Adams, Public Outreach Specialist

In addition to oral comments, written comments were received by the Department during the scoping period (June 9th thru July 8th). This summary report reflects comments received during the scoping period as well as additional scoping comments received by the Department up thru July 22, 2008.

This report summarizes the key subjects and issues raised in both oral comment at the scoping meetings and written comments concerning the scope of the EIR.

Project Description

The project proposes a network of MPAs within the north central coast region of California, as required by the Marine Life Protection Act (MLPA). For the purpose of the project, the north central coast region defined as State waters located between Point Arena (Mendocino County) and Pigeon Point (San Mateo County).

The goals of the project are:

- To protect the natural diversity and abundance of marine life, and the structure, function, and integrity of marine ecosystems.
- To help sustain, conserve, and protect marine life populations, including those of economic value, and rebuild those that are depleted.
- To improve recreational, educational, and study opportunities provided by marine ecosystems that are subject to minimal human disturbance, and to manage these uses in a manner consistent with protecting biodiversity.
- To protect marine natural heritage, including protection of representative and unique marine life habitats in California waters for their intrinsic value.
- To ensure that California's MPAs have clearly defined objectives, effective management measures, and adequate enforcement, and are based on sound scientific guidelines.
- To ensure that the state's MPAs are designed and managed, to the extent possible, as a network.

Currently, the north central coast region has twelve existing MPAs and one special closure area. The proposed project would modify and/or delete these MPAs and establish new MPAs to achieve the project goals. Several alternative MPA designs are currently being considered by the Commission.

Throughout the Environmental Scoping Phase of the project, input was sought from the public and regulatory agencies to assist in identifying a range of alternatives, potentially significant environmental effects and possible mitigation measures.

Scoping Process

The project will require approval from the Commission, a state agency, before implementation. Discretionary actions by state and local agencies are subject to review under CEQA. The purpose of review under CEQA is to inform governmental decision-makers and the public about potentially significant environmental effects of proposed projects and possible ways to avoid or substantially reduce those impacts. All agencies are required to conduct an environmental review under CEQA prior to approval of a project.

The purpose of the scoping process is to provide the CEQA lead agency (in this case, the Commission) the opportunity to solicit input from interested public agencies, the public, organizations, and other interested parties on matters related to environmental effects associated with a proposed project. The scoping process helps develop the appropriate scope, focus and content of the Draft EIR as well as to help identify potential alternatives and mitigation measures to be considered in the EIR.

Noticing and Publicity

The NOP was distributed to the State Clearinghouse and mailed to governmental agencies with potential interest, expertise, and/or authority over the project. The NOP also was sent to the MLPA Initiative public mailing and email lists. The notification process included a MLPA web

posting announcing the meeting (dates, locations and times) and distribution of meeting flyers via mail and email. Notification materials and the NOP are included in the attached Appendices.

Summary of Verbal & Written Comments

The following summarizes verbal comments received at the scoping meetings and written comments received from regulatory agencies and the public during the scoping comment period. A total of 28 commenters provided comments in the form of 14 letters and 14 verbal comments provided at the scoping meeting. Comments in their entirety are located in Appendices G and H. This summary is not intended as a verbatim or comprehensive list of issues raised in comment, but rather is intended to summarize notable concerns. For the detailed concerns, the reader is directed to the comments themselves.

List of Commenters

Federal Agencies
- National Park Service

State Agencies
- Native American Heritage Commission
- California State Lands Commission

Local Agencies
- Sonoma County Water Agency

Organizations
- Natural Resources Defense Council
- Recreational Fishing Alliance
- Ocean Conservancy
- Seaflow
- California Sea Urchin Commission
- Alliance for Local Sustainable Agriculture

Individuals
- Ralph Kanz
- Allan Jacobs
- Cheryl and David Babineau
- Herman I. Kalfen

Summary of Comments

Air Quality

- The air quality analysis should include non-MPA related factors, such as high gas prices, that may keep boats off the water because these may offset the potential impacts to air quality from boats.
- More greenhouse gases will be emitted by boats having to travel farther away to fish.

Biological Resources

- Displacement of Fishing Effort – Displacement and concentration of fishing in lower-productivity areas will result in loss of fisheries outside of MPAs.
- The Integrated Preferred Alternative (IPA) plan only focuses on protecting fish and disregards other marine life. The disregard to protect other marine life is a threat to the marine ecosystem.
- The potential for non-native species to spread or be introduced into MPAs areas should be considered an impact to biodiversity.
- The potential for new MPAs to concentrate impact from fishing and from the spreading on non-native species on areas adjacent to MPAs.
- Overfished and local depletions of species in the region should be discussed.
- Fishing restrictions in the City of Arena will cause a decline in the abalone population.
- Discuss the impacts of closing existing fishing areas will have on the remaining open ones.
- The natural species diversity and abundance in the Salt Point and Stewarts Point areas will decrease if the preferred alternative plan is implemented.
- What is the percent of the biomass of the fish humans take, and is it sustainable as it is?
- If the harvest of red sea urchins is prohibited at Salt Point, sea urchins will eventually proliferate in deeper water and out-compete abalones in this habitat. Abalone populations and recreational abalone diving will lose the larval replacement benefits of the deeper water refugia.
- Natural diversity and abundance in many other kelp dependent species has been shown to increase with the harvest of sea urchins.
- What is the sustainable take of fish?
- Does fishing benefit fish population in the long term?
- Assess marine ecosystem as total biological community.
- Discuss benefits of the MPA to living marine resources and habitat within the north central coast.
- The EIR should consider the potential negative environmental impacts that would result from prohibiting sea urchin harvesting at Salt Point. While CEQA calls for mitigating significant impacts the preferred option is to avoid those impacts, if at all possible.
- Will the Biological Resources section address impacts to individual species and ecosystems?

Consumptive Uses

- Commercial and Recreational Fishing – Concern regarding loss of opportunities within central coast study area. Lost opportunities should be mitigated.
- Socioeconomics – Consider effects on fishing industries and communities. Opposition expressed to closures or restrictions that hinder local seafood business economy.
- Reduction in by-catch a poor indicator of species depletion.
- The MPA will cause a loss of revenue at the piers in Gualala.
- There is a socioeconomic impact on the culture at Sea Ranch and on the coast.
- Consider effect of increased fish imports from other countries.
- Ecotrust data and surveys were used against the fishing industry.
- Urchin diving should not be restricted because it will cause an urchin barren to form.
- The EIR should address the impacts of transfer of effort between fisheries and on the new targeted species.
- The CEQA document should focus on the recreational abalone take outside of the MPA areas.

Non-Consumptive Uses

- Recreation user base extends beyond central California coast.
- Diving restrictions to protect abalone has the potential to result in financial hardships to coastal towns, increase poaching, and increase diver as they may attempt to enter in none closed and dangerous access points.
- The Master Plan proposes to protect MPAs from non-fishing activities; however, the IPA fails to do so. A profile of whether non-fishing activities are affecting wildlife or habitat of concern in an MPA site should be completed to determine the significance of the non-fishing activities.
- Has there been a study of the economic value of non-consumptive uses?
- A study should be conducted prior to the completion of the process that focuses on the economic and social value of non- consumptive uses on the marine environment.
- Non-consumptive uses, such as walking, swimming, and hiking should be allowed within any MPAs areas. Instead, pollution and disturbance of wildlife should be controlled through existing regulations and laws.
- Areas of concern are the loss of services to the public and also the loss of recreational opportunities.

Cultural Resources

- The appropriate actions recommended by the Native American Heritage Commission should take place.
- Will one be able to remove rocks and other artifacts from protected areas?

Enforcement

- The Department can't adequately enforce existing regulations. Can the Department provide adequate enforcement both inside and outside of MPAs?
- The Sonoma County Water Agency (SCWA) supports the MLPA protection of the Russian River. SCWA believes that the current level of state and federal regulatory oversight is sufficient to protect Russian River resources.

- Members of the Sea Ranch association may have to pay higher fees to enforce appropriate behavior at the ranch.
- Would there be some kind of data that would be useful to you in determining enforcement recommendations? Or do you have that available?
- Explain why the proposed regulations only address fishing, but not water quality.

Funding

- Cost not given enough consideration.
- Discuss how the Department will address increasing enforcement costs to the detriment of environmental resources within and outside of the MPAs.
- Initial funding may be available, but what of the balance needed for future management?
- Consider joint state-federal task group and cooperative monitoring with cost sharing.
- EIR should delineate all funding required to implement and manage the project.
- Will the CEQA document consider the lack of funds county governments have for enforcement?

MPA Design

- Prohibition of all extractive activities within State Marine Reserves conflicts with other management activities such as invasive species control and removal of rotting carcasses.
- Reduce the size and spacing between MPAs and harbors.
- The various proposals should be compared relative to how much high-quality habitat they incorporate in places likely to produce long-term marine benefits.
- The preferred alternative builds a small box out of the harbor of Point Arena. It takes away the largest the majority of the favorite fishing area to north of the port Point Arena, the reef below the Point Arena lighthouse, a favorite fishing area to the south of the harbor. And that's where most of the fishermen normally go prior to the potential MLPA effect.
- There has to be connectivity between every single marine protected area in California.
- The MPA will deny divers of a save and accessible place to dive.
- Those of us who support Proposal 2XA would like to see the least restrictive measures not the most restrictive measures.
- The MPA should not be adopted.
- Has the North Central Regional process achieved MLPA objectives and ecosystem management?
- Protecting fish is a great objective, but it's not the only objective for the MLPA process and of the legislation that was outlined at the beginning of this presentation.
- Has the North Central Regional process achieved the MLPA master plan objective of protecting MPA's from non-fishing activities?
- Has the North Central Regional process achieved MLPA goal 1 and 2?
- The preferred alternative will increase the number of trespassers on Sea Ranch.
- Do the IPA and the three stakeholder MLPA alternative proposals adequately protect marine mammals?

- Why two critically threathern and endangered species are not protected by the IPA in all three stakeholder MPA alternative proposals?
- Only 50 percent of the marine mammal hot spots identified by the SAT within this region fall within the SMM's, the SMR's, or the SMCA's in the IPA. Only 50 percent of the marine mammals, some of which are significantly threatened with extinction, are protected under the IPA.
- Do the IPA and the three stakeholder MLPA alternative proposals adequately protect the birds?
- The MPA design will result in a very small area where virtually 100 percent of the fishing effort of the port of Arena will occur. Please consider the effect on the resource from concentrating fishing effort to a small area.
- One protected area in Point Arena is enough.
- One of the goals of the marine protected areas should be the benefits to ports and facilities.
- Proposal 2XA is the best option because it proposes fewer and smaller MPA's with better spacing. Furthermore, it fulfills all CDFG requirements and satisfies the goals and objectives of the MLPA.
- How can MPA's be planned lying right next to vessel traffic areas which 10,000 vessels use?
- Why do the IPA and the other stakeholder proposals fail to assess the impact shipping, especially in the aftermath of the COSCO BUSAN tragedy, which polluted most of these areas that are supposed to be protected under these MPA's?
- AB 32 should be taken into account.
- Effects of MPAs should be able to be understood from the Channel Islands National Marine Sanctuary monitoring efforts. Establishment of decent biological baselines is needed.
- MPAs will not build or maintain fish stocks.
- Discrepancy exists between MPA goals and regulations proposed to achieve them.
- SAT did not quantify expected outcomes. An abundance assessment and population dynamics modeling should be completed in support of the EIR analysis.
- Avoid using concepts from terrestrial protected area planning.
- SAT should develop quantitative classification guidelines and a quantitative assessment of degree of benefit by species.
- Consider phasing of MPA network and developing benchmarks for expansion.
- Assess implications of semi-take areas versus no-take areas.
- Assess ability of alternatives to facilitate monitoring and adaptive management.
- MPAs can work if modeled correctly. Quotas work better.
- Ecosystem function and diversity are not well defined.

Land Use

- Compare proposed regulations with past regulations and closures, and other State laws. Assess effectiveness of past regulations on marine resources.
- Assess change in land use plans for coastal communities dependent on coastal access, recreation and commercial fishing activities.

Public Services

- Consider effects on ports, marina, and harbors such as oil and fuel spills, and vessel abandonment.

Water Quality

- Number of MPAs could be reduced if non-point source pollution addressed.
- Impacts from runoff are a greater problem than commercial and recreational fishing.
- Will the EIR address runoff impacts to water quality from the Gualala River, the Garcia River, vineyards or septic systems?

Vessel Traffic

- Consider safety of vessels traveling further and effect of higher densities of vessels.
- Consider safety issue of vessels dodging MPAs to fish.
- Are special closures, vessel no-traffic areas, adequate to protect threatened or endangered marine species?
- Do special closures protect MPA's from environmental threats and large vessel traffic?
- Vessel traffic effects may be balanced between distances traveled by fishermen and divers.

CEQA Process

- Please state where appropriate that 2XA meets all CEQA requirements.
- A discussion regarding the historical abundance of marine species, the species declared "overfished," and locally important and rare habitat types should be in EIR.
- Consultant should consider best available science and earlier analyses.
- Include assessment of cumulative effects and reasonably foreseeable future project phases.
- Impacts to humans should be discussed.
- Why are aesthetics being considered?
- Look into the economic impact of closing Sea Ranch.
- In the CEQA document, will socioeconomics be addressed?
- Consider Sea Ranch when looking at the funneling affect.
- Will CEQA address the benefits of the project?
- Will the CEQA document be subregion-specific, or for the whole management area?
- Impacts to private property should be considered.
- Does the CEQA process at any point look at previous similar projects like the Central Coast for unexpected or unintended consequences?
- Will CEQA address the hazard of people having to go farther out for fishing?
- Discuss noise impacts to marine mammals.
- What level of disturbance will be used to determine an impact?
- Address the economic impacts the MPA will have on Gualala.
- Address whether the spillover effect will be a win, lose, or draw situation.
- Would it be within CEQA's purview to include the human percentage take of fish?
- CEQA analysis must include a detailed description of non-fishing impacts to the marine ecosystem, and how the MPA network will improve or worsen these impacts.

Alternatives

- Include no action analysis and discussion.
- Differences among alternatives expected to be few.
- What does "reasonable alternatives to be considered" mean?

Other Considerations

- Are MPA's required?
- NEPA document required based on federal agency involvement in implementation process.
- Will the MPA affect property value?
- Will monitoring occur once the plan is adopted?
- Will the SAT members be part of the process?
- What will the new MPA accomplish that the Sounder Reef MPA has not?
- Assess educational benefits of MPAs.
- SCWA is concerned that the MPA may restrict the development of hydrokinetic energy generation facilities along the Sonoma coast.

APPENDIX A

Notice of Preparation

STATE OF CALIFORNIA – THE RESOURCES AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF FISH AND GAME
www.dfg.ca.gov
Marine Region
20 Lower Ragsdale Drive, Suite 100
Monterey, CA 93940

June 9, 2008

Re: Notice of preparation of environmental impact report regarding marine protected areas in the north central California region pursuant to the Marine Life Protection Act.

To Interested Parties:

The California Fish and Game Commission (Commission) will be the lead agency reviewing and potentially adopting proposed regulations for marine protected areas (MPAs), marine managed areas (MMAs) and Special Closures in State waters within the north central California coast region. Pursuant to the requirements of the California Environmental Quality Act (CEQA), the Department of Fish and Game (Department) will prepare an environmental impact report (EIR) regarding the proposed project.

The proposed project reviewed in this EIR is the north central California coast component of a statewide network of MPAs as required by the Marine Life Protection Act (MLPA, Stats. 1999 Ch. 1015) and other MMAs and Special Closures determined appropriate to help fulfill the MLPA mandate. For the purpose of this project, the North central California coast region is defined as State waters between Alder Creek, near Point Arena (Mendocino County) and Pigeon Point (San Mateo County).

The project objectives are to help protect, maintain, restore, enhance, and manage living marine resources by developing this portion of the MLPA required network of MPAs. Take of finfish, marine plants and/or invertebrates and other living and non-living marine resources would be prohibited or restricted in several areas by regulations established by the Commission and implemented by the Department. Alternatives to the proposed project will be evaluated in the document, with corresponding analysis provided for each identified alternative. Additional information on the proposed project and development process is available at www.dfg.ca.gov/mlpa.

The Department has taken steps to identify and evaluate any potential negative environmental effects associated with the proposed project. However, in order to assist the Department in identifying the range of potential actions, alternatives,

mitigation measures if needed and significant effects to be analyzed in depth in the document, the Department is requesting your views as to the scope and content of the environmental information which you feel is pertinent to the subject project.

Your response relative to the scope of the environmental document must be sent at the earliest possible date, but not later than 30 days after receipt of this notice in order for your comments to be considered.

Public comments provided on the proposed project to date through the MLPA process will be addressed in the document. Three public scoping meetings will also be held on the development of the draft EIR.

Please send responses to this Notice of Preparation to "MLPA North Central Coast CEQA Scoping Comments" c/o California Department of Fish and Game, at the address provided above. Comments may also be submitted electronically by sending them to MLPAComments@dfg.ca.gov. Your comments should include your name, address, and daytime telephone number so a representative of the Department can contact you if clarifications regarding your comments are required. Please include the heading "MLPA CEQA Scoping Comments" in your response.

Sincerely,

Marija Vojkovich
Regional Manager
Marine Region

APPENDIX B

Scoping Meeting Announcement Flyer

Notice of Scoping Meetings

North Central Coast Marine Protected Areas

Scoping Period Starts

The California Department of Fish and Game issued a Notice of Preparation (NOP) on June 9, 2008 that marks the first step in the environmental review of the Marine Life Protection Act (MLPA) North Central Coast Marine Protected Areas (MPA) Project. Release of the Notice of Preparation also initiates the scoping phase, during which interested agencies and the public are invited to help identify the range of issues and type of information to be considered in the Environmental Impact Report being prepared. Scoping comments will be accepted by the California Department of Fish and Game through close of business on July 8, 2008.

MLPA North Central Coast MPA Project

The California Department of Fish and Game's North Central Coast Marine Protected Areas Project proposes establishing or modifying MPAs comprising a portion of the north central California coast region between Alder Creek, near Point Arena (Mendocino County) and Pigeon Point (San Mateo County). The goals of the North Central Coast Region MPA Project are:

- To protect the natural diversity and abundance of marine life, and the structure, function, and integrity of marine ecosystems.
- To help sustain, conserve, and protect marine life populations, including those of economic value, and rebuild those that are depleted.
- To improve recreational, educational, and study opportunities provided by marine ecosystems that are subject to minimal human disturbance, and to manage these uses in a manner consistent with protecting biodiversity.
- To protect marine natural heritage, including protection of representative and unique marine life habitats in California waters for their intrinsic value.
- To ensure that California's MPAs have clearly defined objectives, effective management measures, and adequate enforcement, and are based on sound scientific guidelines.
- To ensure that the state's MPAs are designed and managed, to the extent possible, as a network.

Currently, the north central coast region has thirteen existing MPAs. The proposed project would modify and/or delete these MPAs and establish new MPAs, marine managed areas and special closures to achieve the project goals.

Environmental Review Process

The California Environmental Quality Act (CEQA) requires that decision-making agencies and the public be informed of any potentially significant environmental and other effects before a proposed project is approved. The California Department of Fish and Game will prepare an Environmental Impact Report on the proposed project that provides information about potentially significant impacts, identifies ways to minimize these impacts, and evaluates feasible alternatives. The California Fish and Game Commission is expected to make a decision regarding a preferred alternative in July 2008, and is expected to review and adopt regulations implementing a new MPA package for the north central coast region in late 2008 or early 2009.

Scoping Meeting Information

We encourage you to attend an upcoming scoping meeting on environmental review of the North Central Coast Marine Protected Areas Project. The California Department of Fish and Game is holding three scoping meetings in the north central coast region to solicit public comment on the scope and content of information to be included in the Environmental Impact Report. See the maps on the reverse side of this flyer for additional detail on meeting locations.

How to Comment

To obtain a copy of the NOP:
You may access a copy of the Notice of Preparation online at www.dfg.ca.gov/mlpa/ or by calling (831) 649-2885

To comment on the NOP:
You may provide comment on the NORTH CENTRAL COAST MARINE PROTECTED AREAS PROJECT through any of the following means:

- Attend one of the three scoping meetings and provide oral or written comment at the meeting.

By Tuesday, July 8, 2008:

- *Mail written comments to:*
  MLPA North Central Coast Comments,
  California Department of Fish and Game,
  20 Lower Ragsdale Drive,
  Suite 100, Monterey,
  California 93940
- *E Mail written comments to:*
  MLPAComments@dfg.ca.gov
- *Fax written comments to:*
  (831) 649-2894

THIS IS YOUR CHANCE TO COMMENT ON WHAT WILL BE STUDIED DURING ENVIRONMENTAL REVIEW OF THE NORTH CENTRAL COAST MARINE PROTECTED AREAS PROJECT!

Pacifica

Tuesday, June 17, 2008
6:30 – 8:30 PM
Best Western Lighthouse Hotel
Seawitch Room
105 Rockaway Beach Avenue
Pacifica, CA 94044

Sausalito

Wednesday, June 18, 2008
6:30 – 8:30 PM
USACE Bay Model Visitor Center
Multi-Purpose Room
2100 Bridgeway
Sausalito, CA 94965

Gualala

Thursday, June 19, 2008
6:30 – 8:30 PM
Gualala Arts Center
Coleman Auditorium
46501 Gualala Road,
Gualala, CA 95445

For More Information on the NORTH CENTRAL COAST MARINE PROTECTED AREAS PROJECT Visit
www.dfg.ca.gov/mlpa/ or contact Elizabeth Pope-Smith at (707) 445-5301 or by e-mail at epope@dfg.ca.gov

Directions to Scoping Meetings

Please see inside for meeting times and additional information regarding meeting locations

▶ Pacifica

Tuesday, June 17, 2008

105 Rockaway Beach Avenue, Pacifica, CA

▶ Sausalito

Wednesday, June 18, 2008

2100 Bridgeway, Sausalito, CA

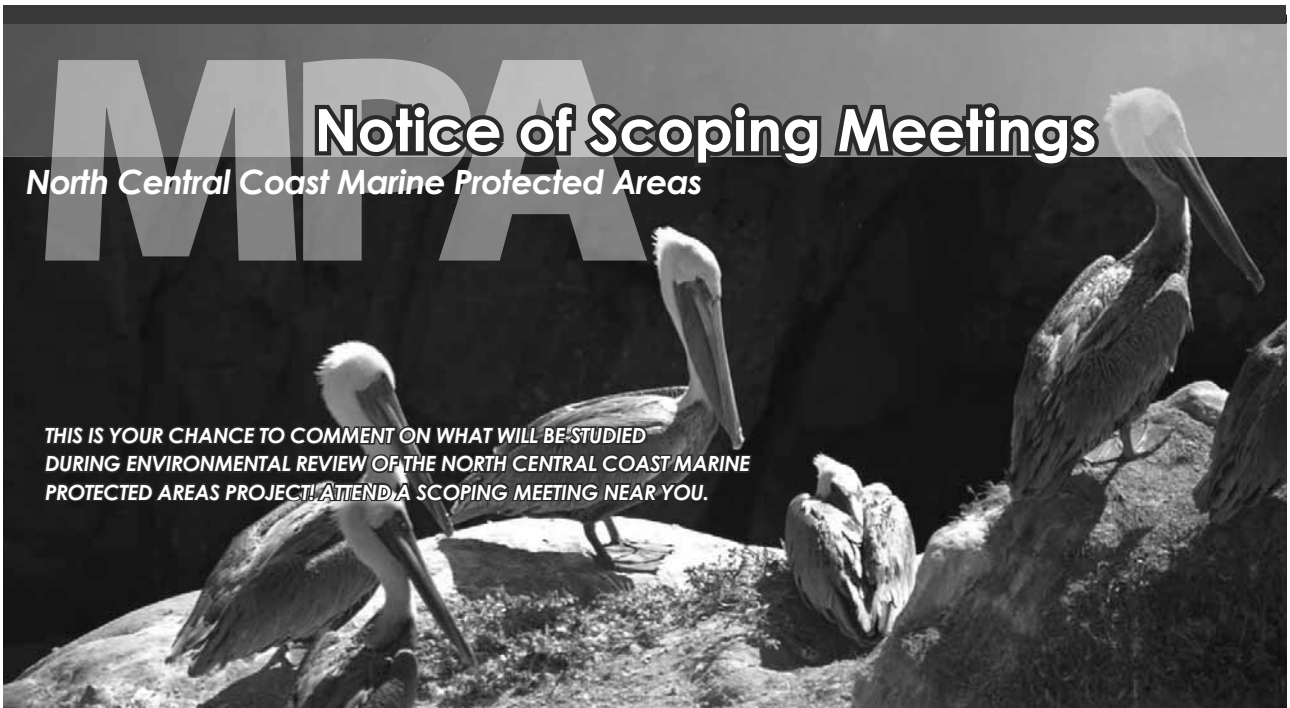
▶ Gualala

Thursday, June 19, 2008

46501 Gualala Road, Gualala, CA

State of California
The Resources Agency
Department of Fish and Game
Marine Region
1933 Cliff Drive, Suite 9,
Santa Barbara, CA 93109

RETURN SERVICE REQUESTED



APPENDIX C

NOP & Announcement Flyer Distribution List

APPENDIX D

Scoping Meeting Presentation

North Central Coast Marine Protected Areas

Environmental Impact Report Scoping Meeting

June 17, 2008 • Pacifica, CA
June 18, 2008 • Sausalito, CA
June 19, 2008 • Gualala, CA

RESOURCES AGENCY CALIFORNIA DEPARTMENT FISH & GAME

ICF Jones & Stokes
an ICF International Company

Meeting Agenda

- Introduction and Welcome
- Project Overview
- CEQA Process and Schedule
- Public Participation Opportunities
- Receive Public Input

Project Overview

Legislative Background

- Marine Life Management Act (1998)
  - Devoted to protection of marine ecosystems
  - Priority of long-term sustainability
  - Considers use of MPAs
- Marine Life Protection Act (1999)
  - Requires master plan for MPAs
  - Requires Fish & Game Commission adopt program
- Marine Managed Areas Improvement Act (2000)
  - Created six new classifications (3 MPAs)

MLPA Goals

- Protect diversity, abundance & function
- Sustain, conserve & rebuild populations
- Improve recreation, education & study
- Protect habitats for their intrinsic values
- Ensure management, enforcement & basis in science
- Ensure MPAs are designed and managed as a network

MLPA Initiative Process

- Draft Master Plan Framework (revised January 2008)
- MPA Implementation Funding Source Recommendations (December 2005)
- Central Coast MPAs Implemented (September 2007)
- Alternative MPA network proposals for North Central Coast Study Region (completed in May 2008)

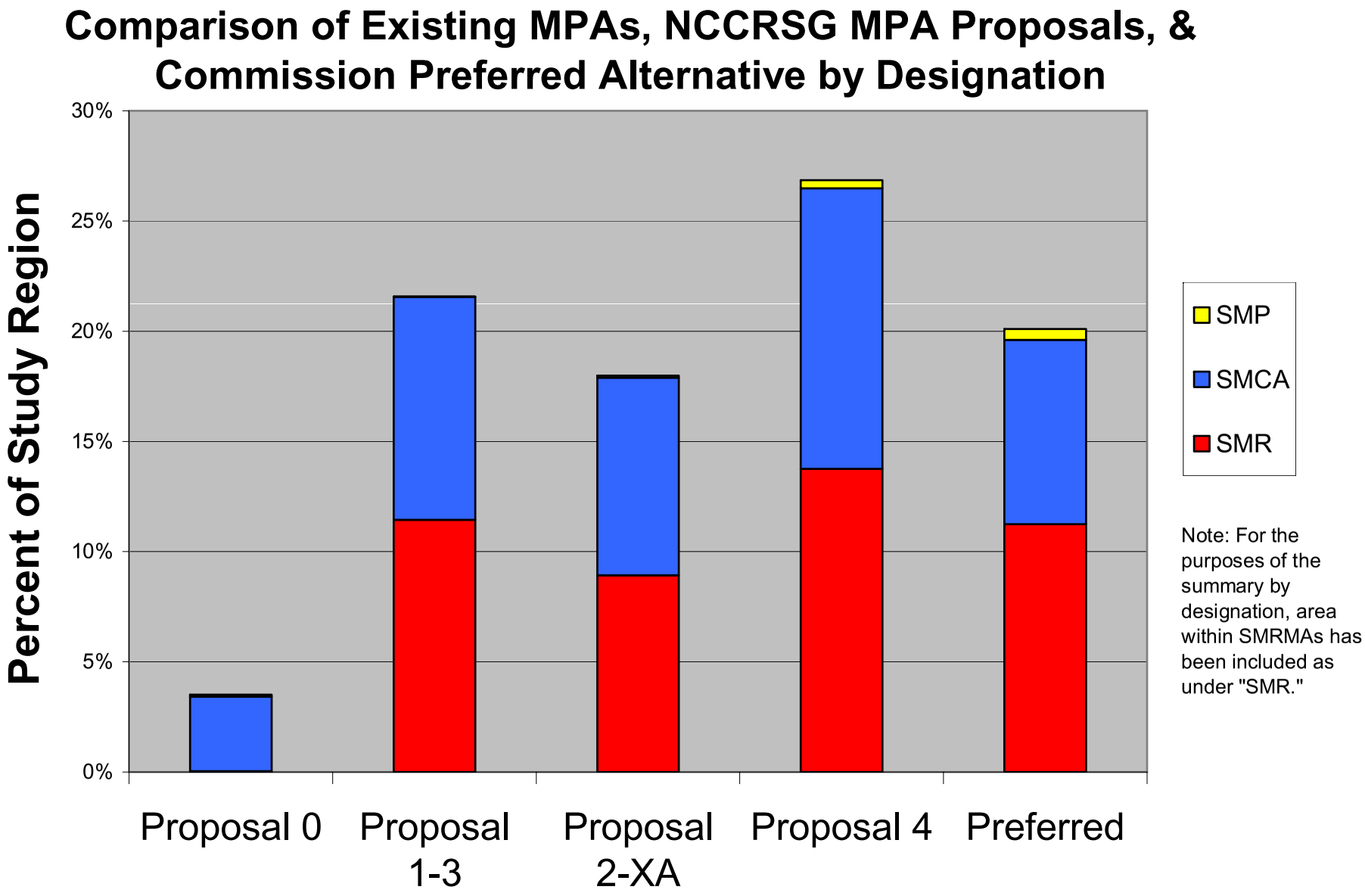
North Central Coast MPA Proposals

- Four alternative MPA proposals developed thru extensive stakeholder process:
    1. Proposal IPA (BRTF recommended)
    2. Proposal 1-3
    3. Proposal 2-XA
    4. Proposal 4
- F&G Commission directed DFG to prepare a regulatory notice with the IPA as the preferred alternative.

North Central Coast Study Region
Commission Preferred Alternative Proposed MPAs

North Central Coast Study Region

Alternative MPA Packages



Note: For the purposes of the summary by designation, area within SMRMAs has been included as under "SMR."

Marine Protected Area Types

<u>State Marine Reserve</u> - Prohibits all "Take" including injury, damage, or possession of any living, geological, or cultural resource.

<u>State Marine Park</u> – May allow limited recreational take.

<u>State Marine Conservation Area</u> – May allow limited commercial or recreational take.

Project Information

Available online at www.dfg.ca.gov/mlpa

CEQA Process

CEQA Process

Under CEQA, the CDFG is required to evaluate and disclose the environmental impacts of the proposed action, the North Central Coast MPAs Project.

CEQA Steps:

1. Notice of Preparation
2. Draft Environmental Impact Report
3. Public Review and Comment
4. Final Environmental Impact Report
5. Certification of EIR and Mitigation Monitoring Plan

CEQA Process

CEQA requires consideration of the following environmental impact areas:

- Aesthetics
- Agricultural Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Mineral Resources
- Noise
- Population and Housing
- Public Services
- Recreation
- Transportation and Traffic
- Utilities and Service Systems
- Cumulative and Growth-Inducing Impacts

Scoping Meeting Purpose

Early opportunity for the public and governmental entities to provide feedback on the scope and content of the EIR.

Scoping comments can include information regarding:

- Scope of important environmental issues;
- Similar studies that are relevant to the proposed project;
- Characterization of the existing environment;
- Resources that may be cumulatively affected; and
- Existing and reasonably foreseeable projects that are likely to affect the same resources as the project.

CEQA Schedule

June 2008	**Public Scoping Meetings**
Oct. - Nov. 2008	**Draft EIR circulation**
Nov. - Dec. 2008	**Response to Comments & Final EIR**
Jan. – Feb. 2009	**F&G Commission Certification**

Today's Meeting

We want to hear from you!!

Public input is valued and important

Comments will be considered throughout the EIR process, starting today

Please use Comment Cards

(return by July 8, 2008)

We will now take your comments.

Thank you for coming!

APPENDIX E

Scoping Meeting Sign-in Sheets

APPENDIX F

Scoping Meeting Transcripts

CALIFORNIA MARINE LIFE PROTECTION ACT INITIATIVE

NORTH CENTRAL COAST MARINE PROTECTED AREAS PROJECT

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CALIFORNIA DEPARTMENT OF FISH AND GAME

PUBLIC SCOPING MEETING

Tuesday, June 17, 2008

Best Western Lighthouse Motel
Seawitch Room
105 Rockaway Beach Avenue
Pacifica, California

REPORTED BY: DEBORAH FUQUA, CSR #12948

A P P E A R A N C E S

MATTHEW ERICKSON

Associate Biologist, Marine Region

California Department of Fish & Game

JEFF THOMAS

MARISSA ADAMS

ICF Jones & Stokes Environmental Consultants

SPEAKERS

Gene Kramer

Caitlin Gaffney

1 Tuesday, June 17, 2008 6:51 o'clock p.m.

2 ---o0o---

3 P R O C E E D I N G S

4 JEFF THOMAS: All right. Well, thank you very

5 much for coming. We're here today to talk a little bit

6 about the CEQA process and give you a quick overview of

7 the project.

8 (Presentation given by Jeff Thomas and Matt

9 Erickson)

10 JEFF THOMAS: Any questions?

11 GENE KRAMER: Actually, I have a couple of

12 comments because you talked about the fully protected

13 sites where you couldn't remove any rocks or other

14 artifacts. One of the ongoing battles for Jade Cove

15 along the coast of central California has been opening

16 up to collecting jade, because rock pickers, shore

17 pickers, and divers used to collect jade there for

18 years.

19 When it went into the Monterey Bay Sanctuary,

20 then that activity was prohibited for about 15 years.

21 And the divers fought long and hard to get that opened

22 up again. And in one sense, I see the point of the

23 regulations, but perhaps it's a bit overbearing to say

24 that you can't take a seashell home. I'm not sure

25 anything is served by that.

You know, the point of the Monterey Bay Sanctuary was to prohibit oil drilling, not to prohibit somebody from taking a few pieces of jade home.

JEFF THOMAS: Right. I understand your point. It does seem a little over the top. But right now as written, that's what we have.

UNIDENTIFIED SPEAKER: Didn't they grandfather that?

GENE KRAMER: It's currently open for recreational rock pickers. I think you have to carry it up the hill by hand.

Well, there was a famous case back in the '70s where one fellow that I actually knew managed to find a stone that was about 1200 pounds, got it out of there, had to use a winch to get it up the hill.

CAITLIN GAFFNEY: That may be a little bit overboard.

GENE KRAMER: It was one piece of Jade.

UNIDENTIFIED SPEAKER: Was that Don Auburn [phonetic]?

GENE KRAMER: He wrote a book about it, that's right.

(Jeff Thomas continued with presentation)

JEFF THOMAS: And with that, really, we just want to hear from you guys and get your input. We've got

1 comment cards in the back, if you wanted to send in a
2 comment later. The scoping period runs through July
3 8th. It's a 30-day period. You can also leave written
4 comments here with us. You are welcome to come up and
5 say your name and affiliation and provide any feedback
6 you want.
7 We'll record that. We have somebody here to
8 do that. I think that's it.
9 GENE KRAMER: Well, along those lines let me ask
10 the first question. In the EIR process, provided that
11 you find some negative consequences for the proposed
12 action, let's say, the preferred alternative, how would
13 those negative consequences affect the choice or the
14 final designation? I mean, is there a feedback
15 mechanism or a mitigation --
16 JEFF THOMAS: Yes. Well, so, a couple things.
17 One, the process is really about disclosure and, to the
18 degree possible, identifying if there are mitigation
19 measures that could reduce the impact to less than
20 significant or eliminate an impact or avoid an impact.
21 If we have a circumstance where we can't do
22 that, then we have to provide some burden of proof that
23 would consider what's reasonable and feasible and at
24 least identify the options. And we would do that. In
25 fact, for example, I believe with the air emissions, we

1 identified that CARB has a program where they're
2 looking at funding upgrades and replacement of diesel
3 engines in vehicles and in vessels.
4 They're also pursuing their own kind of
5 separate regulatory process of trying to improve air
6 quality. And it has its own state funding mechanism,
7 and it's sort of all in place. So for that case, for
8 another state agency to come in and do that, it's sort
9 of something that already existed, and it was out of
10 the Department's control.
11 So we were able to identify that that
12 potentially, that program over time, is reducing or
13 eliminating that potentially significant effect, but
14 it's beyond the purview of the Department. So it's not
15 something we can control. Therefore in that case, we
16 left that as an identified significant unavoidable
17 impact to the project.
18 For impacts that are significant and
19 unavoidable, the lead agency needs to adopt findings of
20 overriding considerations or a statement of overriding
21 considerations is what they're referred to. So at the
22 time of certification, they'll put into the record that
23 rationale.
24 And it's basically saying that there is some
25 greater good or greater benefit associated with

1 allowing the impact than with avoiding the impact
2 altogether. It's through that balancing act.
3 In some cases it could be, you know, an
4 economic rationale that it's just too expensive on any
5 level to actually implement that. And that gets to
6 be -- there's a little bit of subjectivity to that. It
7 depends on the scale that you're talking about in terms
8 of costs and what is reasonable for that entity to
9 actually, you know, put out there.
10 It could be technology based. It could be
11 that the technology doesn't exist yet to actually
12 mitigate the effect. So they would just -- they would
13 document that.
14 So it's not as simple as I'm saying, you know,
15 we just certify the document and there's statements.
16 They have to also go through the process of saying,
17 "Well, they've identified these potential significant
18 effects, and we feel that because of the following
19 reasons and the following findings, we still would
20 certify the document with that effect." So it's sort
21 of a check and balance, where the lead agency has to
22 consider that.
23 They could decide that they're going to modify
24 the project to reduce that impact, depending on what it
25 is. They have that option. One thing I'll say is we

have, in essence, four alternatives in the environmental review. We've got the IPA, as Matt mentioned, and then these other three stakeholder group alternatives or proposals for -- I'm going to rename them. You're getting confused by numbers and letters.

In our document, they're going to be Alternatives 1, 2, and 3. And those projects, they're all going to get renamed again. So one of the things we're doing that's a little unique to this process is we're treating all of these equal. Normally in CEQA, your alternatives are based on reducing a significant environmental effect. So you say, "All right. Here's my project. We've done a certain amount of work on analyzing it. What might" -- you know, "We have these types of impacts," biology, cultural resources, whatever, "What are things we might do, what are alternatives to the project that could reduce or eliminate those?"

Out of that falls out these alternative designs that you might consider. They have to be in line with the purpose and need of the project and its goals and objectives.

In this process, it's a little unique because there's a huge stakeholder process that happens up front. So it's sort of front-loaded, where we know

1 what those alternatives are, and we know all along the
2 purpose and need. And they all vary to the degree of
3 either impact or degree of protection or benefit.
4 So we are considering them all equally. And
5 rather than in a normal document, where we just look at
6 the project and, in one little chapter at the end, we
7 write up what the alternatives are and what their
8 potential offset might be, we'll look at each of them
9 in each chapter for each impact.
10 So each impact statement that we talk about,
11 like, you know, air emission effect, just to keep that
12 subject going, we'll speak to each alternative and what
13 its potential air emission effect would be. And we'll
14 provide some degree of analysis for each of them on an
15 equal basis.
16 One of the things it allows the Commission to
17 do then is to consider them all equally, which, I
18 think, is a better way to proceed. While they have a
19 preferred, they'll have enough information to judge all
20 four against each other.
21 It may be at the end of the day that the
22 Commission also decides that they -- you know, in
23 order -- while they like the preferred project, they
24 have this one little impact, and they can avoid this
25 impact if they consider doing this.

1 And if it's associated with a different
2 alternative, they might repackage it at the end of the
3 day. And depending on how that's repackaged, it likely
4 wouldn't result in any additional environmental review
5 because we'd have all the analysis there, but it could.
6 If something totally new came up, we'd have to go back
7 and look at it. That's a really long answer, but....
8 GENE KRAMER: That's fine. You've given some
9 thought to this whole process.
10 Well, since there's only three of us, I have
11 another question. I don't want to monopolize it.
12 JEFF THOMAS: Why don't you state your name for
13 the record.
14 GENE KRAMER: Okay. For the record, my name is
15 Gene Kramer [phonetic]. I'm a recreational diver and a
16 fisherman.
17 Now, in terms of the EIR process, it seems to
18 me that all four of these proposals have an awful lot
19 in common. I mean, the differences between them are --
20 I'm not going to say they're small, but they're at
21 least minimal. The base level of protection afforded
22 and the base effect of all four of them are about the
23 same.
24 JEFF THOMAS: Right.
25 GENE KRAMER: So your document I think is going to

1 apply just about equally to all of them. The
2 differences between them are minor differences. It's
3 not like one has four times the area set aside as the
4 other. They're all pretty darn close on that.
5 JEFF THOMAS: Yeah, and I'm really curious to see
6 how that will play out because we -- on the central
7 coast, your alternatives -- there was more variation to
8 them. You clearly had a kind of fishing-oriented
9 alternative. It was the minimal amount, and the MPA's
10 were farther spread out where they could be.
11 And then you had, you know, kind of middle
12 ground. And then you had a very conservative
13 environmental approach. There were more MPA's and more
14 area protected. So when you looked at things --
15 because in most areas, you're not -- you're speaking to
16 the potential effects, but you're not necessarily
17 speaking to like really detailed data. Whereas with
18 air quality, we'll have a data set. And so if they're
19 very similar, then I'd expect the data set to be much
20 more blended. And there might not be a substantial
21 difference. They might all come out to the same
22 effect.
23 I found that we tended to write to degrees.
24 So it was, you know, one had slightly more of an impact
25 than the other one. We still had a make a judgment

1 about -- based on a threshold criteria, is it
2 significant or not. But then we also sort of weighed
3 them against each other. So based on the impact, we
4 would kind of rank them.
5 And it was pretty logical how it would come
6 out. You know, one's obviously going to have a greater
7 beneficial impact if its amount of SMR is greater than
8 the other ones. And the one with the least amount is
9 going to have the least beneficial effect.
10 Beneficial impacts is another kind of strange
11 subject because normally CEQA, we're not really looking
12 at good things; we're looking at adverse impacts. And
13 you know, we're trying to judge, you know, what are the
14 potential negatives that we have to work through.
15 It's nice to have a project where you can say,
16 well, you know, we have varying degrees of beneficial
17 effect, and it's how that balances out.
18 And the short response is, you're right. I
19 would imagine it would be very similar and it would
20 be -- depending on what we're talking about, it would
21 be difficult to say if one is worse than the other.
22 They might all be very similar on many fronts.
23 And at the end of the day, the other thing we
24 have to do in the document is we identify an
25 environmentally superior alternative. And that's

1 strictly looking just straight across the board which
2 one has the least environmental effect overall and
3 meets goals and objectives. So that may be the
4 preferred alternative to the Commission; it may be a
5 different one. I think in the last round, it was a
6 different one.
7 GENE KRAMER: Once again, since I'm one third of
8 the audience and we have a small audience, let me
9 continue the dialog.
10 You mentioned that this is unusual in that you
11 don't have negative impacts that you're trying to
12 mitigate, whereas most EIR projects, you're trying to
13 mitigate the effects of the power plant or a dam or
14 something like that and it's obvious that there are
15 some major negative consequences.
16 Are there any negative consequences you can
17 foresee?
18 JEFF THOMAS: I won't say there aren't any because
19 there are. But it's kind of to a degree because you
20 judge an impact as significant or less than significant
21 based on a threshold criteria. And I'm trying to think
22 of what might be a good example.
23 Looking at the Central Coast region, we had
24 clear significant impacts associated with air quality.
25 And that was based on looking at a worst-case scenario.

1 It was probably -- I will say it was very conservative
2 as a scenario. But it was the appropriate stance to
3 take because you just don't -- when things are somewhat
4 speculative and unknown, we tend to say, What would be
5 the worst case, is that reasonable or not?
6 You know, we identified in that one that there
7 might be, you know, things like with recreation, minor
8 shifts in use of different sites based on where people
9 could go or couldn't go and recreate the way they
10 wanted to. So some sites might see a little less use,
11 some might see a little more.
12 Overall, we didn't find -- when we look at
13 what the potential criteria are on effects like
14 land-based resources and having to modify structures or
15 create new recreational facilities, we didn't identify
16 any substantial effects, even with potential slight
17 shifts.
18 Again, you have the challenge of how truly
19 predictable is all that. I mean, generally based on
20 the data, even the original profile recreational use is
21 going up statewide, simply by the numbers and
22 population. And so, independent of the project, a lot
23 of these resources are impacted. So the State's
24 looking at, you know, how to accommodate that and grow
25 with that as well.

1 So that's all I can really think of. I'm
2 trying to remember if we had any other real issues. It
3 is a very unique circumstance, looking at, you know,
4 State water protections.
5 The other thing I should note that we -- CEQA
6 doesn't really deal with socio-economics, whereas the
7 federal process would. So one of the argued impacts of
8 the Central Coast MPA is its impact on the fishing
9 industry economically and the challenges that was going
10 to impose. But that's not really a physical effect on
11 the environment.
12 We did include a chapter that spoke to that,
13 summarized all the data that was available for the
14 potential economic effects for recreational and
15 commercial fishing and then assessed whether or not
16 there could be some secondary effects from that that
17 would be potential physical effects.
18 And you know, one of the classics is shifts in
19 vessel traffic to either go to new fishing areas -- you
20 know, they either transit less, they transit more, they
21 decide to give up the business and it's one less boat
22 on the water, they shift their gear, they shift what
23 they're going after -- there's a number of those
24 things. So how would that -- to what degree can we
25 predict how that will change and what that picture

1 would look like, how would you model it -- where would
2 people go, what would they do?
3 At the end of the day, it's extremely
4 subjective and speculative, and we can't really model
5 it. So what we did was we said, let's assume -- like
6 with air quality, let's assume X number of vessels are
7 going to have to transit X additional distance, which
8 is the length of an MPA in that reach where those boats
9 are. What's the effects of that?
10 And that was really a very conservative worst
11 case because not all those boats will do that. But
12 that was just the best you could do. And in some cases
13 and depending on the air districts you were in, it was
14 an impact, and in other areas, it wasn't because we had
15 four of them. So it was a challenge.
16 CAITLIN GAFFNEY: I'll jump in just to break it
17 up.
18 JEFF THOMAS: This is a very unique scoping
19 meeting.
20 CAITLIN GAFFNEY: So my name is Caitlin Gaffney,
21 and I'm with Ocean Conservancy.
22 And just in terms of suggestions -- and I'm
23 sure you're going to do this anyway, particularly
24 looking at predicted biological effects as compared to
25 the Central Coast, we now have five years of data from

1 the Channel Islands Marine Protected Area, and some of
2 that data is available at least in sort of preliminary
3 form. So I just urge that you look to that, and I'm
4 sure you are because I'm sure your department is closer
5 to that data than anyone.
6 And then the other point, the conversation
7 that you and I had before the meeting started about if
8 this issue of potential impacts to air quality does
9 reach a threshold for the North Central Coast, I would
10 urge that there be the contextual discussion or
11 examination of salmon closure and fuel costs being so
12 high and the sort of combination of those two factors
13 potentially decreasing boat use and air quality impacts
14 before you even get into the MPA discussions.
15 GENE KRAMER: Of course, in one sense, if you're
16 counting diesel engines or gasoline engines that are
17 pumping away, those in the ocean are a rather trivial
18 percentage of the total amount of vehicles or engines,
19 you know, churning away on the highways.
20 I doubt that on any given day it would even
21 match 10 percent of the vehicles in Pacifica, much less
22 the whole Bay Area or even the number of people driving
23 up to the north coast on the weekend. It would just so
24 swamp the amount of the air quality effects from a few
25 boats as to be not measurable.

1 CAITLIN GAFFNEY: On the Central Coast, wasn't it
2 just in areas that were already exceeding, so any
3 additional --
4 JEFF THOMAS: Yeah, you know, it was just one of
5 those things where you just had a really low threshold
6 for your gas emissions. You had to take your project
7 generation, and you couldn't exceed ten pounds per day.
8 And it was impossible to be below -- I mean, for one of
9 them, it was impossible to be below that.
10 So it -- the air regulations in that sense
11 were out of the context of what's going on regionally.
12 We can speak to that; we write to that. But at the end
13 of the day, our threshold was very low. And so you
14 couldn't light your engine to go half a mile without
15 exceeding the threshold. It was just the reality. So
16 it didn't even take a huge number of boats to get to
17 that.
18 But you're right. They are not the -- when
19 you look at the percentage of where your emission
20 sources are, this isn't the emission source you'd go
21 waving your wand at and screaming. You would focus on
22 other things, mostly land based, I mean, actually even
23 larger -- the bigger container ships and stuff. So
24 that's a different scale.
25 So, yeah. Anything else?

UNIDENTIFIED SPEAKER: You -- you're contractors for the Department of Fish & Game Fish & Game; is that correct?

JEFF THOMAS: Yeah. We're a consultant firm, and we're working for the Fish & Game Department. And technically the document is the Commission's at the end of the day.

UNIDENTIFIED SPEAKER: Who's the Commission?

JEFF THOMAS: It's the Commission's document. They're the lead agency. But the Department is spearheading the process to get the thing developed and to them. So they'll see the draft, and they're kind of in the loop on the process. But they likely won't speak to the CEQA process until the end.

Well, if that's it, grab some cheese on the way out.

GENE KRAMER: One more question. This is --

JEFF THOMAS: This is a luxury, by the way.

GENE KRAMER: This is a luxury, so I want to take advantage of it.

I know that you're preparing the CEQA documents and how these marine reserves and -- are run and funded is out of your purview. But I do worry about the amount of continued funding that's available for this.

1 And if you look at the protections that are
2 needed, once we establish these reserves they clearly
3 need more protections than we have at present. And we
4 don't have enough protections on the coast as it is.
5 The number of wardens along our cost is at an all-time
6 low, even though our population is higher. And I don't
7 see that situation changing. I see it getting worse
8 because you're going to suck their time and energy and
9 money away to give special protections to the marine
10 reserves. And the other areas are going to suffer
11 because of that.
12 If we don't have the money to provide for
13 wardens to take care of these areas, we'll find that we
14 have reserve in name only. And once the abundance of
15 valuable marine life gets to a critical point, Ali Baba
16 and the Forty Thieves are going to come in here in the
17 middle of the night and they're going to haul off with
18 50,000 pounds of abalone or whatever happens to have
19 done very well there, and we're going to be right back
20 where's started from.
21 JEFF THOMAS: I don't know about this reach in
22 terms of some of the species like abalone, but I know
23 there have been studies of other MPA's internationally
24 that have looked at the -- you know, the sustainability
25 and the surplus that would be generated and that,

1 basically, the fishermen are going to be able to fish
2 the boundaries of those MPA's and be quite successful.
3 And at the end of the day, they'll welcome the -- there
4 wasn't the economic effect that people had kind of
5 foreseen. It was not as -- either not as bad or it was
6 a benefit or it was better, I don't remember which.
7 Enforcement is a concern. I mean, the
8 Department would probably have to speak to that. You
9 know, our -- what we're being told is that, you know,
10 there is currently funding, and they're working to
11 address that for the future. But yeah, I mean, pretty
12 soon, we're going to have this all up and down the
13 state. So they're going to have their work cut out for
14 them.
15 The other thing is, you might run into --
16 there's a challenge when you set these things up, so
17 that they're -- you know, getting everybody on board
18 with what the regulations are and where are you at in
19 the water and what's protected and just understanding
20 where you can't be.
21 And there is a certain degree, I think, of
22 kind of self-regulation that will happen amongst
23 fishermen, as well as, hopefully people will see the
24 benefit of it in the long run. As they see the
25 benefit, they may be less likely to go and encroach in

areas that --

GENE KRAMER: Well, I'm not talking about the casual fisherman who may be tempted to take one extra fish or something a little undersized. This is the guy who is buying his house with the proceeds from what he catches, and there are some of those.

JEFF THOMAS: Right. Okay. Well --

GENE KRAMER: I'm exhausted -- of questions.

JEFF THOMAS: Thank you for coming. Appreciate it. We're glad to have a turnout, regardless of size. And stay tuned for a lovely environmental document review coming to a Web site near you.

CAITLIN GAFFNEY: It will be really quick because there wouldn't be too much controversy to address.

JEFF THOMAS: Actually, you could be correct. I'm really curious to see how the next two meetings go, if we get any feedback, you know. I think everybody learned a lot from the Central Coast region. So I think it's probably going to help us all out on all fronts in terms of moving forward.

And for us, I think it makes this process a little more easier to get through because we kind of know what the issues are. I'd be surprised to hear something we haven't heard, so yeah. Where I'd hoped to see the efficiency would be when we get the response

1 on the actual document, because we have a six-week
2 window or some something in there where he have to turn
3 around the final, so we'll see how that goes. Depends
4 on how big your letter is.
5 All right. Thank you very much.
6 (Whereupon, the proceedings concluded
7 at 7:30 p.m.)
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STATE OF CALIFORNIA)
) ss.
COUNTY OF MARIN)

I, DEBORAH FUQUA, a Certified Shorthand Reporter of the State of California, do hereby certify that the foregoing proceedings were reported by me, a disinterested person, and thereafter transcribed under my direction into typewriting and is a true and correct transcription of said proceedings.

I further certify that I am not of counsel or attorney for either or any of the parties in the foregoing deposition and caption named, nor in any way interested in the outcome of the cause named in said caption.

Dated the 14th day of July, 2008.

DEBORAH FUQUA

CSR NO. 12948

CALIFORNIA MARINE LIFE PROTECTION ACT INITIATIVE

NORTH CENTRAL COAST MARINE PROTECTED AREAS PROJECT

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CALIFORNIA DEPARTMENT OF FISH AND GAME

PUBLIC SCOPING MEETING

Wednesday, June 18, 2008

USACE Bay Model Visitor Center
Multi-Purpose Room
2100 Bridgeway
Sausalito, California

REPORTED BY: DEBORAH FUQUA, CSR #12948

A P P E A R A N C E S

MATTHEW ERICKSON

Associate Biologist, Marine Region

California Department of Fish & Game

JEFF THOMAS

MARISSA ADAMS

ICF Jones & Stokes Environmental Consultants

SPEAKERS

Ed Tavasiett

Carol Rose

Al Gerhardt

Robert Ovetz

Cela O'Connor

Kelly Richardson

Wednesday, June 18, 2008 6:50 o'clock p.m.

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P R O C E E D I N G S

JEFF THOMAS: Welcome. Thank you for being here tonight.

My name is Jeff Thomas. I'm with ICF Jones & Stokes. We're a consulting firm, do environmental impact analysis as well as a number of other kind of restoration and environmental activities, but hired by the Department to write the environmental impact report for the North Central Coast Region MPA project. We did also work on the Central Coast after the design process was completed.

Today, we're going to give you just kind of a quick overview of the project. I'm going talk a little bit about the CEQA process and the scoping, and then we'll open it up to public comment.

(Presentation given by Jeff Thomas and Matt Erickson)

JEFF THOMAS: So that's pretty much it from us. We're willing to get your input and hear what you have to say.

And as I mentioned, we've got comment cards that you can fill in and drop off in the box in the back, or you can take them with you if you want to fill them in, or send us a letter separately.

You even have the ability to e-mail through the Initiative Web site, if you want to e-mail

comments. That all gets routed through the Department to us. And if you'd like to speak today, feel free to sign in with a comment card. I think I've just got two or three, so we'll do that. I hopefully won't butcher people's names. And that's it. We'll take your comments.

I guess, before we get started, any questions on the process?

ED TAVASIETT: I just wanted to say, this is what should be on line too, that slide that you had back there, that one there. That would be really helpful to have that on line so people know exactly what you're talking about here.

JEFF THOMAS: I can find out about just putting the presentation on line.

You know, at some point -- and I don't see it on there now, but we're all just getting rolling on this. But I think on the Central Coast at some point we had, like, a link for the CEQA side of it. You went to the main Web page for North Central, and there would be a link to take you into the CEQA documents. So I'll find out about that.

ED TAVASIETT: Melissa doesn't have to do this, does she?

JEFF THOMAS: Oh, yeah, no. Well, we send her stuff, and she just has to put it on there. We do all the prep, and she just has to load it. It's totally easy for her, yeah.

1 ED TAVASIETT: That hard copy that you gave, is
2 this information in that hard copy?
3 JEFF THOMAS: Yeah, this is there, if you guys
4 want it.
5 ED TAVASIETT: Could I get a copy of that?
6 JEFF THOMAS: Yes.
7 I think there's only one slide missing, which
8 is the project overview with the pretty picture.
9 You can thank Marissa, because I don't think
10 there's many copies of these. And she said we should
11 have them available.
12 And I'll just leave the slide up as long as
13 the projector keeps running. It died earlier.
14 So I have three speaker cards. We're not
15 hurting for time, so I won't necessarily put a time
16 limit on anybody. But I don't want -- it's not
17 Congress. You don't have to go on for hours.
18 So Carol Rose? And just, I guess, for the
19 record just state your name, spell it.
20 CAROL ROSE: My name is Carol R-O-S-E. That's
21 husband's name, but you know, we tend to get along.
22 I am here representing, at least in part --
23 and I won't take anybody else's thunder, but the Skin
24 and SCUBA Divers group. We belong to RFA, so there's a
25 group of recreational fishermen that are involved.
26 Our general issues are basically three or
27 four, that the North Central Region has limited access
28 to the ocean. A lot of the land is in private hands.

And what you can get to, you walk to the edge and look down the cliff. And repelling is not what we do. So it's just inaccessible.

There are safety issues, too. Sometimes there's a nice -- people who aren't divers look at a nice big sandy beach, and they think it's just wonderful. And then you think of Ocean Beach in San Francisco and the wonderful riptides and the big waves coming in, and that's not where you want to dive. So again, we're concerned with -- and this is all leading to a point, cross my heart.

And there's the cost issues, where you're going to put in paddle board, where you're going to put in a kayak, where you're going to put in an inflatable and how much it's going to cost to do that. So State public lands are the cheapest place to do that.

And what makes the North Central different and blurs, in my opinion, tremendously the difference between consumptive an non-consumptive is the great god abalone. You can take the most die-hard, "I would not shoot a fish if it sat on my foot," on April 1st is up there getting an abalone.

And the tremendous, tremendous -- I tried to find it. I had it someplace. It goes way back to the sea otter issues. The federal government actually came in, the Fish & Wildlife Service, and put a value on the abalone resource of the North Coast and said we should not move sea otters up there because of this tremendous

amount of money, which god only knows what it was in those days. It was phenomenal then. Now the dollars would be just -- it's just tremendous. And even we've cut back on the limits; we have no objection to this, none at all. We support all that. We supported the closure of the southern part of California to abalone diving. But it does blur it.

It's kind of interesting. You get down to Monterey, no one wants to shoot a fish, but they get them up here, they want to take the abalone.

So our big issues are access, safety -- you've got to have a safe place to dive. You don't want to rescue people. It costs a lot of money to rescue people. And that's not what we want to have happen; it only gives us a bad name, which isn't good either.

So all of this makes Salt Point, to us, the pivot of this whole thing because, if Salt Point becomes an MPA, we're screwed. It's just really -- and it's going to throw -- something that was just brought up here, it's going throw usage.

Leaving Salt Point like it is, you're not going to change much in the usage of the way divers use the ocean up there. But if you block it, you're going to get a lot of movement to a lot of places that may not -- which, again, will not be as safe or as cheap and all, as public land always is.

So therefore, we're of course supporting proposal 2AX. It does the best for us. We could live

with the integrated preferable proposal because it leaves Salt Point alone, and we get to Fisk Mill. So that's good. I mean, I've been diving Salt Point since before Salt Point was Salt Point. I'll tell you how old I am; I was certified in '73.

And you know, Salt Point has just been -- is just the place to go. And the State's done a great job of developing it and keeping it open for everybody, and they keep adding lands onto it. It's like calling Horseshoe Cove -- how many Horseshoe Coves are there up there? We once arranged to meet some people at Horseshoe Cove. And they said, "Where were you?"

We said, "We were there."

They said, "Well, we were there."

Well, it's a small cove. And they were in the wrong Horseshoe Cove.

But diving up there is just -- you know, on a good day in California, there's more to see underwater than any place in the world.

There's always the days when you have six inches and the first two are in your mask. But anyway, up there is just the most phenomenal diving in the world. And because the way that some of the coves run where they run north to south, where they aren't going straight on, it's safe. We do have a few people -- we had a couple people die this year. But mainly, we find that people come from Stockton or Sacramento, they just -- they come that far, they're going to go diving

1 no matter what it's like. And we get to a few heart
2 attacks, unfortunately, people trying to save their
3 dogs.
4 But the 2AX will do it for us and I think will
5 not -- there's always the concern, if you start
6 shifting people around, it will put more pressure here,
7 and more pressure there. And this will not change the
8 pressures, it will stay the same. So that's where the
9 divers stand.
10 The Central California Council of Diving
11 Clubs, Inc. is an organization that covers North and
12 Central California. We have about 40 clubs, been in
13 existence since 1959. And I'm past president, and past
14 everything. And we've got credibility. And we do
15 support conservation to the limit. I've got to say, we
16 supported Prop 92 reserves, we supported the closure of
17 the commercial abalone and the recreational abalone
18 south.
19 So we think we're doing a good job, and thank
20 you for the opportunity.
21 JEFF THOMAS: Thank you.
22 Al Gerhardt?
23 AL GERHARDT: My name is Al Gerhardt,
24 G-E-R-H-A-R-D T.
25 And I have a hard time understanding why
26 you're doing this because it seems more like it's a
27 solution looking for a problem that doesn't exist. I
28 don't know of any real problem on the coast and

especially for the abalone. The only problem that I know along the coast is the Russian River affecting the salmon, and that -- and the sea lions.

I've been on -- lived in Sonoma County for over 70 years. I went abalone-ing on Salt Point when it was a private ranch, before it was owned by the State. I used to dive. I just rock pick now.

I don't see a real problem the way it is now. If you close the areas, you're going to do one of two things: You're going to concentrate more people in less areas, which is probably going to have more impact. The other thing is, you may get people that quit fishing and buying fishing licenses, which will have an impact on game wardens and Fish & Game, which may make it easier for people to poach along the coast because there won't be -- there won't be the game wardens along the coast.

You've already got a problem in some areas with poaching. And it's -- there's a money situation where people will buy -- I guess I've heard $150 a pound for abalone for the restaurants, and maybe even more than that.

This -- on some of these proposals, you're closing down Stewarts Point, which most of that is private property. And the land owners that have been there for over 100 years won't be able to fish on their own property. And this doesn't quite seem right.

I was talking to one game warden up the coast,

retired game warden. And he said there shouldn't be a problem with the abalone with the existing laws and on the size and the limit on the take because you can't take anything under seven inches, and you can't take more than three.

With the price of fuel, I have a little problem because I only go twice a year. And it would be nice to get four abalone than three, especially with the cost now. When I bought my -- I don't know the exact cost, but I spent over $100 for my license and abalone tags. And I take six. Well, this was for myself and my wife. It was over $100. That's pretty expensive.

And that we only take six to twelve abalone a year -- we've -- you know, I could go a lot more often and take a lot more abalone, but that's what I just kind of limit myself to. And I'm satisfied with that.

But on where they're making where there's no take areas, I don't know of any problem there. I don't know of a reason why it's no take. And especially on the private property. You're supposedly wanting to protect the resource. Well, the most protected resource is the private property. You're getting, you know, a good reproduction of abalone there.

And like I said, I've lived here for 70 years. My dad used to talk when there was no limit, then it went to ten, then to five, then four, then three.

And years ago, it was just the local people

1 that used to go. Now you've got people coming clear
2 from Sacramento or somewhere, and they come out here,
3 and it's rough, and they've came that far, and they
4 still want to go. And that's where people get into
5 trouble because they've came a long distance and want
6 to get their abalone.
7 I don't know. I don't know what you can do
8 about that. But I don't know of any problems, any
9 reason why you should make it more restrictive on where
10 you can go along the coast.
11 I kind of endorse the 2XA zoning. The 1, 2
12 and 4 are most restrictive. I went to one of the
13 hearings on the task force. I could only go one day,
14 and they -- they just piecemealed the four proposals.
15 I don't understand -- to me, they should have taken
16 either one proposal or something.
17 But I don't see a real problem, and I don't
18 see the need for all the restrictions.
19 JEFF THOMAS: Thank you.
20 Robert Ovetz, did I say that right?
21 ROBERT OVETZ: Yeah. I'm Robert Ovetz, O-V-E-T-Z.
22 I'm the executive director of Sea Flow.
23 So I wanted to draw your attention to a number
24 of questions that I think are worth examining in the
25 CEQA process.
26 The first one is, the question to ask is, Has
27 the North Central Regional process achieved MLPA
28 objectives and ecosystem management? I'm afraid that,

1 after following this process for going on about 10
2 months, it seems to me that this process has been about
3 all the fish all the time. And unfortunately,
4 ecosystem management has a lot to do with more than
5 just protecting fish. Protecting fish is a great
6 objective, but it's not the only objective for the MLPA
7 process and of the legislation that was outlined at the
8 beginning of this presentation.
9 So I encourage the consultants that are
10 carrying out the CEQA review to examine the principles
11 of ecosystem management and look at whether or not
12 those have actually been met.
13 The second question I encourage you to take a
14 look at is the question of, Has the North Central
15 Regional process achieved the MLPA master plan
16 objective of protecting MPA's from nonfishing
17 activities? Unfortunately, throughout this process,
18 I've seen pretty much a widespread ignoring of other
19 threats to our coastal marine ecosystem.
20 Now, this is not something that I've taken out
21 of the blue. In fact, this is something that's very
22 explicitly outlined in the Master Plan for Marine
23 Protected Areas, last version April 13th, 2007.
24 And it says, quote, "Regional profiles and
25 profiles of potential MPA's should describe current and
26 anticipated human activities that may affect
27 representative habitats and focal species. A profile
28 should discuss whether any such non-fishing activities

are significantly affecting wildlife or habitat concerns in a potential MPA site. Where the effect of any such activities present a clear threat to resources of concern, a profile should identify current efforts to mitigate those threats. This is on Page 61.

So I do want to draw your attention to that passage because I think it's a very powerful passage. And unfortunately, I haven't found this entire planning process at all to address this very priority that's outlined in the master plan. So I'm not convinced that this process has fulfilled the obligations of the master plan because it has not really looked at non-fishing threats.

The third question I ask you to look at is, Has the North Central Regional process achieved MLPA Goals 1 and 2? And these were on the slide earlier this evening.

And I do want to draw your attention to Goal No. 1, "To protect the natural diversity and abundance of marine life and the structure, function, and integrity of marine ecosystems." I'm not convinced at all that this process has achieved the first goal of protecting the integrity of these marine ecosystems. And in a moment, I'm going to draw your attention to some of the threats to the integrity of these systems.

The fourth question I urge you to look at is, Do the IPA and the three stakeholder MLPA alternative proposals adequately protect marine mammals? And even

1 the scientific advisory team that has advised this
2 process has said that it has completely failed to do
3 so.
4 According to the scientific -- science
5 advisory team member and scientist Dr. Sarah Allen, who
6 works for the National Parks Service, Pt. Reyes
7 National Seashore, she says in her analysis, the levels
8 of protections by these four alternatives for marine
9 mammals -- she says that only 50 percent of the marine
10 mammal hot spots identified by the SAT within this
11 region fall within the SMM's, the SMR's, or the SMCA's
12 in the IPA, only 50 percent of the marine mammals, some
13 of which are significantly threatened with extinction,
14 are protected under the IPA. This is a complete
15 failure of the obligations of the MLPA and the
16 legislation.
17 The fifth question I encourage you to look at
18 is, Do the IPA and the three stakeholder MLPA proposals
19 adequately protect sea birds? And again, SAT member
20 Jerry Vuchessney [phonetic] who works for the federal
21 Fish & Wildlife Service, his analysis of the IPA's
22 protection for seabirds, seabird protection under the
23 IPA is worrisome. He says that protection for breeding
24 colonies in the north sub region provides, quote,
25 "relatively little coverage."
26 Only about 15 percent of all birds are
27 protected in the IPA, 15 percent. That's a complete
28 failure from my perspective. His analysis of the

1 southern region, where it gets the most protection, the
2 IPA only protects 60 percent of seabirds, some of which
3 are listed as endangered both by the State --
4 threatened and endangered by the State and federal
5 government, particularly brown pelicans, which are
6 significantly important to me, considering that my
7 office is at Point -- Rodeo Beach Lagoon, which is a
8 major habitat for brown pelicans.
9 He also says that wintering waterfowl receive
10 only 10 percent of protection for all species under the
11 IPA, 10 percent for wintering waterfowl. That's
12 inadequate. Science advisory team, its experts
13 themselves, say that it's inadequate.
14 The sixth question I encourage you to look at
15 is, Why are two critically threatened and endangered
16 species not protected by the IPA in all three
17 stakeholder MPA alternative proposals? In particular,
18 I want to draw your attention to the federally listed
19 endangered marbled merlet, which has purposely been
20 excluded from protection under the network of MPA's.
21 And this is explicitly identified in the scientific
22 advisory team's report in one of the early drafts.
23 Two species of marine mammals are also
24 unprotected. And these two species of marine mammals
25 were identified among the species most likely to
26 benefit from MPA's. This was a list of marine mammals
27 that were presented early on in the process, a list of
28 species most likely to be protected. These two species

are the gray whale and the harbor porpoise. These two species have been completely left out of this process as well as the hump-backed whale, which do forage on a seasonal basis around the Farrallon Islands. These three species, two of which are listed as threatened and endangered, are not protected.

The seventh question I ask you to look at is, Are special closures, vessel no-traffic areas, adequate to protect threatened or endangered marine species? According to the draft MLPA evaluation methods, quote, "We will need three-mile buffers or possibly larger on a case-by-case basis to examine how much of principal forging areas will be encompassed by proposed MPA," unquote. This is specifically identified as the necessary minimum for vessel no-traffic areas.

Unfortunately, the MLPA planning process ignored the advice of its own science advisory team and has created proposed vessel no-traffic areas that are only a fraction of that size. These special closures, as they're also known, are of a distance of 300, 500 and 1,000 feet. But if you were to calculate it according to the best known science, these only calculate 5.5, 9.47, and 18.9 percent of the recommended minimum area for special closures.

So I encourage you to look at that.

Question number eight is, Do special closures protect MPA's from environmental threats and large vessel traffic? Despite numerous public comment about

1 vessel traffic and noise disturbances from small
2 vessels, but particularly large vessels, has been
3 completely -- the environmental impact of large vessels
4 has been completely left out of this planning process.
5 Now, this is hard to imagine because MLPA Goal
6 No. 1, I refer you back to, says, "To protect the
7 structure, function, and integrity of the marine
8 ecosystems."
9 How can MPA's be planned lying right next to
10 vessel traffic areas which 10,000 vessels use, large
11 cargo vessels, oil supertankers, use on a yearly
12 basis -- 3 1/2 thousand entering the San Francisco Bay
13 every year -- without this process looking at the
14 environmental impact? Complete gaping hoping in this
15 process.
16 The ninth question I ask you to look at is,
17 Why do the IPA and the other stakeholder proposals fail
18 to assess the impact of shipping, especially in the
19 aftermath of the COSCO BUSAN tragedy, which polluted
20 most of these areas that are supposed to be protected
21 under these MPA's? There's been no analysis of the
22 impact of large shipping vessels in the country's
23 fourth largest port area. It boggles the mind.
24 The tenth question I ask you to look at is,
25 Does it take into account the impact of California's
26 Assembly Bill 32, which requires that all State
27 agencies reduce their global greenhouse gas emissions?
28 This process has completely failed to take into account

1 greenhouse gas emissions. So I encourage you to look
2 at that.
3 And the last question I ask you to look at is,
4 has there been a study of non-consumptive uses, the
5 economic value of non-consumptive uses? We heard from
6 two people before me who spoke about recreational
7 diving a little bit of talk about abalone diving. But
8 nonetheless, at the beginning of this process, there
9 was a plan in place to do an assessment of the economic
10 impact of non-consumptive uses of the coast.
11 That plan was not completed as far as I know.
12 It's not available on the Web site. This process
13 cannot continue until there is a complete social and
14 economic impact analysis of the economic value of
15 protecting and using these areas for surfing, for
16 diving, for snorkeling or beach walking, for people
17 relaxing at the beach. None of this economic and
18 social impact analysis beyond fishing has been done.
19 So I encourage you to take a look at all these
20 questions, and I will submit this electronically in the
21 next couple of weeks. Thank you for your time.
22 JEFF THOMAS: Great.
23 Cela O'Connor? Did I get that right?
24 CELA O'CONNOR: First of all, I want to introduce
25 myself. My name -- I'm kind of winging it. I asked
26 for a copy from Fish & Game, but somehow we got fouled
27 up. And I don't have e-mail. I've been kept abreast
28 of this through the local representatives from the

Bolinas area, Marin County, what's been going on at the MPA meetings.

So just briefly, I was born and raised in this county. I started diving the coast in 1955 without a wetsuit. So -- and wetsuits came along. And I also became an instructor through the dive school in San Francisco, Ed Brawley. So I've had the great opportunity of diving the entire Marin coast when there was 90 percent more marine life than there is right now.

As we speak, we have lost 90 percent of our marine life. Now, I don't know anybody here that dove the coast, but I'm sure I can find somebody that can corroborate this. My husband dove with me. He's not here. He's home.

So we've already lost 90 percent of our marine life along the Marin coast. We have lost probably a similar amount on the Sonoma coast. I dove most of the Sonoma coast, out of every State park, taking dive groups, both snorkeling and with an air apparatus. And we stayed out all day and dove all the coasts. So I've been at the front of all the State parks. I even dove Sea Ranch, off private property. And I know of what I speak.

We have lost --in Marin County, I know 90 percent. I would believe it's close to that in the Sonoma coast.

So when I hear people talk, it's because

either they haven't read the numbers that were available then or that they never had the personal experience that I've had.

On the Southern Coast, I dove from San Francisco -- we even dove right around the -- we dove every place we can take people, because I did this for a number of years. And I started diving, and I was working for the Dive Master Ed Brawley -- I forget how many years -- all the time the kids were in high school; they all got certified and all that stuff.

And I dove up until just about four or five years ago, when I decided that there wasn't a wetsuit thick enough to protect me from the cold. I put a quarter-inch suit on, and I just froze. And I thought, I'm getting to old for this. A couple more years, I'll be 80. So I have been -- I'm born and raised in this county, born in 1931. And I dove the coast. And I know of what I speak. We have lost 90 percent.

So as far as I'm concerned, we're losing the California coast. Until there's some modicum of recovery, the entire cost ought to be protected under this section. That's my sense of where the marine life is at this particular point.

Something that's not addressed in the CEQA process is the ability of the Fish & Game to actually monitor these areas. I know how many fish -- how many boats they have. And you isolate these areas all along, they're going to be pirated constantly. There's

1 no way of monitoring that by the Fish & Game in a
2 million years. I don't care if they have helicopters.
3 They're so isolated up and down this coast from the
4 areas south -- and I also dove Monterey.
5 I dove down off the coast. And I did not dive
6 off the lighthouse where all the big-nosed penguins are
7 in there. I missed that one. But I dove Elkhorn
8 Slough, Monterey, the whole coast up there, all the
9 State parks, all the way around Lobos, everything. And
10 I tell you people, 90 percent is gone.
11 And what we're left with -- we're left with a
12 breeding population of rock fish. Rock fish, there's
13 only a few of the rock fish that -- even the little
14 ones. They have to be of a certain age to even
15 reproduce. And we've lost the big mothers that will
16 produce. They're gone. Forget it. We don't have a
17 reserve to restore our nearshore fish in the way of
18 rock fish. We don't have it anymore. It's gone.
19 So these mothers who were -- I don't know how
20 old, 80 or 100 years old or something -- they're gone.
21 There's maybe a few left out there. They stopped the
22 long-lining just off of Pt. Reyes, the isolated area
23 that is managed by the Gulf of Farrallons that they
24 managed up there. We had these three areas, Monterey,
25 and then this area that goes from -- well, anyway,
26 these are all details that don't matter.
27 All I'm saying is all we've got left is 10
28 percent of this resource. It's going to have to have a

1 big rest so it can recover. And if we do these
2 isolated areas, I say pack it in and forget it. Don't
3 protect anything because it's just going to go down the
4 toilet. And you haven't addressed the economic
5 impacts. You have cultural resources right here. So
6 I'm guessing that's economic impact and recreation.
7 Well, I know that the party boats that go out
8 are actually commercial boats because of the way they
9 can fish now. And you don't have to -- you can come in
10 with the limit because they the share the fishing
11 poles. Well, that is just garbage. So we're going to
12 have more fish taken from our party boats, which is
13 recreational, than the commercials can take. It's
14 crazy.
15 The whole way this thing is managed is just
16 plain -- I don't get it. It's managed to not recover.
17 And it's great -- I read the studies coming out of New
18 Zealand. I listened to that guy when they had him up
19 here. And that's still struggling because they're
20 isolated. There has to be connectivity between every
21 single marine protected area in California; every
22 stream opening in California has to be protected. The
23 nearshore is disappearing. It's so polluted -- the
24 government has had a convention, as you well know. And
25 they're going to -- the State Water Quality Control
26 Board is finally getting on to clean up their act so
27 that we don't have these great pollutants out there
28 which are causing -- an interrelated condition I guess

it is.

So on the economic issue, there is more money to be made when there is a shift, a paradigm shift, from a taking of marine life into an observing marine life. There's an enormous, enormous industry just waiting to happen in California. And if you protected the coast of California, fishermen, anybody that's affected by closing, they can still enjoy being among the creatures. They don't have to put them at bay. You don't have to take abalone. The abalone in this -- off this state, even up in Sonoma, is diminished.

I could go down in one dive and get five abalone on my chest and bring them up at one time. I don't think anybody can do that now because they can't swim far enough to find five abalone in one dive breath. I wasn't that good. It's just there were so damn many abalone. And I can tell you exactly where they were. And I've gone back there, and there is like "phhhlt" -- nothing, little guys, under limit. It's horrible.

And that's the last time I was in the water, about five years ago. So what I'm saying is, this is all, as far as I'm concerned, an exercise in futility. You forget it. Open the coast. Throw away the MPA's because it's all going down the toilet. It's in decline, and anybody who thinks it isn't in decline, including the abalone, hasn't been in that water as long as I have. And I'm believe that -- I'm probably

an oldster, born in '31. And I have dove this entire coast.

So I think they need to address -- how can they possibly police these isolated areas? It's fruitless to have an isolated area. You either have connectivity up and down the coast, or you just throw it away.

Fish & Game can't police it. We're doing a feel-good here. "Oh, we're going to protect the marine life." And as this gentleman said, you haven't even addressed the ecological picture yet. For instance, all of the people are complaining -- I get from the fishermen, "Oh, the seals are eating up the fish." I get this from the locals in Bolinas. And I said, "What makes you think that we aren't eating fish faster than the seals are eating the fish?"

"Oh, well, they lay out there...."

I said, "That's not true. That's absolutely not true."

We have a -- Bolinas has new management plan, "Save the Bolinas Lagoon," which is another that -- I've lived there. We used to -- the salmon in Pine Gulch Creek were out of sight. It got -- they lost them all when they diked the creek. First the utility district did it, and then the farmers finished. And that was the end of the salmon.

And I moved there in '66. I used to walk Pine Gulch Creek, plenty of fish. They used to swim right

1 up. I've got a creek that runs right through my place.
2 And the Park stocked the creek where the water
3 comes into the culvert. And there's a pool there
4 that's going to dry up. So I said, well -- and I
5 myself will pull 200 -- I can't tell the difference
6 between a steelhead and a salmon, although I understand
7 it's easy; they have a little tail or something. But
8 my eyes are gone.
9 So the Park came down, they said, "Oh, yeah,
10 we want to stock the creek." Well, already I'd taken
11 200 little guys out and dumped them in the main stem
12 because the creek's drying up. And all who's going to
13 get them is the raccoons and the cranes down there, you
14 know eating the hell out of them.
15 So I -- he came down, and the Park got one
16 coho, and about five or six little steelhead right on
17 Highway 1 in Dogtown, Olema, because they are
18 returning. And I think the genetic composition of the
19 return is out of Redwood Creek, something like that.
20 But they haven't been laying around there.
21 They were extricated because the smelts couldn't get
22 out. Goodbye. The smelts can't get out with the dam.
23 That's the end of it. And the damage went on for three
24 years trying to get a -- preparing to -- you know, so
25 that they could draw water, so that you could store
26 water.
27 So they were doing that. And the next one was
28 the farmers damming it. And that just finished it off

until the Fish & Game came through and said, "Hey, get dams out." And a few years later, we had a few strays making their way up the creek. And then a few years later, lo and behold, we've got a little -- somebody's -- some salmon came through in a big storm and went right through the culvert and went upstream, which it is excellent habitat, and then flowed down. And I understand they always swim backwards.

The fish that are outgoing, the smelts, they never go downstream. The current carries them downstream. They're always swimming upstream. Same with the little guys. It's in their genetic material to keep going upstream. So they eventually slowly make their way out. And then the along comes the rain, and out they go.

So we have a really serious problem in California, protecting the wetlands, the streams, the MPA's, everything because our environmental resources are disappearing. And if we as human beings don't want to take the necessary steps to preserve these, and hopefully there's enough of them left to make a recovery -- then it might happen.

But you know -- and I hear the comments. And you know, "You can still do this, and still do that."

"Gee, if you still do that and you still fish, there's less and less and less because they're not reproducing."

So that's -- I think it -- I just had to make

some notes. And as I say, I dove a lot of California coast, Mendocino; didn't go above Mendocino because -- we didn't go past -- below Pt. Lobos, the next section, Pacific Grove. That is as far south as I've been.

But believe me, in my years, I've seen a lot of what was there and what could possibly be there again, but if we don't protect the whole coast, we're never going to see it. We're going to lose the fisheries and everything that goes with it. The birds depend on the fish. The pinnipeds, those little guys that we've got -- I don't know, maybe up to 2- or 300 harbor seals in Bolinas Lagoon.

Well, you let the fishing boats back in there -- they're in there now, but if you allow that to be an area -- Duxbury, that whole Marin coast, well, I don't give them too much more time because the concentration of fishing there is going to be ridiculous. They'll just eat it up. Duxbury Reef will be destroyed. And right now we have people that take sacks of eel out of there because they know exactly where they are. As soon as the word gets out and the public gets in, there going to take sack after sack. You aren't going to have an eel population to save anymore.

So you guys do what you want. I'm here to let you know, historically, we've got about 10 percent of our marine life left.

So I don't think I have anything else to say,

and that's probably plenty. But I would like to address every one of these CEQA scoping things, but I think that other people have addressed it in these areas, and I don't believe recreation will be harmed at all.

As I said there needs to be a shift in paradigm of what is of value on our coast. And I think it's of much more value to have it and view it as it recovers and not to continue to take. So that's about it.

I thought we were going to write things down, like you do in these workshops. So it's off the top of my head, for what it's worth.

JEFF THOMAS: Well, you still have time if you want to submit a comment letter. You can still do that. That's your choice.

CELA O'CONNOR: Do I have to?

JEFF THOMAS: No.

CELA O'CONNOR: Did you take my comments?

THE REPORTER: Sure did.

CELA O'CONNOR: Put my name down?

THE REPORTER: Sure did.

CELA O'CONNOR: And you can put my husband's name down too, because a lot of information I get from my husband also, who has completely studied the Marin stream resources and has also gone up every stream, almost, in Marin County, and he knows what has disappeared from the stream system, which is necessary

for the survival of the salmon and the steelhead.

But you know the steelhead -- them and the rainbows can stay in pockets. There are rainbows up at the top of Mt. Tamalpais. They made it up there, and they're there, hanging out, which is terrific.

But anyway, that's all I have to say. If you want to ask me any questions, fine. And if you don't, I'm done.

JEFF THOMAS: Just confirm the spelling of your name.

CELA O'CONNOR: C-E-L-A, O, apostrophe, C-O-N-N-O-R, and probably John, O, apostrophe, C-O-N-N-O-R. And he'd probably have a lot more to contribute because he's really knowledgeable about the fish and the wildlife and, you know, scientific stuff that goes with it. So I'm just the person that's been out there diving, observing, and reading stuff occasionally. Thank you.

JEFF THOMAS: Great. Thank you.

Last speaker, Kelly Richardson.

KELLY RICHARDSON: I'm here representing the Richard Ranch, the owners. One's in Mexico, one's in Alaska right now. Our family is in support of 2XA, and not just for personal reasons, but it also includes a part of the Sea Ranch that the Sea Ranch Association asked to be inclusive in an update process, which it's not in some of the other areas.

It's also -- keeps our ranch open and closes

1 the other areas. And our ranch is kind of guaranteed
2 conservation because we're not allowed by our insurance
3 company to let people use it for recreational purposes.
4 It's closed down years ago for that because of
5 the insurance company. It was open in the past. So
6 the only major depletion that occurs there is stuff
7 that happens in the natural ecosystem that nobody can
8 interrupt or control.
9 Some of our biggest problems right now is, a
10 few meetings back, we were told that we would be asked
11 to enforce along our property line. And that is not
12 our family responsibility or should it be the
13 responsibility of any civilian. It should be on Fish &
14 Game.
15 And also there has been no strong
16 socioeconomic study. There was a study that took into
17 account the views of fishermen that live south of
18 Bodega Bay. And nobody has gone to the North Coast and
19 talked to business owners that thrive on proceeds from
20 divers and fishermen during the respective seasons.
21 Our family has a strong reputation for
22 conservation with all of our natural resources, most of
23 them marine life. We'd like to support 2XA.
24 JEFF THOMAS: Thank you.
25 That was the last comment card we had. If
26 anybody's changed there mind? If not --
27 ED TAVASIETT: If I can just make comments.
28 On this particular slide here, perhaps we can

item by item quickly to kind of just address which particular items actually pertain to the marine protected areas. Like "aesthetics," I can't see where that would really be effective.

JEFF THOMAS: I can tell you what we looked at in the Central Coast EIR. We looked at air quality --

ED TAVASIETT: I wanted to get a little discussion with you. Would air quality -- pertaining to boats and exhaust?

JEFF THOMAS: Yeah. Air quality --

ED TAVASIETT: And also travel exhaust from cars?

JEFF THOMAS: Right. Air quality would be triggered by changes in transit for vessels, possibly from automobile traffic. It will also deal with the climate change issues.

ED TAVASIETT: How are you going to address climate change? Are you going to be acknowledging climate change and then -- utilizing what data?

JEFF THOMAS: I can't answer that right now. I don't know. I couldn't give you the specifics. We're just starting on the process. And climate change actually was not as big an issue at the time with the Central Coast as it is now. That's a subject area where we are kind of rapidly making a lot of progress on how we look at things and look, at you, know being a carbon neutral -- I have staff that are experts in that; they know more than I know. So I'd be speaking out of turn here trying to talk about that.

1 But we will look at that. We'll address that
2 in some fashion.
3 ED TAVASIETT: Maybe you could clarify the
4 biological resource impact there. What extent are you
5 going to get to? Are you going to get to individual
6 species? Are you going to go through all the
7 ecosystems?
8 JEFF THOMAS: It's a little bit of both. You
9 know. We'll have a setting section that will look at
10 the habitat types and the species that populate those
11 habitats in those regions.
12 ED TAVASIETT: So the expected species in the
13 habitat?
14 JEFF THOMAS: Right.
15 ED TAVASIETT: Not necessarily that those
16 particular species are actually present in that
17 habitat, just what would be expected.
18 JEFF THOMAS: Right. And we're relying in large
19 part on the regional profile description because it
20 provides description or characterizes the region.
21 And then in terms of impacts, we'd be looking
22 at, you know, effects on particular species, focusing
23 mostly on sensitive species, or species of concern
24 relative to the goals of the MPLA.
25 ED TAVASIETT: So you're going to use the most --
26 the species of most biological significance that are
27 most likely to be affected?
28 JEFF THOMAS: Right. Cultural resources, we'll

1 characterize, you know, the kind of historical and
2 prehistorical use of the coastline.
3 ED TAVASIETT: So the Indians?
4 JEFF THOMAS: Right. Native American usage based
5 on research. We've also got a database on shipwrecks,
6 so we may speak to that as well in terms of their
7 general locale and potential to be either exposed or
8 impacted.
9 Geology and soils I believe in the last round
10 we did not discuss. I think it was a dismissed topic.
11 ED TAVASIETT: Geology would have to do with the
12 strata within the habit; is that correct?
13 JEFF THOMAS: Yeah. Normally it's your substrate.
14 It's -- typically it's your soil and rock. And if
15 you're on land, it's everything underneath you.
16 UNIDENTIFIED SPEAKER: They used to be able to
17 take sand out of Dillon Beach, but it's been kind of
18 closed down.
19 JEFF THOMAS: And we would address that if it
20 related to MPA's. But I don't know that total. So if
21 Marine Protected Area is changing the ability to
22 actually do extraction of some sort, then we'll wind up
23 having that -- we'll cover that in the geology soils
24 subject. But if we find that there is no change from
25 our current -- because existing condition is sort of
26 our baseline for analysis -- then we may not cover that
27 subject in any great detail.
28 ED TAVASIETT: Hazardous materials would that be

sort of. But hazards -- would this be considered a safety issue?

JEFF THOMAS: Yeah. We -- I'm trying to remember how we characterized it because I think in the last one -- I don't recall that we had hazards. I think we dismissed the subject.

But what we did do, transportation and traffic was actually framed as vessel traffic. And I believe we dealt with vessel traffic and safety. That question had come up before about what is the potential for shift in vessel traffic to then -- and it wasn't ultimately an issue. But, could you cause a shipping vessel traffic that's going to impede freighter traffic, or put people in the shipping lanes or are you doing things that kind of cause a conflict of interest?

ED TAVASIETT: The reason I'm asking is because in the particular zone in the northern section there, basically the area around Sea Ranch could be more impacted, actually, more hazardous when the prevailing weather conditions come up than, say, down by Salt Point. Is something like that --

JEFF THOMAS: That's something we would cover in the vessel traffic section to the degree we would know about.

ED TAVASIETT: This would be land-based diver access. Diver access for land based --

JEFF THOMAS: Land-based diver access, we would talk about if there were going to be shifts in traffic

1 along local highways of any substance, it would come
2 under that section as well.
3 ED TAVASIETT: I'm talking about the actual water
4 conditions.
5 JEFF THOMAS: We wouldn't be necessarily speaking
6 about the water conditions.
7 ED TAVASIETT: Okay. So that particular hazards
8 and hazardous materials wouldn't really be part of
9 the --
10 JEFF THOMAS: We'll consider that. I'll take that
11 comment as a scoping comment based on that we'll make a
12 decision as to whether or not we should be looking at
13 as hazards and safety. That might be something that we
14 add in.
15 ED TAVASIETT: Specifically, like one site would
16 be more hazardous than another site.
17 JEFF THOMAS: One of the things we still need to
18 do -- and we're starting with process probably next
19 week actually, with our staff, is looking at some of
20 these things are nuances that are different from the
21 Central Coast Region. So we have to kind of readjust
22 our thinking and look at what the current conditions
23 are in the existing baseline.
24 So hazards, based on what you're saying, we
25 will consider whether we would have like a hazards or
26 hazards-and-safety-type subject it might be.
27 ED TAVASIETT: Just one MPA over another, or just
28 a package?

1 JEFF THOMAS: Well, it would be the question, I
2 guess, of whether or not your proposal -- would it lead
3 to exposure to greater risk of hazard.
4 ED TAVASIETT: But that would be site specific,
5 MPA specific?
6 JEFF THOMAS: It would be somewhat site specific.
7 And I know this actually did come up in the Central
8 Coast, some discussion about, you know, the resulting
9 shift in people going to fish in a new area was going
10 to put them at a greater exposure to weather in another
11 location than where they were fishing currently, which
12 is why they were there in the first place.
13 ED TAVASIETT: Exactly.
14 JEFF THOMAS: So we'll speak to that type of
15 issue.
16 Now, I think in the last one, we may not have
17 covered it in here. We may have covered it in what we
18 were calling vessel traffic. Hydrology, water
19 quality -- actually, for MPA's I think our chapter was
20 mostly focused on water quality as an issue. And it
21 just spoke to the potential pollution sources along the
22 coastline, and what their effects might be on the
23 proposals in terms of MPA locations.
24 Central Coast, that was kind of a big deal
25 with Monterey and some of those areas. They have a
26 real pollution problem.
27 Land use and planning, in the last one, I
28 believe we wound up treating that as a dismissed topic.

1 The kinds of things that usually come up with land use
2 and planning are more land-based things like zoning
3 conflicts, stuff like that.
4 Again, don't know where it will go ultimately
5 because we would look at either specific or different
6 regulations affecting coastal waters in the North
7 Central Coast than maybe the South Central Coast.
8 ED TAVASIETT: I'm kind of wondering how that
9 would be with land owners. How would property values
10 be affected?
11 JEFF THOMAS: We wouldn't cover private property
12 value effects.
13 ED TAVASIETT: What about access?
14 JEFF THOMAS: Access we could speak to. That
15 could come out in land use. Or depending on what
16 you're speaking of, it could come out in recreation as
17 well.
18 ED TAVASIETT: Maybe you're familiar, Richardson
19 Ranch basically gets impacted by the proposals. That
20 2XA would be complete closure. Does that fit in here?
21 JEFF THOMAS: I'd to have think on that. We
22 could -- well --
23 KELLY RICHARDSON: Can I ask? As a member of the
24 Richardson family, what we are concerned about is
25 declination of our property value.
26 Two of the ranches are for sale now, forced by
27 probate, deaths in the family, circumstances beyond any
28 family member's control.

1 But something we're concerned about is, people
2 are coming up there and not wanting to put an offer on
3 the property or want to wait until this whole thing is
4 sorted out to see if there is going to be a declination
5 in our property value. So therefore we're financially
6 impact immensely.
7 JEFF THOMAS: The problem is, is the CEQA process
8 is focused on physical effects on the environment. It
9 really doesn't cover economics.
10 And this -- it gets a little confusing for
11 folks. If this were a federal project and you were
12 doing NEBA under the federal guidelines, they do
13 incorporate economics and social economics and social
14 justice. It's different.
15 The State CEQA guidelines are focused on what
16 are the potential physical changes in environment, are
17 those significant or not.
18 And economics is a separate discussion.
19 KELLY RICHARDSON: How can we ensure that that
20 gets included in this process? I don't think it was
21 brought up in Southern California because I don't think
22 any private land was affected.
23 JEFF THOMAS: Private land ownership wasn't an
24 issue. One of the things we can do is, at least -- I
25 mean, not necessarily -- I don't know if we could
26 identify an impact but at least mention this.
27 We are probably going to also include a
28 chapter -- again, it's sort of a stray away from CEQA,

1 but we did this for the Central Coast. We did a
2 chapter -- I think it was titled, "The Economic Effects
3 On Fishing." And I think it was commercial and
4 recreational fishing. We would add to that potentially
5 private land ownership.
6 It was really just summarizing at that time
7 all the work that EcoTrust had done. And the intent
8 was to provide that information because people were
9 concerned that that be presented, that the Commission
10 is seeing that.
11 But then also, we were looking at that as are
12 there resulting physical effects that would come from
13 that. So I'm trying the think what would be a good
14 example. Typically a biology example is a good one.
15 So if -- you know, what is the -- well, actually,
16 population and housing, is the potential economic shift
17 in a region such that you would either potentially
18 cause, you know, what's the terminology, like economic,
19 like, community decay sort of, like, basically rundown
20 condition resulting from that change of economic that
21 might affect population housing, or are you going to do
22 something that's going to create a new economic boom
23 and put a greater demand on physical resources? And
24 the you start getting into recreation and public
25 services and all the infrastructure needed.
26 So we would look at things that might lead to
27 shifts in that. And that's the part that CEQA would
28 focus on. The actual economic effect itself, be it

1 positive or negative, we don't judge that.
2 KELLY RICHARDSON: I understand that. But because
3 this is a different issue than what had to have been
4 dealt with in Southern California, it should still be
5 considered at some point in the process.
6 JEFF THOMAS: Correct. And it should be
7 considered in the Commission's review of the proposals.
8 And I'd say, well, first off, if -- beyond what you've
9 said today that was recorded, if you have additional
10 information to provide that would be helpful to us,
11 that would be great. Because I don't know if anybody's
12 done any --
13 KELLY RICHARDSON: No. We've had doors shut on
14 us. This is the first time that we've had somebody
15 even listen to that.
16 JEFF THOMAS: So we can at least present that
17 issue. I do think it's reasonable because we did that
18 in the Central Coast with -- the documents were able to
19 at least speak to the, you know -- this is there.
20 KELLY RICHARDSON: I think up until now, the
21 stakeholders have taken a position that they don't want
22 to be liable for that. So they're saying quote/unquote
23 this is not a private land owner issue.
24 JEFF THOMAS: Yeah. I mean, beyond that, it
25 really comes down to lobbying the Commission,
26 unfortunately. It's getting in front of them.
27 It's kind of beyond our purview to do much
28 with that issue. Where this normally will come up on

1 many other projects is access on privately owned lands
2 or its effects on private view corridors. That's a big
3 one.
4 And normally those things just aren't
5 protected.
6 KELLY RICHARDSON: And just so you are aware, I
7 don't know if you are, but our property line actually
8 extends to the low tide mark. It's not a typical
9 private property line. So it fluctuates with the tide.
10 JEFF THOMAS: Okay.
11 ED TAVASIETT: Population housing dynamics,
12 wouldn't that be dependant upon socioeconomic impacts?
13 JEFF THOMAS: Yeah. So like I mentioned, we would
14 characterize the potential socioeconomic changes or
15 shifts in this chapter I talked about, and then as a
16 result of that we would say there is a potential for a
17 shift, if there is, in growth of a population or
18 decline of a population and the demand for housing and
19 other physical resources, build houses, whatever it
20 might be.
21 ED TAVASIETT: You need to really familiarize
22 yourself with the book. That Northern section is very
23 dependent -- it's a very fragile economy up there.
24 Very important to have participation of the outside
25 public.
26 JEFF THOMAS: Mineral resources, the gentleman
27 mentioned sand mining. There's no -- while there's a
28 prohibition of take, I don't know if there's a

1 connection between an MPA changing an existing baseline
2 use. So if there isn't, it's not going to be discussed
3 really for mineral resources. That was a dismissed
4 topic in the last round.
5 Noise would be twofold. It would be potential
6 noise disturbance to -- another gentleman mentioned
7 other wildlife areas. Again, it's this concept of, do
8 you see a potential shift in vessel traffic that causes
9 people to congregate in areas that they never
10 congregated before. And there's a potential that
11 that's going to result in an effect. That's kind of
12 how we addressed it in the last go-round.
13 ED TAVASIETT: So you're going to address special
14 closures?
15 JEFF THOMAS: Yeah, we will have to speak to the
16 special closures, which we didn't have -- we didn't
17 have that in the Central Coast.
18 ED TAVASIETT: You're just going to use the data
19 that Jerry and Sarah --
20 JEFF THOMAS: I don't know.
21 ED TAVASIETT: I remember, I was on the special
22 closures committee. And one thing that was really
23 basically eye opening for me and surprising to me was
24 the actual incidence of disturbance. And I was talking
25 to somebody who made a presentation. And the
26 incidence, the number of incidents, quantity of
27 incidents per year were something like 10 to 12
28 incidents per year.

1 JEFF THOMAS: Of noise disturbance.
2 ED TAVASIETT: It was just basically flushing or
3 at least reporting some type of a disturbance. But the
4 incidents were 10 to 12 occurrences per year.
5 But then they had a 300-foot closure around
6 the northern part of that. And that basically brought
7 it down to four. So now what -- my question to you
8 would be to say, what level of disturbance would you
9 use to actually say that there's an impact?
10 JEFF THOMAS: Say it's significant?
11 ED TAVASIETT: Right. This is where it gets kind
12 of tricky. There's many claims of disturbance, but the
13 incidence level and the numeric value has to be put on
14 there to equate how you're going to do this. And I was
15 just kind of curious if you've gotten any --
16 JEFF THOMAS: We haven't gotten to that yet. I
17 would rely on two sources to assist me with that.
18 We have a subconsultant to us that's on the
19 team, Applied Marine Sciences. And they're actually
20 going to be drafting the impact section for biology and
21 for water quality. And they'd speak to the noise issue
22 as it relates to marine mammals.
23 ED TAVASIETT: Who are these people?
24 JEFF THOMAS: They're another consulting firm.
25 They do a lot of marine-related work, water quality
26 analysis, fisheries analysis.
27 One of their senior guys is right now managing
28 the Alaska Science Center. So he's in the Bay Area

1 every other week and up there every other week, keeping
2 things running. So I'd probably discuss with them what
3 they think as well as the Department, in terms of
4 what's an appropriate threshold. I don't have an
5 answer for you right now.
6 ED TAVASIETT: What about the SAT members?
7 JEFF THOMAS: It may come down to also involving
8 SAT for input on that as well.
9 ED TAVASIETT: The reason I'm saying this is
10 because I kind of get a lot of claims being made. And
11 there's no real accountability. But Jerry and Sarah
12 have documented it, they documented it great, as well
13 as the sanctuaries.
14 And I look at the incidence level, and I
15 think, you know, is this really worth doing? Is this
16 really necessary? Because in many cases the
17 populations are growing, doing very well, especially
18 the brown pelicans.
19 JEFF THOMAS: I think that's something we would
20 really take into account is what's the -- is there a
21 notable effect on a population. While there might be
22 some disturbance, is that disturbance really a
23 detriment to the population or not. I think that's the
24 kind of -- we have to work through those details, but
25 it's trying to apply that reasonableness to the
26 threshold.
27 Ultimately, what is your goal? If your goal
28 is that the population is doing well, well, anything

1 that affects that or reduces that, that's something
2 we'd want to discuss.
3 ED TAVASIETT: So would you have input to
4 mitigation of this problem? My suggestion within the
5 group there was to say that I think the public outreach
6 and education are far more beneficial.
7 JEFF THOMAS: And we normally would only identify
8 mitigation if we had a significant impact. So if we
9 identified that there was the potential for a
10 significant disturbance, be it from noise or presence,
11 then we would suggest the mitigation that would offset
12 that.
13 The other factors you would have to consider
14 in doing that would be, is that mitigation feasible, is
15 it enforceable -- kind of all the same considerations.
16 You know, will it work? It has to be something that
17 can work and can actually be done.
18 And a lot of times education outreach can be
19 factored into that. Some sort of monitoring can factor
20 into that. Those are all kind of plausible things I
21 can think of.
22 Public services, I think that was an outed
23 subject before. We don't really affect public
24 services. Though -- well, actually, I take that back.
25 I think we did we did include it because we
26 spoke to the Department's current enforcement. And
27 actually maybe that's where we inserted the safety
28 piece. We did speak to that because we did discuss the

1 effects of MPA's on current baseline enforcement.
2 Recreation, we talked about. That would be
3 shift in use. It sounds to me from what I'm hearing
4 like there's going to be a greater potential in the
5 North Central Coast region to see shifts in land-based
6 transit in use than we saw in Central Coast region. So
7 that also will play into the traffic discussion.
8 ED TAVASIETT: That also pertains to the boats, as
9 well. Boats having to travel farther away. As a
10 matter of fact, in salmon trollers, commercial salmon
11 trollers, they're also going to have to change course.
12 This only extends out to three miles. I don't know if
13 anybody's aware of that.
14 But also the SMR's that are placed out for
15 three miles within that particular northern region,
16 salmon trollers have to turn out, which creates a very
17 hazardous and dangerous situation because the boat's
18 going broadside from the seas. And to make people go
19 up and turn around -- so that's just another --
20 JEFF THOMAS: Right. And I think when I said
21 "public services," I was thinking of utilities and
22 service systems. That one, I think, dropped out
23 because, again, that's usually land-based effects.
24 That could come into play if we determined
25 that there was going to be a population or housing
26 boom, and then you'd have associated effects on
27 services and infrastructure that we'd described; that
28 would need to be addressed. It also could come up if

1 for some reason there was a recreational impact that
2 might overlap in terms of infrastructure. But I
3 couldn't tell you right now.
4 And then cumulative and growth inducing, and
5 growth-inducing sort of overlays with population,
6 housing -- but this is dealing with stuff like
7 commitment of nonrenewable resources. That's a typical
8 subject area for growth inducement impacts.
9 ED TAVASIETT: Would that pertain to MPA's?
10 JEFF THOMAS: I don't know that it would pertain
11 to MPA's, but these are not subjects that can be
12 dismissed, basically. So we need to speak to these,
13 regardless.
14 And we can just be saying that there really is
15 no growth inducement impact. I believe that's what we
16 did before. But while these subjects, if they don't
17 relate, can be dismissed in an earlier chapter, these
18 two wouldn't. And cumulative obviously we would speak
19 to. And cumulative would be -- we will be hitting that
20 on a few levels. Air quality will probably be a big
21 one and climate change, because it always winds up
22 cumulative, and obviously cumulative looking the
23 project with the prior adopted MPA's in the Central
24 Coast region.
25 And then, now, we know the schedule, we know
26 what's coming in terms of going to the South Coast.
27 And we can kind of try to characterize that a little
28 bit.

1 These are, you know -- this is a somewhat more
2 subjective analysis. We're not doing any very serious
3 modeling or get into, you know, greater depth. For
4 instance, if this is were a land-based development, and
5 we knew there would be other developments in the area,
6 we might not know all the details of the other
7 developments, depending on timing. But we can know
8 enough to say that, in combination they would increase
9 traffic or they would increase air quality impacts or
10 whatever that might be.
11 So it's a little more broader scale analysis
12 and discussion, just so that the decision maker can
13 understand what is the big picture if we do this in
14 combination with A, B, and C.
15 It's also going to be cumulative with regard
16 to regulations as well.
17 ED TAVASIETT: What about the future
18 growth-inducing impacts? How about wave-energy farms
19 and those kind of things? They're thinking about
20 putting wave generators in. I guess you can do this
21 stuff on your --
22 JEFF THOMAS: Yeah, that would be a separate
23 document. It's just like, you know, the Department
24 is -- it's on a completely separate track. They're
25 looking at aquaculture regulations. Might be something
26 that we in the future -- we might make mention of it.
27 So that would be another subject area, would be -- have
28 a different impact that could impact MPA's or, in

1 combination, MPA's could impact the areas that are
2 accessible.
3 ED TAVASIETT: So aquaculture would be definitely
4 a consideration.
5 JEFF THOMAS: Yeah.
6 ED TAVASIETT: How about -- we have Drakes Estero.
7 UNIDENTIFIED SPEAKER 2: How does the CEQA process
8 interact with the SAT team findings? Do you guys rely
9 on the data that they gather at all? Is there any
10 interaction?
11 JEFF THOMAS: Yeah, we'll look at and consider any
12 data source. So the SAT team has data sets that are
13 available to us if they relate to analysis and the
14 questions that we have and in terms of impact.
15 UNIDENTIFIED SPEAKER 2: And with regards to
16 Drakes Estero, would it be appropriate to include
17 that -- one of the ways that the IPA is written right
18 now is in Drakes Estero if it ever becomes feasible,
19 they want mariculture to cease, and the whole structure
20 of the SMR -- so will you be looking at what will
21 happen if they take out mariculture in Drakes Estero
22 and what the effects are, if you can look down this
23 list and see whether it will have a lot of different
24 impacts on water quality, agricultural resources,
25 cultural resources, recreation, public services? All
26 those things will be impacted with the removal of
27 the --
28 JEFF THOMAS: Will those be beneficial effects, do

1 you believe, or negative?

2 UNIDENTIFIED SPEAKER 2: Negative, if it gets

3 removed.

4 JEFF THOMAS: If they remove them?

5 ED TAVASIETT: We're talking about something

6 that's been established for at least -- 120 years?

7 UNIDENTIFIED SPEAKER 2: Over 100 years.

8 JEFF THOMAS: Then we would need to consider that

9 in our document. If there's the potential for the

10 removal of that and it could have adverse effect, then

11 we need to address it.

12 Not that it wouldn't be addressed if it's

13 beneficial, but if it was something where -- it's

14 just -- CEQA sends to focus on, you know, the negative

15 side. It tends to focus on the adverse. And you can

16 describe beneficial effects, but that's more of a

17 NEBA-type analysis.

18 We would make mention of that, but we won't go

19 out of our way to identify every beneficial effect of a

20 project under CEQA, unless it's a subject something

21 normally would be an adverse impact. And in this case

22 it isn't.

23 And actually, a good example would be, you

24 know, normally something might impact fish, but in many

25 cases, MPAs are striving for protection of fish. If

26 there's some degree of benefit, we describe that. So

27 if removal of that is going to have any kind of adverse

28 effects, we would look at that.

1 I have to also talk to the Department because
2 it's also possible that, depending on the process
3 that's associated with that removal, it might have to
4 have its own CEQA analysis, which would mean we
5 wouldn't be getting into all the details of it. We
6 would identify it as an issue, but we would identify
7 that it would have its own separate process.
8 So I'll have to find out because normally
9 that's triggered by discretionary action. So the
10 assumption is, well, if it's under the regulation of
11 the Commission and the Commission is going to make a
12 decision in the future, that action itself has its own
13 CEQA process.
14 So it may be something -- I guess the answer
15 is we may cover it.
16 We'd at least at minimal make mention of it,
17 make a connection that -- how it would be addressed in
18 the future if we're not addressing it now. So we would
19 identify if that would -- if it's under a separate
20 review, we would make mention of that.
21 ED TAVASIETT: That's all I can think of right
22 now.
23 JEFF THOMAS: You've got our number.
24 But, yeah, if you think of other things, it's
25 always helpful.
26 ED TAVASIETT: How about the islands? How would
27 you address the islands, Farrallon Islands?
28 JEFF THOMAS: The same as everything else. I

1 don't know if you have a specific question, but we
2 would -- I mean, for each subject here, what is the
3 baseline, and what might change.
4 ED TAVASIETT: Yeah, based on the consensus.
5 Pt. Reyes is pretty much consensus.
6 JEFF THOMAS: I wouldn't think that the islands
7 would have -- I guess one question I would have would
8 be, are the islands being limited in a manner that's
9 causing fishermen to go to different places up and down
10 the coast that we might not be aware of?
11 ED TAVASIETT: Between there and Pt. Reyes would
12 be your greatest boats numerically involved, air
13 quality situation, just actually the -- could actually
14 reduce the quality of -- actually reduce the impact.
15 JEFF THOMAS: Because you reduce the number that
16 are transiting out there, yeah. Okay.
17 (Reporter interruption)
18 JEFF THOMAS: We talked about the Farrallons would
19 seek to reduced transit of boats potentially with the
20 MPA's proposed. So that would reduce your air quality
21 impacts and your numbers.
22 ED TAVASIETT: Not by much I would think, because
23 the areas around it would still be fished.
24 JEFF THOMAS: Right. And then I was just going to
25 say, in terms of air quality, we'd look at what might
26 be some of the worst-case additional transits that we
27 look at. We would use those in our assumptions for
28 calculating air quality effects.

1 ED TAVASIETT: That's good because, you know what,
2 it gives you ammunition because, like, Fitzgerald will
3 have the SMR above. And whereas, here, you have a
4 proposal before you have the SMR. You are forced to go
5 farther to go up the areas where you can fish.
6 JEFF THOMAS: You can use it. Okay.
7 ED TAVASIETT: I think I've taken up enough of
8 your time.
9 JEFF THOMAS: We're officially concluded then.
10 (Whereupon, the proceedings concluded
11 at 8:07 p.m.)
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STATE OF CALIFORNIA)
) ss.
COUNTY OF MARIN)

I, DEBORAH FUQUA, a Certified Shorthand Reporter of the State of California, duly authorized to administer oaths pursuant to Section 8211 of the California Code of Civil Procedure, do hereby certify that said proceedings were reported by me, a disinterested person, and thereafter transcribed under my direction into typewriting and is a true and correct transcription of said proceedings.

I further certify that I am not of counsel or attorney for either or any of the parties in the foregoing proceedings and caption named, nor in any way interested in the outcome of the cause named in said caption.

Dated the 16th day of July, 2008.

DEBORAH FUQUA
CSR NO. 12948

CALIFORNIA MARINE LIFE PROTECTION ACT INITIATIVE

NORTH CENTRAL COAST MARINE PROTECTED AREAS PROJECT

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CALIFORNIA DEPARTMENT OF FISH AND GAME

PUBLIC SCOPING MEETING

Thursday, June 19, 2008

Gualala Arts Center
Coleman Auditorium
46501 Gualala Road
Gualala, California

REPORTED BY: DEBORAH FUQUA, CSR #12948

A P P E A R A N C E S

MATTHEW ERICKSON
Associate Biologist, Marine Region
California Department of Fish & Game

JEFF THOMAS
MARISSA ADAMS
ICF Jones & Stokes Environmental Consultants

SPEAKERS
CRAIG BELL
PETER RATCLIFF
PHILIP SANDERS
PETER BOGDAHN
ALLAN JACOBS
C.E. BROWN

Thursday, June 19, 2008 6:50 o'clock p.m.

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P R O C E E D I N G S

JEFF THOMAS: Thank you guys for coming this evening. My name is Jeff Thomas. I'm a consultant to the Department of Fish & Game with the firm of ICF Jones & Stokes. And we've been hired to assist with the California Environmental Quality Act process or CEQA process. We're writing the environmental impact report for the North Central Coast Region and the Marine Protected Areas project, also known as the NCC MPA project.

We're just going to do a brief presentation, a quick overview on the project and then a little bit of detail on the scoping process and why we're here this evening and then open it up to public comment.

(Presentation given by Jeff Thomas and Matt Erickson)

JEFF THOMAS: Well, with that, that ends our presentation. And I will start to call some folks up, and we'll take public comment.

So Allan Jacobs?

ALLAN JACOBS: I had a prepared statement that I was going to read, and I timed it, about seven and a half minutes. So if you want to do the three-minute

1 people first and save me for later, that would be best.
2 Is that okay.
3 JEFF THOMAS: We can do that, sure.
4 Craig Bell.
5 CRAIG BELL: My name is Craig Bell, and I'm
6 chairman of the Mendocino County Fish & Game
7 Commission. My comments will be on behalf of Mendocino
8 County and would refer to the region affected by the
9 MLPA in Mendocino County.
10 Out of consideration for the fact that the 2XA
11 proposal was the most widely publicly supported, I
12 would request that you please state where appropriate
13 that 2XA meets all CEQA requirements where it does meet
14 all CEQA requirements.
15 Also, out of awareness that the -- or
16 actually, I would like to make you aware that the
17 preferred alternative builds a small box out of the
18 harbor of Point Arena. It takes away the largest --
19 the majority of the favorite fishing area to north of
20 the port Point Arena, the reef just below the Point
21 Arena lighthouse, Washrock on the other side of the
22 Point Arena lighthouse, a favorite fishing area, to the
23 south of the harbor. And that's where most of the
24 fishermen normally go prior to the potential MLPA
25 effect. And to the south of Point Arena harbor, if the

1 Saunders Reef as is currently proposed, that
2 establishes a boundary there. And current rock fishing
3 regulations prevent you from fishing in deeper than 120
4 feet of water. That creates the other side of the box
5 out in front of the Point Arena harbor.
6 So effectively this built a very small box to
7 focus virtually 100 percent of the fishing effort out
8 of the port of Point Arena, which is the first port in
9 a pretty large direction north and south of here.
10 So because Point Arena is by far the highest
11 usage of boats -- it's probably 120 feet. They go very
12 short distances as it is, but they do fish Saunders
13 Reef normally, and they do normally go past the
14 lighthouse. Well, by taking away both of those areas,
15 you have concentrated, I would say, 90 percent of the
16 fishing area in a very small box because of the
17 addition of the 120-foot closure of fishing deeper than
18 that.
19 So please consider the effects on the resource
20 and also on recreation by concentrating, essentially in
21 perpetuity, 90 percent of the fishing effort in this
22 small box. Thank you very much.
23 JEFF THOMAS: Thank you.
24 Peter Ratcliff.
25 PETER RATCLIFF: Peter, R-A-T-C-L-I-F-F. And I'm

1 a member of a family who owns a piece of property to
2 the north of here which we've had in the family since
3 1926. And over the last 35, years it's been patrolled
4 because we've had permanent people living on the
5 property. And -- which has limited the amount of
6 access there.
7 And what we're seeing is that they decided to
8 put these -- the Saunders Reef MPA out there. And
9 that's fine. But what does it accomplish that wasn't
10 already accomplished by the intertidal areas by the
11 private land owners stewardship of the area?
12 And we've been in partnership with Fish &
13 Game, watching over this area. And occasionally we
14 would go down and take some fish for -- not for sport.
15 It's basically for literal uses.
16 And I'm trying to -- so what there's a very
17 small individual take and an aggregate. So what you
18 see down here is probably some of that intertidal
19 habitat. We can't control the people that come by boat
20 or anything else, but the accomplishment of this has
21 not gained much.
22 And quite frankly, even the areas outside of
23 here, there's so little impact, even from the sport,
24 except occasionally you have the abalone -- large take
25 of abalone in certain areas. But that seems to shift

1 from area to area. When you concentrate that down,
2 it's only going to be in one area. And that area will
3 just disappear, and it won't come back.
4 Now what happens, when the abalone is scarce,
5 people move to another area and harvest it there.
6 So I had to put this together real quick, so
7 it's a little bit -- you can see but that's pretty much
8 where I stand.
9 JEFF THOMAS: Thank you.
10 Philip Sanders.
11 PHILIP SANDERS: Over the last year, I served on
12 the RST for this study region. And through those sort
13 of horse-trading negotiations, I had what I thought was
14 something that the area could live with here. And what
15 happened with the IPA is, in sort of an 11th-hour Hail
16 Mary, they threw in some SMTA's that I don't think are
17 appropriate here. They're not needed in the size and
18 spacing.
19 And I think they're going to have a real
20 negative effect on -- the local economy is something
21 that's out of your purview, I understand. But I really
22 think that you need to consider -- what I was talking
23 about, the "funneling effect" is the funneling effect
24 of fishing pressure. I'm not really talking about boat
25 traffic or anything else.

1 But I think that this would have been the
2 purview of the CEQA document to really focus on the
3 available areas for parking that people do come to
4 recreate and do abalone diving.
5 And to echo some of Craig's remarks, now
6 there's a box. There's also a box outside of the
7 harbor. There's also a box being boxed in in available
8 traffic to the areas that they can go -- you know, walk
9 out and get abalone. So I think it's well within the
10 purview of the CEQA document to really focus on the
11 recreational abalone take outside of these MPA's.
12 And then also look at it from the standpoint
13 of if you don't have the SMCA at Saunders Reef and you
14 don't have the SMCA at Sea Lion Cove. And I think that
15 you should compare those for the document.
16 Thank you.
17 JEFF THOMAS: Thank you.
18 Peter Bogdahn?
19 PETER BOGDAHN: Peter Bogdahn, Harbor Master at
20 Point Arena. Really, my real title is supervisor.
21 My areas of concern are basically the loss of
22 services to the public and also the loss of
23 recreational opportunities. In the Central Coast, the
24 option that was passed there I think protects about
25 18 1/2 percent of the areas. And that is really the

1 reason why I support the 2XA. I think that that same
2 amount of protection is what the North Coast needs, if
3 not less, but certainly not more.
4 Also in Subregion 1, some of the proposals
5 like Craig has said and Phil has said kind of places a
6 box there at Point Arena. And I have to repeat that
7 concern about over-fishing in that smaller area because
8 there are literally only -- you know, if you're looking
9 at these fishing areas, what you're really looking at
10 is spots that have been fished, you know, historically,
11 reefs. And there really are only about three or four
12 spots in that box. And I just think that they're going
13 to be fished out pretty quick.
14 And then also, there will be an effect where
15 people are going to studying the reserve and compare it
16 to those existing areas, and I think it will skew the
17 whole process. So I really do think that one protected
18 area in Point Arena is enough.
19 I have one other item here. And it might not
20 really, you know, be anything I should say. But I
21 really would have liked it that, from the onset, that
22 as part of this marine protected area process, one of
23 the goals would have been benefits to ports and
24 facilities. And I feel that that process really is
25 lacking that. You know, there is the promise of

1 fishing getting better on the outside of reserves. But
2 if we're not existing anymore, how can we benefit from
3 that?
4 So again, to repeat myself, I'm concerned
5 about less services, basically, loss of revenue at the
6 pier there would turn us into a part-time facility or
7 maybe even effect a complete closure of it. And it
8 would -- it would basically prevent recreation there,
9 boating recreation because of the facility not being
10 there and also loss of public service. We do have
11 other services there.
12 There are some interpretive stuff. There's
13 showers and recycling facility and so forth. That's
14 it.
15 JEFF THOMAS: Great, thank you.
16 Okay, Allan, you're up.
17 ALLAN JACOBS: I'm the last guy? That went fast.
18 My name is Allan Jacobs, A-L-L-A-N,
19 J-A-C-B-O-S.
20 I'm a retired school teacher, retired
21 commercial fisherman and sport fisherman. And I was
22 kind of clueless when I first saw the agenda. So I
23 kind of depended upon other people telling me what
24 kinds of things to put together.
25 Some of this is repetitive, but here goes.

1 Humans, as biological species, occupy a legitimate
2 ecological niche in our coastal waters. For at least
3 10,000 years, we have been a part of the ecosystem as
4 fishermen, hunters, and gatherers.
5 The restrictive MPA's proposed for the Point
6 Arena area would deprive us of much of this important
7 traditional cultural heritage. This is clearly not the
8 right thing to do. Taking humans out of an ecosystem
9 that we have long been a part of is, by itself, a
10 change that has negative effect on an environment.
11 There are four other very specific problems
12 that will have negative effects on our environment as a
13 direct result of the proposed MPA's. The first
14 environmental problem has to do with the law of nature
15 that says, "If you remove a predator from an ecosystem,
16 there will soon follow a population explosion of their
17 prey, resulting in a population depletion or even
18 extinction of the prey species food supply, followed
19 closely by great fluctuations in replacement of
20 co-dependent species, replacement of desirable species
21 by undesirable species, and even the extinction of some
22 species."
23 In this specific case, the predator species
24 being removed by the MPA are human urchin divers. The
25 prey are red sea urchins and the prey's food supply

1 includes kelp. The predictable end result is called an
2 urchin barren. An urchin barren is the marine
3 equivalent of an over-grazed pasture. It consists of
4 waves of sea urchins eating everything as they slowly
5 move across the rocky bottom.
6 Abalones cannot compete and become rare or
7 disappear altogether. And the urchins will not let
8 kelp establish itself, thus greatly reducing the value
9 and the diversity of the ecosystem.
10 I've been told by professional divers that the
11 perfect example of this exists in the current
12 Pt. Cabrillo State Marine Conservation area, where no
13 harvest of invertebrates has been allowed for years.
14 The second specific environmental problem
15 would be caused by the shifting of fishermen from the
16 traditional heritage sites within the proposed MPA's to
17 other places.
18 What must be seriously considered in the EIR
19 are the predictable results of over-harvesting of the
20 most popular species and serial depletion of other
21 species in the spaces between MPA's.
22 You need to especially consider the
23 Subregion 1 area, because of the far greater proportion
24 of closed habitat here will have an even greater
25 impact. For example, what is being proposed by the IPA

1 proposal for Subregion 1 will close 36.4 percent of the
2 abalone habitat, 27.9 percent of the sea urchin
3 habitat, and 36.2 percent of the rock fish habitat.
4 At Arena Cove, the size and spacing of MPA's
5 makes matters even worse. It is the only port with
6 both sport and commercial facilities in Subregion 1.
7 Three of the four proposals -- 1, 3, 4 -- and IPA's
8 place large restrictive MPA's both to the immediate
9 north and to the immediate south leaving a portion of
10 the coast of only about six and a half miles in length
11 still open to fishing for the species I mentioned.
12 This close spacing will cause fishermen to
13 choose between concentrating their efforts near the
14 port, or risking longer trips. There will be no
15 medium-length trips.
16 This is a part of the world where the ocean
17 conditions change rapidly and severely. So most small
18 boats will invariably choose to stay between the
19 propose MPA's. This will create much greater fishing
20 pressure in the zone of coastline adjacent to Point
21 Arena per.
22 The third environmental problem is an increase
23 of pollution due to the locations of the MPA's.
24 Currently the commercial fishermen operating
25 out of the Arena Cove use small boats and fish near the

1 port. The proposed MPA's will force the boats to motor
2 further when the fishing grounds near to port can't
3 support them. Longer trips need more fuel and also
4 require larger boats for safety. So after the enacting
5 of the MPA's, you will see larger boats and farther
6 trips, thus multiplying the fuel consumption and the
7 related rate of pollution even more.
8 Bigger boats also require greater catch levels
9 to make them economically viable. So there will be
10 more trips. More and longer trips a also means
11 increased chance of accident. Boat accidents, even
12 small ones, are messy affairs, Polluting with the
13 spilled fuel and oil and debris. And then you have to
14 deal with the people who clean it up.
15 The fourth environmental problem is one of
16 public rights of access and use. I think concern from
17 the beginning of the MLPA process about hidden rules
18 and regulations that will be used after an MPA is
19 enacted -- for example, from the CDFG definition of and
20 SMR, State Marine Resource, and I quote here, "While to
21 the extent feasible the areas shall be opened to the
22 public for managed enjoyment and study, the area shall
23 be maintained to the extent practicable in an
24 undisturbed and unpolluted state; therefore, access and
25 use such as walking, swimming, boating, and diving may

be restricted to protect mean resources," end of quote.

My interpretation of this is, if someone from the unspecified managing agency referred to above in that same definition, if they decide unilaterally that boat traffic through the Point Arena SMR endangers some wildlife or pollutes, they can force us to detour many miles to get around it.

Whenever I brought this point up, the MPA staff and proponents of SMR's have assured me that, "Oh, no. That's not what we mean. We would never do that." But in spite of if memos from Fish & Game and others saying boats will never be restricted, I see the restrictions as I quoted them and others like them still listed on the CDFG MLPA Web site under "Definitions."

Most concerning is a lack of a definition of pollution and a lack of identification of the managing agency. I fear it my might be somebody like a university professor who decides that boat engines are too loud. We don't know who's going to be the managing agency or what their definitions of pollution are.

Assuming that we must have MPA's according to the Marine Life Protection Act, then the best way to minimize the severity of all the problems that I've outlined would be to approve the least restrictive

array of MPA's in Subregion 1.

Of the existing proposals, Proposals 2XA is the best option in this regard. It proposes fewer and smaller MPA's with better spacing. It fulfils all CDFG requirements and satisfies the goals and objectives of the MLPA. It is the only proposal that leaves the area to the south of Port Arena Cove completely open to fishermen.

Thank you.

JEFF THOMAS: Thank you.

Are there any other speakers this evening?

PHILIP SANDERS: I have one more question, actually.

JEFF THOMAS: Yeah?

PHILIP SANDERS: In the CEQA document, is it -- would it be within the CEQA document purview to outline the human being as -- of fishes or abalone as a percent of the natural take, or is that something that you wouldn't be able to accomplish?

Just a background question, in the RSG meetings, we identified the fact that pinnipeds were eating 98.4 percent of the fish as compared to what human consumption of fish was in this study region, based on, you know, what they consume and how much of their body weight and how many there are in the

1 subregion.

2 So human take of fishes was, by the

3 Department's own data, was 1.63 percent of the pinniped

4 consumption of fish. And we know that pinnipeds don't

5 eat all the fish. So that puts the human consumption

6 of fish, just an amateur guess, at less than 1 percent

7 of the total biomass out there on an annual basis,

8 which is well within all of those FLEP and the Edon

9 models for sustainable fisheries.

10 So I'm wondering, is that something that could

11 be in the CEQA document? These are just "no human"

12 zones. They're not really protected areas. They're

13 just no-fishing areas. They're no-human zones. They

14 could be named any number of things.

15 JEFF THOMAS: Correct.

16 I'm trying to think what we did in the Central

17 Coast because this issue came up. And you know, in the

18 environmental setting that was written for biological

19 resources, we spoke to the issue of pinniped effects.

20 But in terms of analyzing the impacts of the projects,

21 we didn't look at comparing human effects to natural

22 effects.

23 PHILIP SANDERS: I'm not talking about comparing

24 the human to the natural. But I'm talking about the

25 human take as a percentage of the biomass. That seems

1 like something that would be something a CEQA document
2 would have in it, you know, what's the -- we have these
3 biomasses out there. We have abalone.
4 Maybe, as far as abalone take, there's sea
5 otters in this subregion. So the abalone take as a
6 percentage of total mortality would probably be a lot
7 higher than you would have of the fish because I think
8 we have a lot of pinnipeds here.
9 So what is the human take as a percent of the
10 biomass, and is it sustainable as it is? Those are
11 my -- is that something that can be answered in a CEQA
12 document, or do you think it should be?
13 JEFF THOMAS: I think the problem I'm having
14 answering it is that to me it's, what are you going to
15 do with that information? And what we're looking at is
16 what -- the current baseline condition and what are the
17 potential impacts of the proposals relative to the
18 current baseline.
19 So we would answer that question, I think, to
20 the degree that it would be kind of related to what you
21 said earlier about kind of shifts in where people are
22 focused. We would look at it from that perspective.
23 But we wouldn't look at it from the perspective of --
24 you know, we're not analyzing the design of each of
25 those proposals per se. You know, we're not looking at

1 the techno feasibility or being critical of the design
2 itself, but we are looking at what the changes in use
3 and patterns with recreation and fishing and where
4 people transit and what they do relative to this new
5 proposal, if that answers your question.
6 So we might be looking at it in a little more
7 general sense as well, kind of relative to each other.
8 PHILIP SANDERS: I guess my follow-up question
9 would be, would you, you know, either on or off the
10 record, think that it would be relevant information to
11 have as it relates to those two models of what's
12 sustainable take, you know, what is the human take as a
13 percent of the biomass out there. It's in those
14 models. So I'm going to take a leap of faith that
15 we've got at least two marine biologists here. I don't
16 know about you, but --
17 JEFF THOMAS: I'm not a marine biologist.
18 PHILIP SANDERS: Wouldn't you find that to be
19 relevant information, what the human takes are on these
20 various species most likely to benefit?
21 JEFF THOMAS: Yeah. And with that "where." From
22 my perspective, it's a locational issue because there
23 is -- there is a baseline take which was obviously part
24 of the rationale behind we need some sort of protection
25 because there's take going on currently.

1 So I'm looking at it as a locational shift in
2 that take but not comparing that take per se -- like
3 the current conditions compared to the natural
4 environment.
5 PHILIP SANDERS: But you would feel it's relevant
6 if you have this shift of effort into these smaller
7 areas, the more MPA's we have in this small subregion,
8 the more efforts are going to be --
9 JEFF THOMAS: Right, right.
10 PHILIP THOMAS: So I mean, if I was in your
11 position, I would be really interested to know if the
12 benefit of the spillover effect is going -- is it a
13 win, a lose, or a draw situation.
14 JEFF THOMAS: Right.
15 PHILIP THOMAS: So I would like to see that
16 addressed in the CEQA document.
17 JEFF THOMAS: I know. And it's a very good point.
18 And that is something that we will consider.
19 One thing I should also mention is, we're --
20 obviously the North Central Coast region is a little
21 different from the Central Coast region. The issues
22 aren't identical. So we're just ramping up, even in
23 writing the document, getting your feedback. I've got
24 a team that's meeting next week to start to go through
25 all these issues and hash out what will our approach

1 be, and then we can talk to the department about what
2 is the available data that we can utilize to that end.
3 So we'll be figuring that out.
4 Oh, boy. A lot of questions.
5 PETER BOGDAHN: Is your document going to be
6 subregion-specific, or is it going to be for the whole
7 management area?
8 JEFF THOMAS: Don't know yet. And it might be
9 issue specific to determine whether it's going to be
10 region specific or not because, you know, thinking back
11 to what we did with the Central Coast project, certain
12 subject areas didn't need to be subregion-specific, and
13 certain subject areas kind of did.
14 So when you spoke about shifts in recreational
15 use, transit, people diving in new locations or going
16 to other areas, we considered initially looking at the
17 subregion shifts. And we spoke so some of the those.
18 But we weren't consistent in that through the whole
19 document.
20 Another good example is air quality. Air
21 quality, we actually based it on the air districts, and
22 used the air districts' boundaries, not the subregion
23 boundaries. And we looked at what the potential shift
24 in vessel traffic would be within each of those,
25 looking at -- trying to project basically a worst-case

1 scenario. And the worst-case scenario is that all
2 boats in that air district that are out of ports in
3 that air district are going to transit to the farther
4 ends of the designated MPA. So you're going to
5 determine what the longest distance somebody might
6 transit, and then you can project what their air
7 emissions might be.
8 The result of that process was we had a
9 significant and avoidable air quality impact with the
10 Central Coast region. And you know, it was, I believe,
11 a pretty conservative estimate because at the end of
12 the day I can't predict who's going to do what, if
13 they're going to choose to go north or south or go out
14 of business.
15 So we speak to that and talk about to the
16 degree we know is that speculative or not, and then we
17 define the scenario that we're going to analyze. And
18 then that gives people the opportunity to say, in a
19 review of the document, "That scenario makes no sense,"
20 or, "Have you also considered maybe this alternative to
21 that?
22 We didn't actually get that kind of feedback.
23 It turned out we were really looking at a fairly
24 worst-case scenario. And at the end of the day, that
25 was an impact. So I don't think people were concerned

1 about us finding ways to reduce that impact. If
2 anything, what they offered probably increased it.
3 So....
4 Yes, sir.
5 CRAIG BELL: Yes, Craig Bell, Mendocino County
6 Fish & Game Commission.
7 You mentioned the use of data. I was quite
8 surprised to hear announced at the State Fish & Game
9 Commission review of an MLPA concerning recreational
10 fishing, there was little or no data north of Bodega
11 Bay. We have a harbor. We have a record of
12 launchings. I'm sure the city of Point Arena, which
13 depends on that harbor as a lifeblood for it's
14 community, would be very happy to provide launching
15 data for launching recreational and urchin boats and
16 other boats that you could use in examining the --
17 doing your economic impact and your shift of focus to
18 one small area impact.
19 And also, I wondered if it was pertinent and
20 I'd like to reinforce, if it's appropriate, Allan's
21 comments about -- as you may be aware, historically we
22 had otters here. They are not here, and it's unlikely
23 they'll be moved. There's been no effort to move them
24 north of San Francisco. Urchin divers have replaced
25 the otter in maintaining the kelp balance, healthy kelp

1 forests.

2 When there's too many urchins, you have no

3 kelp. When you have some urchins, you have a lot of

4 kelp. So I don't know if that's an impact for you to

5 consider, but by removing all urchin diving from these

6 area in the absence of historic natural otter

7 populations, an impact could easily be a reduction of

8 habitat complexity on a very large scale in the reserve

9 areas.

10 JEFF THOMAS: Thank you. Yeah, that is something

11 we want to consider.

12 Ma'am, you had your hand raised?

13 UNIDENTIFIED SPEAKER: Yeah, will you be

14 considering a no project alternative?

15 JEFF THOMAS: Good question. Yes.

16 Actually, I have to. It's required by CEQA.

17 I have to consider the no action or no project

18 alternative.

19 UNIDENTIFIED SPEAKER: It wasn't listed. It's an

20 important part of it, and I think you cannot identify

21 benefits of the project if you have not done a really

22 good job of analyzing the no project alternative, what

23 the impacts are because, while we're looking at

24 impacts, it's the benefits that have got to be well

25 defined in order to make them -- the project make any

1 sense at all.

2 JEFF THOMAS: Correct. Thank you. And actually

3 that was something that came out in the Central Coast

4 EIR was that, normally, I don't know if this is just a

5 pessimistic world, but CEQA kind of focuses on adverse

6 impacts, whereas if you were in the federal process,

7 you would look at beneficial impacts as well. It would

8 be pretty common.

9 And because we did have a series of beneficial

10 impacts associated with the project, we did include

11 those in the document. So we had obviously varying

12 degrees on the Central Coast by package or alternative

13 of beneficial effects on biological resource. And we

14 tried to speak to that. And -- yeah.

15 UNIDENTIFIED SPEAKER: May I add another comment?

16 May I suggest that, when you look at the funneling

17 effect, that you not limit it to Point Arena, that I

18 think the Sea Ranch could be -- maybe also will have a

19 potential impact with increased abalone diving and

20 fishing because of the access there.

21 JEFF THOMAS: Thank you.

22 Anybody else?

23 PHILIP JACOBS: Just another quick question. In

24 the CEQA document, there's no socioeconomics addressed.

25 JEFF THOMAS: No. This is -- actually, I'm

1 surprised this has not come up sooner.

2 Again, if this were a federal process or a

3 NEBA process, they would consider socioeconomics,

4 social justice. And the CEQA process doesn't.

5 What we did do and will do for this one -- we

6 did it on the Central Coast -- is we added a chapter to

7 the CEQA document because it was a very strong issue

8 for everybody. There is an economic impact.

9 But we didn't do any new analysis. What we

10 wound up doing was summarizing the results of the

11 EcoTrust work and looking at those economic impacts and

12 identifying, are there potential secondary physical

13 environmental effects.

14 So for instance, when we had that one slide --

15 go back to this. One area might be with population and

16 housing. The potential for, you know, an economic

17 decline or decay of a community, as well as the

18 potential for a shift in an industry that might lead to

19 an economic boom and a demand for housing and

20 infrastructure and things like that.

21 So we don't necessarily speak to the economics

22 per se, but we do speak to the ancillary effects of

23 that in terms of, will this really lead to a

24 substantial decay of a community? Would it lead to the

25 need for a new infrastructure, would it lead to the

1 need for a new recreational resources? We're really
2 more focused on physical environment in CEQA.
3 Yes, sir?
4 UNIDENTIFIED SPEAKER: Yeah. I had a question
5 about water quality run-off. Is the EIR going to
6 address that issue, even though it may not have been
7 addressed previously -- into MPA's or into areas that
8 are not MPA's?
9 JEFF THOMAS: Yes, it will. And what we did again
10 in the Central Coast EIR is that we identified -- we
11 had a water quality section. And it spoke to what the
12 known point sources were for pollution within that
13 region. And it identified -- you know, it spoke --
14 because the MPA's themselves, they could be impacted by
15 pollution but not necessarily creating it. But we
16 identified that and spoke to that. And we spoke to
17 what was currently going on in the Central Coast region
18 to address those concerns and whether or not the
19 project would be impacted by it or would result in an
20 impact itself to water quality. And I think somebody
21 mentioned -- I think Allan had mentioned something
22 about accidents, vessel safety. That came into play as
23 well. We spoke to that in the document.
24 UNIDENTIFIED SPEAKER: I was thinking about more
25 like runoff from the Gualala River, the Garcia River

1 from the wineries or the grape vineyards up river, or
2 even in the septic systems of the houses along the
3 coast.
4 JEFF THOMAS: Yeah, we will cover that. Maybe not
5 in enough detail to cover every single potential point
6 source, but we'll be looking at both -- looking at the
7 regional data that's available and what those potential
8 sources are and speak to them in some sense and what
9 the impact might be.
10 UNIDENTIFIED SPEAKER: To me, that's a bigger
11 problem than commercial and recreational fishing put
12 together.
13 CRAIG BELL: I was unaware that the water quality
14 runoff impacts were being considered. I will make you
15 aware that an argument for not increasing the
16 restrictions off Point Arena, one argument would be
17 that the Garcia River is currently -- it's the first
18 river in the state to have an approved Section 303D
19 Clean Water Act, water quality attainment strategy,
20 with timelines, enforceable standards and enforceable
21 measurable objectives. And it will instill strict
22 controls of any river in California.
23 JEFF THOMAS: Yes, sir?
24 UNIDENTIFIED SPEAKER: Yes, the question
25 was -- the question has to do with the programs that

1 you have that knocks off the abalone fishing from the
2 lighthouse on down to the end of the area that is
3 currently designated in the preferred group.
4 And when those areas are fenced off, we are
5 going to end up with a large number of the current
6 abalone people that come from down in the Bay Area. To
7 give you an example, I've gone out there on low tides
8 just to see what's going on. And I've counted upwards
9 of 200 cars just in the small strip out by the
10 lighthouse.
11 And even with that area, now, where people can
12 go, and considering the Arena Cove and what is called
13 Moat Creek, that's where most of the abalone pickers
14 go. And there's a great number of them in the low tide
15 that come in from the Bay Area.
16 And if the area up by the lighthouse is turned
17 off, which it will be with the preferred approach,
18 those people are going to end up scattered elsewhere,
19 which will be either at Moat Creek, which is -- now
20 probably there's a couple hundred cars down there. And
21 also at the Arena Cove.
22 And the area that I have a lot of concern with
23 is, the way it is now on the low tide, there are
24 poachers all up and down the road, sneaking in through
25 "no trespassing" signs. All -- and there's numerous

1 people go out there and patrol through your areas there
2 to keep the poachers from going in.
3 And we're just going to have, god knows how
4 many more that used to have to go in up by the
5 lighthouse area. They'll be scattered up and down the
6 coast. And I know that the sheriff's -- they give
7 citations for people that are poachers. But you
8 can't -- it's like a needle in a haystack. There's so
9 many of them, you can't do anything.
10 I don't know whether any of this has any
11 effect on your environmental study or not, but it is a
12 situation that I think we're going to have to put up
13 with when that area from the Stornetta land up by the
14 lighthouse is turned off.
15 JEFF THOMAS: Thank you.
16 I will just mention that we will talk about
17 public safety and enforcement in the document and the
18 shifts on the need for those resources.
19 Anybody else?
20 UNIDENTIFIED SPEAKER: Would there be some kind of
21 data that would be useful to you in determining
22 enforcement recommendations? Or do you have that
23 available?
24 JEFF THOMAS: Yeah. I'm not even sure what I have
25 at hand yet. I don't know. You know, we normally will

1 go through the effort of contacting -- well, both the
2 Department and harbor masters and little entities that
3 are managing the public resources.
4 I'd say what might be the challenge is whether
5 or not those agencies are going to be able to give us
6 good data on what happens in and around private
7 property if they're not regularly out there managing
8 that. So I would say if you know something along those
9 lines, that might be useful.
10 PHILIP SANDERS: Where can I view the document
11 that you did for the Central Coast? Is that like a
12 giant pdf file? I don't think it's on the MLPA Web
13 site.
14 JEFF THOMAS: It should be. If you go to the home
15 page for the MLPA, on the left side of the screen near
16 the bottom it should say "Central Coast Region." And
17 then, when you click on that, then there should be a
18 link. I don't know exactly where on the page, but
19 there should a link for the environmental review. I
20 don't think we've --
21 UNIDENTIFIED SPEAKER: I'll actually double-check
22 when I go back to the office on Friday. We've been
23 revamping the Web site. So if for some reason it got
24 taken off, I'll make sure to have the Web master post
25 it. It should be on there.

1 JEFF THOMAS: I haven't myself looked in a month
2 but about a month ago, I thought I saw it on there.
3 UNIDENTIFIED SPEAKER: It should be moved to a
4 "popular resources" box and also available through the
5 Central Coast link.
6 PETER BOGDAHN: What form is it? Is it like the
7 whole document that you have to --
8 UNIDENTIFIED SPEAKER: It's the whole document.
9 JEFF THOMAS: It's a pdf, and I think it's one big
10 file. I'm not positive.
11 UNIDENTIFIED SPEAKER: We also have hard copies
12 that we sent out to a lot of local libraries. So you
13 might want to check. And you might be able to get your
14 hands on a hard copy.
15 JEFF THOMAS: Yes, sir?
16 PETER RATCLIFF: Did the Central Coast CEQA have
17 any effect or make/effect any changes in the
18 implementation of the preferred plan for the Central
19 Coast at all, or was it just a document they published
20 and went ahead and took the task force recommendations?
21 JEFF THOMAS: Well, at the end of the day, they
22 did adopt -- well, it wasn't the task force
23 recommendations per se. It was -- the task force
24 recommendation went to the Department. The Department
25 staff created a preferred alternative.

1 And then the Commission started with that, and
2 they actually modified it at the beginning of our
3 process. And what the Commission determined they
4 wanted the project to be, that ultimately got adopted
5 but I believe with some minor tweaks, which those minor
6 tweaks we looked at whether or not our analysis was
7 adequate to cover that change.
8 But I won't say -- I can't say that those
9 minor tweaks -- I don't think had a relationship to our
10 analysis. So....
11 PHILIP SANDERS: Does your CEQA process at any
12 point look at going back and reviewing other projects,
13 like Central Coast or if you've done the South Coast,
14 to look for the unexpected or unintended consequences
15 where -- I know you've derived these -- these items up
16 here, from experience. But when you have comparable or
17 reasonably comparable projects, is that experience
18 required to be mined to see if it's informative to the
19 current project?
20 JEFF THOMAS: A good consultant would do that. I
21 mean, I intend to do that. Well, first of all, this
22 list is from the CEQA checklist. Most of these things
23 have -- you can get these on line as well, the CEQA
24 checklist. And under each of these subjects, there's a
25 series of questions, there maybe one or two or might be

1 more than that, where you consider the types of
2 effects.
3 It's another -- again, we're getting rolling
4 now, so it's a question that we're going to ask the
5 Department in terms of what are the lessons learned.
6 They went through that process, I know, on the design
7 side with the SAT and looking at how they did their
8 stakeholder involvement on the Central Coast and making
9 all that work better.
10 And my understanding is the belief is that the
11 North Central Coast regional process was probably -- I
12 don't want to say a better process but probably a more
13 informed process for everybody because they'd gone
14 through it once already.
15 In terms of environmental effects and those
16 changes, it might still be too early to tell. It
17 hasn't been that long since that's been adopted. But
18 we'll definitely pursue that. I mean, I'm curious, for
19 instance, to find out in terms of, like, enforcements,
20 where are things going on the Central Coast.
21 PHILIP SANDERS: The gentleman brings up an
22 interesting point because all through this process,
23 they've said that these MPA's are supposed to come up
24 for review every five years. But the MPA's at the
25 Channel Islands are more than five years old. And to

1 the best of my knowledge, they have never been
2 reviewed.
3 UNIDENTIFIED SPEAKER: They actually just had a
4 big review process. And that stuff is actually also
5 posted on our Web site. You can find it through --
6 PHILIP SANDERS: How much monitoring was done?
7 UNIDENTIFIED SPEAKER: Quite a bit, actually. And
8 there's a lot of information posted. And there's
9 abstracts that -- they're going to try to post a little
10 bit more on there. If you want, I can give you my
11 number, and you can give me a call, and I can help get
12 you that information. But it went through a big formal
13 review.
14 PHILIP JACOBS: There was a full formal review?
15 Internally or was it a public?
16 UNIDENTIFIED SPEAKER: It was a partnership, so
17 there was Department monitoring, and there was also
18 outside monitoring.
19 PHILIP SANDERS: I know there's some monitoring
20 going on. I just wondered about the review. Are you
21 determining transects and whatnot that are part of --
22 UNIDENTIFIED SPEAKER: As far as I know. I don't
23 know all of the work that was going on, but I do know
24 that they were doing underwater surveys with the ROB
25 project. And I also recently had a conversation with a

1 Department biologists who was looking alt lobsters in
2 the area. So that's kind of what he focused on.
3 PHILIP SANDERS: So the kelp forest monitoring
4 project?
5 UNIDENTIFIED SPEAKER: And he said he dives on a
6 regular basis, and what he was finding was the trend
7 that they were larger. And so I think he reported on
8 the trends that he saw.
9 I can't speak to it because I didn't hear the
10 full report. And I want you to have 100 percent
11 accurate information.
12 PHILIP SANDERS: I'll check it out for sure.
13 JEFF THOMAS: Okay. Covered a lot.
14 Thank you for coming tonight.
15 Oh, one more question?
16 C.E. BROWN: Well, I'd like to make a couple of
17 points. One is a general, and one's more specific.
18 My name is C.E. Brown. And I live at the Sea
19 Ranch, which is a ten-mile length of the coast south of
20 Point Arena, south of Gualala. But we depend on the
21 kindness of our neighbors to provide services like
22 grocery stores and gas stations and hotels, livelihood,
23 and labor force.
24 And so I have a concern for the general
25 region, Subregion 1. In that the little towns that dot

1 the coast are fragile economies, even during the best
2 of times. And they depend heavily on recreational use
3 of the coast and on fishing.
4 And we've already noticed the drop-off due to
5 the increase in gas prices, the drop-off of tourism out
6 to the coast. One can anticipate that that will --
7 that effect will become more pronounced. But when you
8 also reduce the abalone diving access, then you have a
9 really compounded problem.
10 Our area is unique with the red abalone. And
11 it's being very well managed now by Fish & Game. We're
12 told that there is -- the abalone -- the red abalone is
13 not endangered, it's not even threatened. It's at
14 sustainable population levels, being well managed.
15 And yet, 36 percent of the abalone habitat
16 will be closed with the preferred alternative. And
17 that means that one can anticipate divers may come less
18 because it's going to become more of a hassle to get
19 good abalone. And there are restrictions on the take
20 and so on.
21 So people will to other things rather than
22 take that long drive out to the coast, which is not an
23 easy one, and pay all that money for gas. That can
24 really depress the economies here. And if the economy
25 gets so depressed that the little businesses have to

close up, the area could become a depressed area. I'm concerned about that because I live in Sea Ranch, and we depend on those businesses.

So that's the general comment, that such a large closure of the abalone habitat is really not warranted. We're -- Subregion 1 is bearing a lot of the burden, 36 percent.

Those of us who support Proposal 2XA would really like to see the least restrictive measures not the most restrictive measures, which is the 36 percent of the preferred alternative, but the least restrictive.

If you have to have -- I'd like to give you a comment. There may be no project at all. But if you have to have a project, let it be the least restrictive to the abalone habitat so that our tourism and other fishing resources can continue to try to make a living for the populous here.

My second comment is a more specific one and, that has to do just with the Sea Ranch. I live there. I've been an owner of the Sea Ranch, little tiny part of the Sea Ranch for 20 years. And we have a unique situation that I think is often not understood by people in positions like yours.

And that is that we are private land, but we

1 have public access coming across that private land. So
2 we're not like the harbor Point Arena. We're not like
3 Bodega Bay. We're not like Salt Point. That is all
4 public, and we're not like individually owned land
5 masses that are all private. We're both, in a sense.
6 Our public access is imposed by legislation so
7 that people can enjoy our ten miles of coastline.
8 Something happens. We grow really good
9 abalone at Sea Ranch. And people know that. So they
10 want to come to Sea Ranch for the abalone. But when
11 they do, the public is not always beautifully well
12 behaved. And they sometimes don't behave so well on
13 the Sea Ranch.
14 It's compounded by the fact that our
15 environment is a very naturalized one, so we don't have
16 fences along lot lines and things like that, so it's
17 hard to tell where the private lots end and the public
18 access and the commons begins. So people wander onto
19 private lands. They wander onto people's decks. They
20 trespass. They commit problems.
21 And who takes care of those problems? It's
22 not the State. And it's -- you know, we have very few
23 law enforcement people to patrol this long coast.
24 That's been a problem historically, since forever.
25 What we have is our security department. And

we, the members, pay for that out of our dues. So when you impose a burden on us, sending more of the public to us to get our abalone, it's likely that one would anticipate as a member, as I am, that our dues may increase because our security might have to increase to take care of the trespass problems that are created by the public.

So here's the wrinkle. The preferred alternative closes a portion of Salt Point access. That's south of us. It also closes private lands that are south of us. It leaves Sea Ranch wide open for abalone, with the exception of our tiny Del Mar Landing heritage site. But the rest of Sea Ranch is wide open.

The funnel effect that's been talked about around Point Arena is going to be -- one could anticipate at least that it could really funnel people to the Sea Ranch, when they know we've got the good abalone; we've got the public access, signs on the highway saying so.

It's going to bring more of those people who are disappointed that they can't do Salt Point. And they're going to come to Sea Ranch. They're going to increase my dues, is what I'm afraid of.

I don't want that. There are a lot of people at Sea Ranch who are very environmentally oriented.

1 That's why we came, for the beauty of the environment.
2 And many of those environmentalists -- some of them are
3 also ab divers and of course want access to the abalone
4 off their own lands.
5 But others would really like the environment
6 protected in its pristine state, the underwater
7 environment, and would enjoy very much being good
8 stewards of the underwater environment so that it might
9 even in the future produce an ecotourism, et cetera.
10 I would like to see Sea Ranch have some open
11 access to abalone and for the public because we have
12 that legal obligation but to also have some closed area
13 so that we're not wide open to take the funneling of
14 people from south of us, and north of us.
15 PHILIP JACOBS: But ma'am, this is the CEQA
16 document. You're talking about something that's
17 already been done. There is no more design process.
18 C.E. BROWN: I understand. But the reason I'm
19 telling these gentlemen is that there is an impact on
20 the culture at Sea Ranch and on the coast. And it's a
21 socioeconomic impact. I realize that.
22 But there's also a biological impact. If Sea
23 Ranch is wide open, the abalone habitat -- or if it's
24 closed, it's partially closed, that makes a big
25 difference in what's happening underwater to the

1 biology.

2 JEFF THOMAS: Thank you.

3 UNIDENTIFIED SPEAKER: Sea Ranch is kind of

4 unique. She's right. And a lot of things she says are

5 very good points.

6 I think one problem with the Sea Ranch area is

7 that if you were, for example, to close half of Sea

8 Ranch, the south half of Sea Ranch, all those folks

9 that dive there would go to the north half. They'd put

10 an increasing amount of pressure on that section of Sea

11 Ranch.

12 If you were to close the whole Sea Ranch, what

13 would happen was you'd be really affecting the

14 economies Gualala and Point Arena, some of the small,

15 like she says, fragile economies.

16 So it's kind of a no-win situation there. But

17 I don't know how much importance you folks put on the

18 economic value of your closures. But to close Sea

19 Ranch or any portion of Sea Ranch would eliminate a lot

20 of people from coming to this area that shop in Gualala

21 and contribute to the economy of that town.

22 And Gualala and Sea Ranch, quite honestly,

23 have a very close relationship both ways. Sea Ranch

24 benefits from Gualala; Gualala benefits from Sea Ranch.

25 I think either one of them could have serious problems

1 if the other didn't exist and didn't contribute.
2 And I think that's been the case for years. And that
3 would be a concern I think you would want to look into,
4 is the economic impact of closing Sea Ranch.
5 JEFF THOMAS: Thank you.
6 PETER BOGDAHN: I have one more question here. In
7 your handout in the scoping process, it is says
8 "Reasonable alternatives to be considered." What do
9 you mean by that?
10 JEFF THOMAS: As you know, we have the three
11 alternatives that are on the boards in the back. There
12 is the possibility of having other alternatives, so
13 it -- I don't think the likelihood is strong.
14 But normally in a CEQA process, when you look
15 at a project and its potential effects, if you have
16 significant environmental effects, you also need to
17 consider alternatives to that.
18 So as we do our work, we may come up with
19 alternatives to the project. And like I say, I say
20 it's unlikely because I know this didn't happen in the
21 Central Coast. I'd be a little surprised if it
22 happened in this case. But what's more likely to
23 happen is that we would identify mitigation measures if
24 we felt that -- we don't really influence the design,
25 but if we feel that a portion of a project by subregion

1 potentially would have a significant effect of some
2 sort, be it on biology or recreation or whatever, our
3 mitigation measure might identify, you know, a shift in
4 that design for the Commission to consider.
5 If we saw, you know, a large number of
6 significant effects, we might suggest an alternative,
7 if we could come up with one. I don't think we
8 actually would come up with something much different
9 than what you guys are looking at.
10 But that's what that means, kind of standard
11 language. The CEQA process requires us to consider
12 that. So, you know, we'll look at -- you can see this
13 in the Central Coast document. We'll -- in the
14 "Alternatives" chapter, it speaks to the no-project
15 alternative, it speaks to some alternatives that were
16 dismissed because some people suggested, "Well, isn't
17 it enough just to rely on other regulations that are
18 out there protecting species? Why do we need MPA's?"
19 So we speak to those types of alternatives
20 that come up. At the end of the day, the alternatives
21 that can be considered need to be aligned with the
22 goals, objectives of the MLPA initiative. And those
23 are the ones we need to consider. So I hope that
24 answers as your question.
25 JOHN FOX: John Fox, the Sea Ranch.

1 I'm wonder if, when you look at the
2 enforcement consequences for the CEQA analysis, if you
3 bear in mind that county governments are hard strapped
4 for resources and we fear -- I fear that the sheriff's
5 department in Sonoma County -- and it's probably the
6 same in Mendocino County as well -- are going to have
7 difficulty providing sheriff's coverage to support this
8 effort.
9 And I think this could become a serious
10 problem. And it might be well for you to talk with the
11 sheriff's department in both counties to determine what
12 their longer range plans are for staffing.
13 JEFF THOMAS: Thank you. Yeah, we definitely with
14 will. Is that it?
15 One last one.
16 UNIDENTIFIED SPEAKER: Yeah. I thought the Sea
17 Ranch patrolled its own grounds. I don't know what the
18 sheriff's department have to do with Sea Ranch. This
19 lady just said Sea Ranch patrolled all their own
20 property.
21 JOHN FOX: Sheriff's department enforces
22 trespassing issues.
23 UNIDENTIFIED SPEAKER: I see. So Sea Ranch
24 doesn't do that?
25 JOHN FOX: We -- the Sea Ranch patrols. It has a

1 private patrol, yes. But we have no law enforcement
2 powers. That's the sheriff's department.
3 UNIDENTIFIED SPEAKER: We identify, and the
4 sheriff or highway patrol or whoever responds, takes
5 appropriate -- arrest, confiscation, whatever action's
6 needed.
7 UNIDENTIFIED SPEAKER: I don't know why would the
8 dues would go up if the sheriff's department is the one
9 taking care of the problem?
10 C.E. BROWN: I'm saying it's a possibility that,
11 if we had more trespass, if we had more vandalism
12 because of visits, that we may feel the need to
13 increase our security patrols that we pay for. They're
14 the ones who alert the sheriff that there's a problem,
15 you know, the boots on the ground.
16 JEFF THOMAS: If it's okay with you guys, I think
17 we'll officially close the CEQA meeting.
18 Thank you.
19 (Whereupon, the proceedings concluded
20 at 8:09 p.m.)
21
22
23
24
25

STATE OF CALIFORNIA)
) ss.
COUNTY OF MARIN)

I, DEBORAH FUQUA, a Certified Shorthand Reporter of the State of California, duly authorized to administer oaths pursuant to Section 8211 of the California Code of Civil Procedure, do hereby certify that the foregoing proceedings were reported by me, a disinterested person, and thereafter transcribed under my direction into typewriting and is a true and correct transcription of said proceedings.

I further certify that I am not of counsel or attorney for either or any of the parties in the foregoing proceedings and caption named, nor in any way interested in the outcome of the cause named in said caption.

Dated the 17th day of July, 2008.

DEBORAH FUQUA
CSR NO. 12948

APPENDIX G

Written Comments

United States Department of the Interior

NATIONAL PARK SERVICE
Point Reyes National Seashore
Point Reyes, California 94956

IN REPLY REFER TO:

July 8, 2008

MLPA North Central Coast CEQA Scoping Comments
c/o California Department of Fish and Game
20 Lower Ragsdale Drive, Suite 100
Monterey, CA 93940
MLPAComments@dfg.ca.gov

Re: MLPA CEQA Scoping Comments for North Central Coast MPAs Project

Dear California Department of Fish and Game:

On behalf of Point Reyes National Seashore (PRNS), the National Park Service (NPS), and our 2.2 million annual visitors, we wish to commend the Department and their staff for developing a network of marine protected areas (MPAs) in California, and more specifically in the North Central Coast (NCC) phase of the Marine Life Protection Act (MLPA). We believe that this process will help preserve the marine resources and exceptional biodiversity of the state, and, thereby, benefit the public both in California and nationally.

PRNS will specifically benefit from the NCC network of parks and welcomes the opportunity to contribute to the unfolding of this program. PRNS can dedicate resources in many ways to implement the program, including reference data, monitoring, law enforcement, and education.

More specifically, we offer the following comments on the environmental impact report (EIR) of the proposed project:

1. What are the impacts to the whole MPA network by not including the large MPAs at Double Point and Duxbury Reef, i.e., Double Point State Marine Conservation Area (SMCA) as proposed in Proposal 1-3 and the paired Double Point SMCA and Duxbury SMCA as proposed in Proposal 4? Specifically, we request that the EIR address the implications of the Integrated Preferred Alternative (IPA) leaving out those MPAs which are 9 mi^2 from the whole network. Please address in the impact analysis how an SMCA at Double Point and Duxbury Reef would affect the local reef, associated species, and biodiversity in the region?

2. In the NCC phase of the MLPA project, a large portion of the study region borders federal lands owned by the NPS (PRNS and Golden Gate National Recreation Area). NPS has jurisdiction in waters a quarter mile (¼ mi) offshore of PRNS, and the State of California ceded the tidelands ¼ mi offshore to NPS at the establishment of PRNS. NPS has leased the tidelands adjacent to Golden Gate National Recreation Area from the State and has retained jurisdiction in the waters ¼ mi from shore.

    a. Since the MLPA proposals overlap with NPS managed waters as well as National Marine Sanctuary (NMS) boundaries, is National Environmental Policy Act (NEPA) compliance

necessary? The analysis document should address the management of these submerged lands by the NPS and how they would be affected by these MLPA proposals.

3. A portion of the ¼ boundary waters of PRNS falls within the Phillip Burton Wilderness, established in 1976. How will the proposed MPA networks positively or negatively impact the Congressional wilderness designation in these waters offshore of NPS lands?

Thank you for your consideration of these comments.

Sincerely,

--signed hardcopy on file--

Don L. Neubacher
Superintendent

STATE OF CALIFORNIA Arnold Schwarzenegger, *Governor*

NATIVE AMERICAN HERITAGE COMMISSION
915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-4082
(916) 657-5390 - Fax

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FISH AND GAME
COMMISSION
2008 JUN 17 PM 1:52

June 13, 2008

John Ugoretz
Fish and Game Commission
1416 Ninth Street
Sacramento, CA 95814

RE: SCH#2008062028 Marine Protected Areas in the North Central California Coast Region; San Mateo, San Francisco, Marin, Sonoma and Mendocino Counties.

Dear Mr. Ugoretz:

The Native American Heritage Commission (NAHC) has reviewed the Notice of Preparation (NOP) referenced above. The California Environmental Quality Act (CEQA) states that any project that causes a substantial adverse change in the significance of an historical resource, which includes archeological resources, is a significant effect requiring the preparation of an EIR (CEQA Guidelines 15064(b)). To comply with this provision the lead agency is required to assess whether the project will have an adverse impact on historical resources within the area of project effect (APE), and if so to mitigate that effect. To adequately assess and mitigate project-related impacts to archaeological resources, the NAHC recommends the following actions:

- ✓ Contact the appropriate regional archaeological Information Center for a record search. The record search will determine:
  - If a part or all of the area of project effect (APE) has been previously surveyed for cultural resources.
  - If any known cultural resources have already been recorded on or adjacent to the APE.
  - If the probability is low, moderate, or high that cultural resources are located in the APE.
  - If a survey is required to determine whether previously unrecorded cultural resources are present.
- ✓ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - The final report containing site forms, site significance, and mitigation measurers should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for pubic disclosure.
  - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological Information Center.
- ✓ Contact the Native American Heritage Commission for:
  - A Sacred Lands File Check. **USGS 7.5 minute quadrangle name, township, range and section required.**
  - A list of appropriate Native American contacts for consultation concerning the project site and to assist in the mitigation measures. **Native American Contacts List attached.**
- ✓ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
  - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5(f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
  - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
  - Lead agencies should include provisions for discovery of Native American human remains in their mitigation plan. Health and Safety Code §7050.5, CEQA §15064.5(e), and Public Resources Code §5097.98 mandates the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

Sincerely,

Katy Sanchez

Katy Sanchez
Program Analyst

CC: State Clearinghouse

Native American Contacts
San Mateo, San Francisco, Marin, Sonoma and Mendocino Counties
June 13, 2008

The Federated Indians of Graton Rancheria
Gene Buvelot
6400 Redwood Drive, Ste 300
Rohnert Park , CA 94928
coastmiwok@aol.com
(415) 883-9215 Home

Coast Miwok
Southern Pomo

Ya-Ka-Ama
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Forestville , CA 95436
(707) 887-1541

Pomo
Coast Miwok
Wappo

Manchester-Point Arena Rancheria
Nelson Pinola, Chairperson
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Point Arena , CA 95468
(707) 882-2788
(707) 882-3417 Fax

Pomo

The Federated Indians of Graton Rancheria
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707-566-2288
707-566-2291 - fax

Coast Miwok
Southern Pomo

Round Valley Reservation/Covelo Indian Community
Eugene Jamison, Jr., President
P.O. Box 448
Covelo , CA 95428
(707) 983-6126
(707) 983-6128 - Fax

Yuki ; Nomlaki
Pit River
Pomo
Concow
Wailaki; Wintun

Noyo River Indian Community
Harriet L. Stanley-Rhoades
P.O. Box 91
Fort Bragg , CA 95437
noyojetty1@earthlink.net
(707) 964-2647

North Coastal Pomo

Stewarts Point Rancheria
Eric Wilder, Chairperson
3535 Industrial Dr., Suite B2
Santa Rosa , CA 95403
tribalofc@stewartspointrancher
(707) 591-0580 - Voice
(707) 591-0583 - Fax

Pomo

Kathleen Smith
1778 Sunnyvale Avenue
Walnut Creek , CA 94596
(925) 938-6323

Pomo
Coast Miwok

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the propose SCH# 2008062028 Marine Protected Areas in the North Central California Coast Region; San Mateo, San Francisco, Marin Sonoma and Mendocino Counties.

Native American Contacts
San Mateo, San Francisco, Marin, Sonoma and Mendocino Counties
June 13, 2008

Dawn S. Getchell
P.O. Box 53 Coast Miwok
Jenner , CA 95450 Pomo
(707) 865-2248

Stewarts Point Rancheria THPO
Reno Franklin, Tribal Historic Perservation Officer
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reno@stewartspointrancheria.
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(707) 591-0583 FAX

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(707) 591-0583 FAX

The Federated Indians of Graton Rancheria
Frank Ross
440 Apt. N Alameda del Prado Coast Miwok
Novato , CA 94949 Southern Pomo
miwokone@yahoo.com
(415) 269-6075

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for the propose SCH# 2008062028 Marine Protected Areas in the North Central California Coast Region; San Mateo, San Francisco, Marin Sonoma and Mendocino Counties.

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STATE OF CALIFORNIA Arnold Schwarzenegger, *Governor*

CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

2008 JUL -9 PM 2:

PAUL D. THAYER, *Executive Officer*
(916) 574-1800 FAX (916) 574-1810
California Relay Service From TDD Phone **1-800-735-2922**
from Voice Phone **1-800-735-2929**

Contact Phone: **(916) 574-**
Contact FAX: **(916) 574-1885**

DATE: 7/9/08

TELECOPIER MESSAGE

PLEASE DELIVER

ASAP TO: John Ugoretz &
Becky Ota

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FROM: _____

_____ **Phone:** _____

NUMBER OF PAGES (INCLUDING COVER): 4

ORIGINAL: ☑ Will Follow ☐ Will Not Follow **By:** [illegible]

MESSAGE: Please find attached our comments to the NOP of the Draft EIR for the Marine Protected areas in North Central Calif. Coast Region
SCH 2008062028

CONFIDENTIAL COMMUNICATION

This facsimile transmission communication (FAX) from the Staff of the California State Lands Commission is intended for use only by the individual or entity named as the recipient hereof and may contain information which is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you have received this transmission in error and are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this transmission in error, please notify this office by telephone immediately at (916) 574-1900 and return the original message to us at the above address via the U.S. Postal Service. Thank you for your cooperation.

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, *Governor*

CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

PAUL D. THAYER, *Executive Officer*
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California Relay Service From TDD Phone **1-800-735-2922**
from Voice Phone **1-800-735-2929**

Contact Phone: **(916) 574-1814**
Contact FAX: **(916) 574-1885**

July 9, 2008

File Ref: SCH 2008062028

MLPA North Central Coast CEQA
Scoping Comments
c/o John Ugoretz
California Department of Fish and Game
1416 Ninth Street
Sacramento, CA 95814

Dear Mr. Ugoretz:

Subject: Notice of Preparation (NOP) of the Draft Environmental Impact Report (DEIR) for the Marine Protected Areas in North Central California Coast Region, SCH 2008062028

Staff of the California State Lands Commission (CLSC) has reviewed the subject NOP. Under the California Environmental Quality Act (CEQA), the Fish and Game Commission is the Lead Agency and the CSLC is a Responsible and/or Trustee agency for any and all projects that could directly or indirectly affect sovereign lands, their accompanying Public Trust resources or uses, and the public easement in navigable waters.

As general background, the CSLC has jurisdiction and authority over all ungranted tidelands, submerged lands, and the beds of navigable rivers, sloughs, lakes, etc. The CSLC has an oversight responsibility for tide and submerged lands legislatively granted in trust to local jurisdictions (Public Resources Code Section 6301). All tide and submerged lands, granted or ungranted, as well as navigable rivers, sloughs, etc., are subject to the Public Trust.

The Public Trust is a sovereign public property right held by the State or its delegated trustee for the benefit of all the people. This right limits the uses of these lands to waterborne commerce, navigation, fisheries, open space, recreation, or other recognized Public Trust purposes. A lease from the CSLC is required for any portion of a project extending onto state-owned sovereign lands, which are under its exclusive jurisdiction.

The NOP indicates that the Fish and Game Commission intends to prepare a DEIR to review the north central California coast component of a statewide network of marine protected areas (MPAs), as required by the Marine Life Protect Act (MPLA), and other marine managed areas and Special Closures determined appropriate to help fulfill the MPLA. Specifically, this review area includes State waters between Alder Creek, near Point Arena in Mendocino County, and Pigeon Point in San Mateo County.

The CSLC has issued a number of General Leases – Public Agency Use to the Department of Fish and Game for artificial reefs, ecological reserves and protected wildlife areas along the California coast. If the Fish and Game Commission anticipates the need for additional projects extending onto state-owned sovereign lands, a lease from the CSLC will be required.

Based on a review of the NOP, the CSLC has the following comments regarding the preparation of the DEIR:

1. The DEIR should take into account any impacts on marine navigation and transportation.

2. The DEIR should consider the potential for the new MPAs to exacerbate or accelerate the introduction or spreading of existing nonindigenous species within the MPAs. Pathways for such an unintended consequence would include increased recreational traffic to these protected areas (e.g., for purposes of diving), and changes in community dynamics that would favor nonindigenous species (such as through restricting take of certain species).

3. The DEIR should consider the effects of reduced take or no take areas on biodiversity and the ability of the potentially more diverse communities to better guard against invasion by nonindigenous species (See Stachowicz et al. 2002. Ecology 83(9): 2575-2590 and Stachowicz & Byrnes 2006. Marine Ecology Progress Series 311: 251-262).

4. The DEIR should consider the potential for the new MPAs to concentrate impacts from fishing and from the spreading of nonindigenous species on areas adjacent to MPAs. For example, should the north side of Point Arena become protected as a MPA, then fishing vessels may visit the south side of Point Arena more frequently than prior to the establishment of MPAs, and this increased impact may not only impact the fisheries, but may also increase the frequency of nonindigenous species introductions, establishment, populations increase.

Thank you for the opportunity to review and make comments on the above-mentioned document. If you have any questions regarding sovereign lands subject to the CSLC's jurisdiction, please contact Susan Young, Public Land Management Specialist at (916) 574-1879 or by e-mail at youngs@slc.ca.gov. If you have any question regarding the environmental review comments, please contact Gary Gregory at (916) 574-6312 or by e-mail at gregorg@slc.ca.gov.

Sincerely,

Gail Newton, Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
State Clearinghouse

Susan Young, CSLC
Gary Gregory, CSLC

July 10, 2008

MLPA North Central Coast CEQA Scoping Comments
California Department of Fish and Game
Marine Region
20 Lower Ragsdale Drive, Suite 100
Monterey, CA 93940

RE: Comments on the Marine Protection Areas EIR Scope

The Sonoma County Water Agency (Agency) herein is providing comments related to the Notice of Preparation of an Environmental Impact Report for the Marine Protected Areas in the North Central California Region pursuant to the Marine Life Protection Act (MLPA). In general, we support the Act and proposed regulations along California's coastline. Our comments focus on marine protections proposed in Sonoma County, especially the Russian River. The North Central Coast Study Region Integrated Preferred Alternative designates the coastal area at the Russian River mouth as a proposed State Marine Conservation Area and the Russian River Estuary upstream to the Highway 1 Bridge a proposed State Marine Reserve. Below are our comments:

- The Agency supports the protection of the Russian River coastal area, as well as other protected areas along the Sonoma Coast. The Agency has conducted extensive fish and marine life studies in the Russian River Estuary. Listed species such as steelhead, Chinook salmon, and coho salmon utilize the Estuary for rearing and/or migration during their anadromous lifecycle. A total of 63 fish species have been documented in the Estuary from marine, estuarine, and freshwater origins. Dungeness crabs forage and rear in the Estuary, and are an important harvest species for the region. For more information on our Estuary studies and to download technical reports please see our website at http://www.scwa.ca.gov/environment/natural_resources/.

- Although the Agency supports the MLPA protections of the Russian River, we are concerned about restrictions to ongoing management actions and an added level of regulation associated with the proposed protections. The Agency currently maintains tidal circulation in the Russian River by mechanically breaching the sandbar at the river mouth. At the request of the National Marine Fisheries Service, the Agency is evaluating the merits of a closed-sandbar lagoon system to improve rearing habitat for steelhead during the summer months. Over the next 10 years the Agency will be conducting extensive biological and physical studies of the Estuary. These activities may include experimental and alternative mechanical breaching techniques or other sandbar modifications. The Agency has permits/agreements to breach the sandbar from the U. S. Army Corps of Engineers, National Marine Fisheries Service, California Department of Fish and Game, California Coastal Commission, North Coast Regional Water Quality Control Board, California Department of Parks and Recreation, and State Lands

Commission. We believe that the current level of state and federal regulatory oversight is sufficient to protect Russian River resources.

- The Agency is concerned that marine protections may restrict the development of hydrokinetic (wave) energy generation facilities along the Sonoma Coast. A hydrokinetic facility may consist of buoy-like generators anchored off the coast with power lines running to the shore to deliver electricity. The Agency is conducting feasibility studies and considering a 2-5 megawatt pilot study within three miles of the Sonoma Coast. This renewable and non-polluting "green" energy could produce at full implementation between 50 and 100 megawatts of electricity. We request the consideration of allowing hydrokinetic devices within Marine Protected Areas with proper study and mitigation.

Thank you for the opportunity to comment. If you have any questions, I can be contacted at (707) 547-1944 or dcook@scwa.ca.gov.

Sincerely,

David Cook
Senior Environmental Specialist (Wildlife)

\\fileserver\data\ERPAD\NRS\Compliance Projects\FlowAlternatives\Biological Field Studies\Estuary Fisheries\SCWA MLPA response 10Jul08

NATURAL RESOURCES DEFENSE COUNCIL

July 7, 2008

MLPA North Central Coast CEQA Scoping Comments
California Department of Fish and Game
20 Lower Ragsdale Drive, Suite 100
Monterey, CA 93940

Via email: MLPAComments@dfg.ca.gov

RE: CEQA Scoping Comments for MLPA North Central Coast MPA Project

Dear DFG:

The Natural Resources Defense Council submits these scoping comments for the environmental review of the Marine Life Protection Act (MLPA) north central coast region marine protected area (MPA) project. NRDC has over a million members and activists, and a long standing interest in ensuring healthy coasts and oceans. We respectfully ask you to address the following issues in the environmental review documents for this project.

The CEQA review should take into account ecological trends that occurred in the north central region in the absence of significant protected areas. For example, over 3 decades of data document the steep decline in landings of numerous species at Moss Beach and Fitzgerald Marine Park. Over the past 14 years (1992 to 2006), with only a tiny portion of the coast in marine reserves, fish landings declined from 30 million pounds to 10 million pounds.[1] A study of Sea Lion Cove near Point Arena shows a 79% drop in abalone populations in the first three and a half years of being open to the public. Another recent study documents a 45% decline in the average size of a wide variety of fish species along the Pacific coast over the past 21 years.[2] These declines reflect reductions in fish size and populations due in large part to fishing. This contextual information helps underscore the vulnerability of these resources to human impact and the need for protected areas.

The review should identify overfished species in the region, such as yellow eye rockfish—found in great abundance in the 1970s at places like Arena Rock—and cases of local depletion (adult black, blue and canary rockfish largely missing at Duxbury Reef; a variety of species at Fitzgerald). It should discuss locally rare or significant habitats such as high relief or complex rocky habitat of various depths, pinnacles, shale versus granitic reefs, and bull kelp beds (Nereocystis lutkeana).

The review should discuss the science of marine reserves and MPA network design, including their potential benefits in terms of maintaining a more natural size range of depleted species; increasing productivity, species diversity and biomass relative to fished areas; protecting

[1] Regional Profile of the North Central Coast Study Region, Alder Creek/Point Arena to Pigeon Point, California, pp xvii, 78, 86
[2] Levin, Phillip et al, Shifts in a Pacific Ocean Fish Assemblage: the Potential Influence of Exploitation, Conservation Biology, 2006.

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San Francisco, CA 94104
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habitats and natural heritage; and providing insurance in the face of uncertainty. It should clarify the difference between MPAs (presumption of long-term) and fishery closures (may change annually or seasonally with changes in catch or status of a stock).

The CEQA review should identify Proposal 4 as the environmentally preferred option, since it does the best job of all the proposals at meeting the MLPA guidelines in virtually every category of the Science Advisory Team (SAT) evaluation. Proposal 4 is also the only network anchored by four preferred-size sites at the high and very high protection levels, a number comparable to that in the Central Coast. Such areas are key to protecting the full array of species likely to benefit from MPAs. Proposal 4 also has more representative habitat (significantly more kelp and deep rocky reef as other proposals, more shallow rock, deep and shallow soft bottom, estuary, coastal marsh, surfgrass, rocky shore and sandy beach); more replication in high protection areas and state marine reserves (SMRs); and equivalent spacing to other proposals with the exception of one habitat type at moderate high protection. Proposal 4 provides the most insurance value according to the modeling exercises.

The review should compare proposals relative to how much high-quality habitat they incorporate in places likely to produce long-term benefits, such as biodiversity hotspots (Fitzgerald), centers of productivity (Stewart's Point and North of Bodega Head) and sites with high restoration potential (Saunders Reef, Duxbury Reef, Sea Lion Cove). Relative to other proposals, we believe Proposal 4 has as much or more of these high-quality habitats.

The review should identify relevant socio-economic trends as part of the context of why MPAs are valuable (though CEQA does not require socio-economic analysis). The declining trend in the number of commercial fishermen—their numbers dropped from about 2,250 to about 750 over the past 14 years—is also relevant because it suggests that even if the current number of fishermen keeps operating in the smaller area open in an MPA network, the pressure on that area due to displaced effort will be considerably less than the effort that occurred in the recent past with three times as many fishermen. In addition, displacement will be compensated to some extent by an increase in production of fish and other species inside protected areas.

To the extent the review addresses socio-economic issues, it should note that all proposals keep commercial worst-case potential impacts below 10%. It should clearly identify the caveats that make those impacts unlikely to materialize. For example, the Ecotrust impact analysis excludes all consideration of MPA benefits and assumes fishermen will not move to other locations. In addition, predicted worst-case impacts have not occurred in places like the Channel Islands. The review should also acknowledge the extent to which all alternatives minimize impacts by leaving open most of the highly popular fishing locations (around Arena Cove, Sail Rock to Anchor Bay, Salt Point to Fort Ross Reef, Tomales Bluff to west end of Point Reyes, much of Duxbury Reef, Half Moon Bay Reef, etc). Finally, the review should recognize that MPAs may create socio-economic benefits by attracting more wildlife watchers, non-consumptive divers, researchers, educators, students and other visitors to the region, resulting in more tourism expenditures.

The analysis should identify and compare among alternatives the MPAs sited adjacent to land parks and protected areas, and identify the potential resulting benefits, such as more eyes on the water, enhanced enforcement and management resources, education and study potential, and continuity of protection from land to sea with likely water quality benefits in MPAs.

The review of air quality should recognize the likelihood that the high price of fuel, the lack of a salmon season this year (with similar conditions likely in the future) and other factors may

reduce the overall amount of vessel traffic, offsetting any impacts related to fishermen travelling farther to avoid or reach the edge of MPAs. It should also recognize that all proposals left open all or part of the most popular fishing areas near harbors and boat launches.

We appreciate the opportunity to comment.

Sincerely,

Karen Garrison
NRDC
415 875 6100

Jim Martin
West Coast Regional Director
The Recreational Fishing Alliance
P.O. Box 2420
Fort Bragg, CA 95437
(707) 357-3422

NATIONAL OFFICE:
PO Box 3080
New Gretna NJ 08224
(888) 564-6732

Tuesday, July 8, 2008

MLPA North Central Coast Comments
California Department of Fish and Game
20 Lower Ragsdale Drive, Suite 100
Monterey, California 93940

MLPAComments@dfg.ca.gov

RE: North Central Coast MLPA CEQA scoping comments

Dear Department of Fish & Game:

The Recreational Fishing Alliance (RFA) is a national 501(c)(4) non-profit grassroots political action organization whose mission is to safeguard the rights of salt water anglers, protect marine, boat, and tackle industry jobs, and insure the long-term sustainability of our nation's marine fisheries.

We were requested to provide scoping comments for the California Environmental Quality Act requirements on the proposed regulations for marine protected areas in the "North-Central Coast Region" of the Governor's MLPA Initiative.

The "Integrated Preferred Alternative" violates the intent of the California Environmental Quality Act, and all of the alternatives for this project need substantive modification to mitigate against the environmental impact of the project.

We note that the proposed regulations throughout the region have no quantifiable benefits to fish abundances, because catch limits are set under other regulations, independent of the MLPA. The negative economic impacts will cause economic blight in the City of Point Arena. The EIR should include an analysis of these regulatory impacts on this culturally and historically important port in Mendocino County.

DFG should include an analysis of effort shift in the recreational abalone fishery, drawn from recent landings data. The Abalone Recovery and Management Plan (ARMP) anticipated area closures, either for the purposes of fishery management or for marine protected areas. The EIR should refer to those parts of the ARMP and show how shifting shore-access fishing pressure to fewer coves can drop the abalone and rockfish populations below minimum viable population levels in parts of their range. This predictable effort shift is quantifiable, based on landings data from the abalone punch cards, and will cause a physical change to the environment of the coves that remain open, particularly Fort Ross. The EIR should take into consideration the ARMP, landing data and index site surveys to estimate the impact of the effort shift.

- *"TAC Adjustments in the Event of Site Closures: The interim management plan allows for site closure in the event of localized population declines (Section 7.1.2.4 Site Closure). In the event of a site closure, the TAC will be reduced to address the potential shift in effort to other areas. With discrete area codes from the report cards, an estimate of specific site productivity can be determined and the TAC can be adjusted. <u>However, an adjustment in the TAC would not completely protect areas outside the site closure from effort shift and subsequent population declines."</u> - from "Abalone Management," Abalone Recovery and Management Plan, CDFG.*
- *Economic and social changes resulting from a project shall not be treated as significant effects on the environment. Economic or social changes may be used, however, to determine that a physical change shall be regarded as a significant effect on the environment. Where a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project. Alternatively, economic and social effects of a physical change may be used to determine that the physical change is a significant effect on the environment. If the physical change causes adverse economic or social effects on people, those adverse effects may be used as a factor in determining whether the physical change is significant. For example, if a project would cause overcrowding of a public facility and the overcrowding causes an adverse effect on people, the overcrowding would be regarded as a significant effect*. –CCR, Article 5, **15064.3(e)**
- ***15065. Mandatory Findings of Significance**: (a) A lead agency shall find that a project may have a significant effect on the environment and thereby require an EIR to be prepared for the project where there is substantial evidence, in light of the whole record, that any of the following conditions may occur: (1) The project has the potential to: substantially degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species<u>; cause a fish or wildlife population to drop below self-sustaining levels,; threaten to eliminate a plant or animal community; substantially reduce the number or restrict the range of an endangered, rare or threatened species</u>; or eliminate important examples of the major periods of California history or prehistory.* The RFA believes that the Integrated Preferred Alternative must result in a mandatory finding of significance. The IPA needs to be analyzed for its capacity to set up a chain-reaction of regional closures that are mandated by the Abalone Recovery and Management Plan. The cumulative impacts of the proposed project and existing management regimes need to be considered. The slogan that MPAs and existing fishery management should be "complimentary" cannot excuse the DFG if it overlooks the natural consequences of shutting down so many public access shore diving sites in the region.

The "Special Closures" category of the regulations underline the political bias against fishing. The RFA encourages the to assess these regulations with respect to "Gobal Warming" regulations. Do the no-go zones unreasonably restrict fuel-saving routes?

Can the DFG explain how the proposed regulations will protect marine life, or protect the marine habitat, when the regulations only apply to fishing and not to water quality?

A recent United Nations report on international coastal zone management criticized the use of "marine protected areas" as "Paper Parks," drawing international attention as reported in the press:

> *The UN has issued similar reports before and is critical of some of its own earlier policy recommendations. In particular, it says, environmental impact assessments (EIA), used to study the potential negative impacts of proposed developments, need to be refined. The report says that many of these have failed because developers have hired commercial contractors to carry out the assessment.*

In the case of the MLPA, the developer is the Resources Legacy Fund Foundation. They paid for the MLPAI staff and they are paying for the CEQA analysis. The public perception that water quality can be resolved by establishing marine reserves must be corrected in the EIR.

> *"Vested interests of both parties can result in an assessment that addresses key environmental issues minimally," it says. "Review of EIAs by regulatory agencies themselves can suffer if political factors are pushing the outcome in a given direction and mandatory independent and external review by appropriately qualified scientists can improve the process." Another approach has been to establish marine protected areas. Globally, there are about 4,600 such areas, covering 1.4 per cent of the world's coastal shelf. However, the report dismisses most of these areas as "paper parks".*
>
> *They are, it says, "legal creations, may have management staff, usually have detailed regulations governing their use, but there is little if any enforcement of regulations. "As a consequence, the deterioration of the coastal environment goes on as rapidly inside most marine protected area boundaries as it does outside and the effort to establish and then to maintain protected sites is largely in vain."*

Source: http://www.thenational.ae/article/20080701/FRONTIERS/652931782/1036

From the full UN report: *Every MPA deprives the local community of an area in which to fish, while providing a conservation benefit for organisms residing within it. Yet numerous MPAs have been sold to stakeholders as tools to improve fisheries in surrounding waters. There is evidence of modest spillover or out-migration of adults from no-take reserves, but the larger expected downstream "recruitment effect" of reserves has yet to be documented (Sale et al 2005). This should give managers cause to rethink how they promote this management tool to the stakeholders who must live with it. Only in places where the effect on the livelihood of local populations can be shown to be positive, by improving fishing elsewhere or by replacing fishing with more profitable employment, is stakeholder support for MPAs likely (Agardy 2005).*

[…]
Donor agencies, including UN and other multinational agencies, and the international environmental NGO community are perhaps too willing to tick off the box on legal creation of an MPA as a sign of progress, without monitoring to ensure the MPA actually becomes protected. Indeed, the financial donors of NGOs are usually more enthusiastic about the creation of new MPAs than about management of existing ones. The time, effort and money invested in the creation of MPAs that do not become properly managed has been a significant drag on the effort to improve coastal management – a drag that the system can ill afford.
http://www.inweh.unu.edu/inweh/coastal/Coastal-Policy-Brief.pdf

We submitted CEQA comments for the south-central study region, and none of these issues were addressed and are worth submitting again.

1. Since the MLPA will be implemented using, in part, federal funds such as the Sport Fish Restoration Funds spent on the public process several years ago, and since federal agencies such as the Monterey Bay National Marine Sanctuary have been involved in the current implementation process, we expect that a NEPA document will be prepared in conjunction with the NOA, NOAA, the PFMC and the Sanctuary agencies.
2. There will be significant displaced fishing effort into small areas causing a negative impact to those areas with concentrated fishing. None of the MPA proposals for north-central California have been analyzed for the environmental impact of fishing effort shift from closed areas to the remaining open areas. (*Laurel Heights Improvement Ass. v Regents of University of Cal.* 1988 47 Cal 3d 376.) RFA members who live and fish in this region tell us that a significant portion of their rockfishing grounds will be off-limits under all of the MLPA network packages under consideration. Only Package 2 XA takes effort shift into consideration, and mitigates the potential serial depletion of reef complexes in areas remaining open to fishing.
3. For the purposes of the CEQA analysis, there must be a description of the existing environment, and in the case of new marine protected areas there must be comprehensive baseline data on fish stocks if any future evaluation is to be meaningful. *Antioch v Pittsburg* (1986) 187 Cal. App 3d 1325.
4. Feasibility, economic viability, and available infrastructure for the MLPA project must be determined. The proponent needs to be able to reasonably control the project. (*Citizens of Goleta vs Board of Supervisors.* 1990 52 Cal 3d 553.) The Department admits to not having enough staff and admits to the difficulty enforcing the new MPAs. Even with the short-term addition of new staff, there will be a shift in the Department's resources from important enforcement issues inland and especially the marine region. The EIR needs to address the impact of MPAs that are not supported by the fishing community, increasing enforcement costs to the detriment of environmental resources within and outside of the MPAs.
5. We find discrepancies between the Department's goals & objectives for MPAs and the regulations proposed to achieve them. As one example, the goal of protecting sandy beaches is pursued by regulations to ban fishing. Another

example is the "Special Closure" regulations that ban vessel traffic, ostensibly to protect birds and mammals, while not prohibiting shoreside traffic, by foot or vehicle.

Sincerely,

Jim Martin
West Coast Regional Director
The Recreational Fishing Alliance

116 Montgomery St.
Suite 810
San Francisco CA 94105

Ocean Conservancy
Start a Sea Change

415.979.0900 Telephone
415.979.0901 Facsimilie
www.oceanconservancy.org

July 7, 2008

MLPA North Central Coast CEQA Scoping Comments,
c/o California Department of Fish and Game
20 Lower Ragsdale Drive, Suite 100
Monterey, CA 93940
MLPAComments@dfg.ca.gov

Re: MLPA CEQA Scoping Comments for North Central Coast MPAs Project

Dear California Department of Fish and Game:

On behalf of Ocean Conservancy (OC) and our 40,000 California members, please accept the following comments on the environmental review of the Marine Life Protection Act (MLPA) North Central Coast (NCC) marine protected areas (MPA) project. Given that the MLPA is designed to achieve conservation goals and advance environmental protection, we do not expect any of the proposed MPA networks to result in any potential significant adverse environmental impacts under the California Environmental Quality Act (CEQA).

However, we respectfully request that the following issues be addressed in the environmental review documents prepared for this project.

1. Background information on the biological and ecological setting of the North Central Coast Study Region. Specifically, we request a discussion of historical abundance of marine species found in the North Central Coast Study Region –especially those classified as "likely to benefit" by the Science Advisory Team—in comparison to recent population trends. Discussion of the steady decline of those species declared to be "overfished" such as yelloweye and darkblotched rockfish, boccacio and cowcod,[1] in addition to anecdotally declining populations such as copper and China rockfish, for example, can lend relevant context to the need for and potential capabilities of MPAs. Where available, information about local declines in other marine species would also be useful contextual information to provide. We also request a discussion of locally important or rare habitat types, for example bull kelp (*Nereocystis lutkeana*) and deepwater habitats.

2. The environmental document should include a brief discussion of the science of marine reserves, marine protected areas and MPA network design and the potential benefits of MPAs for living marine resources and habitats within the NCC. The document should discuss the ability of

[1] *California Marine Life Protection Act Initiative Regional Profile of the North Central Coast Study Region,* October 8, 2007, p. 34; http://www.nmfs.noaa.gov/sfa/domes_fish/StatusoFisheries/2008/1stQuarter/TablesA_B.pdf

3. MPAs to assist with both the restoration of depleted species and damaged habitat, as well as their ability to prevent future harms through a precautionary approach.

4. The environmental document should identify Proposal 4 as the "environmentally preferred alternative" under CEQA. Proposal 4 is the most conservation-oriented proposal under consideration and does the best job at meeting the Science Advisory Team guidelines at the "very high" and "high" levels of protection. Anchored by four preferred-size MPA clusters with at least high protection, in addition to several fully protected marine reserves of at least minimum size, this foundation helps create a network that protects the highest quality habitat in the most comprehensive way. Although Proposal 4 represents the outer bound of protection currently being considered, its number of preferred-size high-protection areas is proportionate to that of the adopted Central Coast network of MPAs.

5. To the extent it includes socio-economic information, the environmental document should include information on the historical economic landscape of North Central Coast Study Region. We request discussion and context of the significant decline in fishermen, fishing vessels and landings in the North Central Coast Study Region. As noted in the NCC Regional Profile, from 1992 to 2006, commercial fishermen have declined from 2,250 to about 800 individuals, fishing vessels have declined from 1,750 to about 750 boats and commercial landings have declined from about 17 million to 13.5 million pounds.[2] Inclusion of this information provides a context for why an effective MPA network is needed in the North Central Coast to address steady economic declines in the study region, potentially mitigating any potential short-term economic impacts of MPAs.

6. We note that CEQA does not require socioeconomic analysis of a proposed project and therefore request cautious application of the Ecotrust analysis, which forecasts the worst-case socioeconomic scenario, assuming all displaced fishing effort will discontinue. Note that this is the opposite assumption of the Science Advisory Team's Costello-Walters-Hilborn "EDOM" model, which assumes all displaced effort will continue outside MPA boundaries. Ocean Conservancy requests that, if any socioeconomic analysis is included in the environmental document, it should be noted that such analysis is highly speculative and that the worst-case assumptions in the Ecotrust analysis are extremely unlikely to occur. OC believes that any economic analysis must also estimate and consider the potential economic benefits resulting from an MPA network to be complete and comprehensive. We also request that if the Environmental Impact Report does include reference to socioeconomics, the document acknowledge that even under Ecotrust's estimated worst-case assumption, the California Fish and Game Commission's Proposed Project and all three alternatives have worst-case impacts below 8.3%. Although these displaced effort impacts are very unlikely to occur, this prediction is significantly less than the 11% prediction of the adopted Central Coast MPA network.

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[2] *California Marine Life Protection Act Initiative Regional Profile of the North Central Coast Study Region,* October 8, 2007, p. 78, 75.

7. In considering potential impacts associated with displaced effort, we encourage consideration of the extent to which efforts were made during the RSG process to avoid favorite fishing grounds. The resulting MPA networks include between 18% and 26.9% of the NCC in MPAs, but significantly less of the important fishing grounds (as per Ecotrust analysis). It is therefore extremely unlikely that effort displaced from MPAs could significantly impacts habitats or biological communities outside the MPAs.

8. The environmental document's discussion of potential air quality impacts should include analysis of the air quality implications of non-MPA related factors that are likely to keep many boats off the water this year, such as increased fuel costs and the salmon closure. Although any potential negative impacts to air quality are inherently speculative, factors such as those mentioned above that keep boats off of the water may offset any potential impacts to air quality that might be attributed to fishermen traveling farther to avoid MPAs.

9. Economic benefits: We request analysis of the long-term and medium-term benefits of the North Central Coast MPAs project. This should include discussion the potential benefits of MPAs to non-consumptive users, consumptive users, local businesses and the tourist industry.

10. Educational benefits: We request analysis of the educational benefits of MPAs as places where educators, students and researchers can collect baseline data, study the functioning of ecosystems and analyze how well each of the alternatives provides such opportunities.

11. Finally, we request consideration of how siting MPAs adjacent to existing land parks, refuges and marine labs can benefit enforcement, management, education and biological capabilities of MPAs. The environmental document should provide a comparative analysis of how well the various MPA alternatives do at siting MPAs adjacent to terrestrial protections.

Thank you for your consideration of these comments.

Samantha Murray
Ocean Conservancy
116 New Montgomery Street, Ste 810
San Francisco, CA 94105
415.830.3217

Comments to the California Department of Fish and Game Scoping Meeting

June 18, 2008

Comments prepared by Robert Ovetz, Ph.D., Executive Director, Seaflow, robert@seaflow.org, 415 229 9355

In line with the requirement that the CEQA process consider environmental impact issues of air quality, noise, recreation, and transportation and traffic, Seaflow urges the California Department of Fish and Game to investigate the following issues in its Environmental Impact Report as it carries out an environmental review of the Integrated Preferred Alternative:

- **Has the North Central Regional Process Achieved MLPA Objective of Ecosystem Management?**

While the Integrated Preferred Alternative (IPA) would make some progress towards protecting fish in some critical areas of their habitat is could be characterized as "ecosystem management for fish" which is only a small part of the MLPA ecosystem management objective. Despite the efforts of a few members of the Science Advisory Team, the planning process for the North Central Region could be characterized as "all fish, all the time". Although the MLPA process for the North Central region has received public comments asking the SAT and NCCRSG to address threats from pollution, large vessel traffic and to protect all marine wildlife which rely on the marine habitat of the region, the driving emphasis of the planning process has been overwhelmingly, even single-mindedly, on fish. While fish also feed other wildlife, the single-minded emphasis on fish has been at the expense of other marine species and fails to realize the potential of implementing ecosystem management of the California coast. This attempt to protect fish in isolation from the range of other threats to the marine ecosystem, the premise of ecosystem management, is the classic mistake of "not being able to see the forest for the trees" or rather "not being able to see the ocean for the fish".

- **Has the North Central Regional Process Achieved the MLPA Master Plan Objective of Protecting MPAs from Non-fishing Activities?**

Although the Master Plan makes it clear that Marine Protected Areas (MPAs) should be protected from non-fishing activities the IPA fails to adequately do so. According to the Master Plan for Marine Protected Areas, April 13, 2007, Other Programs and Activities Other Than Fishing: "Regional profiles and profiles of potential MPAs should describe current and anticipated human activities that may affect representative habitats and focal species. A profile should discuss whether any such **non-fishing activities** are significantly affecting wildlife or habitats of concern in a potential MPA site. Where the effects of any such activities present a clear threat to resources of concern, a profile should identify current efforts to mitigate those threats." (p. 61, bold added)

- **Has the North Central Regional Process Achieved MLPA Goals 1 and 2?**

The first two goals of the MLPA are "(1) To protect the natural diversity and abundance of marine life, and the structure, function, and **integrity** of marine ecosystems. (2) To help sustain, conserve, and protect marine life populations, including those of economic value, and rebuild those that are depleted." However, the IPA cannot be adequately achieve these goals without addressing and regulating threats from non-fishing activity such as large vessel traffic and taking into account the economic benefits of non-extractive uses. Although it was discussed early in the MLPA planning process for the North Central Coast no study of the non-extractive uses of the ocean for marine education, surfing, diving, snorkeling, swimming, whale and bird watching, and beach recreation was ever completed. (Marine Life Protection Act, (As Amended to July 2004), Fish and Game Code, Sections, 2850-2863, 2853. Redesign of MPA System: Goals and Elements, p. 2-3)

- **Do the IPA and the 3 Stakeholder MPA Proposals Adequately Protect Marine Mammals?**

The IPA provides exactly the same level of protection for marine mammals as the stakeholder proposal, 2-XA, that proposed the lowest level of protection of all 3. According to Science Advisory Team member and scientist Dr. Sarah Allen, only 50% of the marine mammal hotspots identified by the SAT fall within the SMRs or SMCAs in the IPA. The IPA would only protect a mere 43-43% of all rookeries and 40% of all haul outs throughout the region. All 4 proposals fails to adequately protect rookeries in the north region. Coverage of rookeries in the north region is even lower. According to Dr. Allen, "Proposals 2-XA and IPA included 14% of rookeries in the north region versus 34%-29% for proposals 1-3 and 4". Finally, the IPA proposes even less protection for marine mammals form Special Closures by removing a 1000 foot closure in the North Farallon Islands proposed by 2 of the 3 stakeholder proposals. ("Marine Birds and Mammals Evaluation for the April 2008 North Central Coast Marine Protected Area Proposals, Gerry McChesney and Sarah Allen, MLPA Master Plan Science Advisory Team, May 30, 2008, powerpoint presentation)

The low level of protection for marine mammals proposed by the IPA is worrisome since the 3 of the combined stakeholder proposals already begin with an extremely low level of protection. All 3 fail to adequately protect all known "marine hotspots" identified by the SAT. For example, 5 of the 8 known hotspots in the North sub-region and 1 of the 6 hotpots in the South sub-region are completely left out of <u>all</u> of the proposals. Furthermore, only NCCRSG MPA Proposal 1-3 proposes protections for Tomales Bay-Clam Island and protection for Double Point-Duxbury Reef and Bolinas Lagoon are not included in all the proposals. ("Evaluation of potential benefits to marine mammals from proposed MPAs in the NCCSR," draft, Sarah Allen, MLPA Master Plan Science Advisory Team, January 2008," p. 11)

- **Do the IPA and the 3 Stakeholder MPA Proposals Adequately Protect Adequately Protect Seabirds?**

According to SAT member Gerry McChesney's analysis of the IPAs protection for seabirds, seabird protection proposed by the IPA is worrisome. Protection for breeding colonies in the north subregion provides "relatively little coverage," about 15% for all birds, the same level of low protection as proposal 2-XA which is found to be the lowest of the 3 stakeholder proposals. For the south region, although the coverage for all birds proposed is higher by the IPA it is only about 60%, the same level of low protection as stakeholder proposal 2-XA, the lowest of the 3 stakeholder proposals. Overall, very few seabird roosts are covered and seabird foraging areas receive the same

level of protection as proposed for breeding colonies. Wintering waterfowl receive only about 10% for all species under the IPA and there is a lack of coverage in Tomales Bay where the largest concentration exists. While Special Closures are proposed to cover the largest colonies, the "North subregion is under-represented" and the IPA has removed Special Closures for critical habitat at Stormy Stack and Devil's Slide Rock. ("Marine Birds and Mammals Evaluation for the April 2008 North Central Coast Marine Protected Area Proposals, Gerry McChesney and Sarah Allen, MLPA Master Plan Science Advisory Team, May 30, 2008, powerpoint presentation)

The low level of protection for seabirds proposed by the IPA is worrisome since the 3 of the combined stakeholder proposals already begin with an extremely low level of protection. According to the "Evaluation of potential benefits to seabirds from proposed MPAs in the NCCSR," draft, Gerry McChesney, MLPA Master Plan Science Advisory Team, January 2008," p. 16-17, 6 of the 12 known largest seabird colonies in the North subregion are not protected at all by any of the 3 stakeholder proposals, 4 of the 7 colonies in the South subregion are not protected at all by any of the 3 staekholder proposals, and the North Farallon islands are not offered any protection by NCCRSG MPA Proposal 2-XA. In terms of percentages of birds protected, no proposal protects more than 24.7 percent of the birds in the North subregion, and no proposal protects more than 85.2 percent of the birds in the South subregion. Even 1000 ft Vessel No Traffic Areas at Egg Rock in Proposals 1-3 and 4, where a multi-million dollar and multi-year common murre restoration project being managed by the USFWS, would not completely eliminate alarm and flushing behaviors caused by disturbances reducing them by 91.4 and 95.2 percent respectively. Clearly, the best available science would indicate the need to make these zones only a bit larger to provide full protection.

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Comment: Is this the same as devil's slide?

- **Why Are 2 Critically Threatened and Endangered Species Not Protected By the IPA and All 3 Stakeholder MPA Proposals?**

Despite acknowledging that the southernmost population of the Marbled Murrelet, federally listed as threatened, which nests inland in old growth forest of the Santa Cruz mountains and forages off shore, was not included in the analysis provided by the "Evaluation of potential benefits to seabirds from proposed MPAs in the NCCSR." (p. 4)

Furthermore, two species of marine mammals identified as among species most likely to benefit from MPAs, the gray whale and harbor porpoise, as well as the humpback whale, which forage around the Farallon islands, receive no protection from the 3 MPA proposals. The SAT, in response to a question as to possible benefits to these three species, made it clear that MPAs should be designed to provide protection. Harbor porpoises, which give birth in the region, were found to benefit "indirectly" although none of the proposals indicate how that would be. The SAT also indicated that there might be "a more site-specific benefit to humpback whales" although again there is no indication in any of the proposals as to how that would come about. The SAT also indicated that the most likely species to benefit are gray whales which "may benefit from MPAs in several ways…if there is a reduction in the number of boats or amount of gear in the water where the whales linger; the less noise and activity in the water, the more likely they will linger in an area because they are sensitive to disturbance." More specifically, "an MPA designation may increase the amount of forage for whales at sites…." (California MLPA Master Plan Science Advisory Team Draft Working Group Response to a Science Question Posed at the February 21, 2008 Meeting of the NCCRSG, Revised March 12, 2008"

- **Are Special Closures (Vessel No Traffic Areas) Adequate to Protect Threatened and Endangered Marine Species?**

According to the draft MLPA Evaluation Methods "we will need 3-mile buffers (or possibly larger on a case by case basis) drawn around colonies to examine how much of principle foraging areas will be encompassed by proposed MPAs." (MLPA Master Plan Science Advisory Team MLPA Evaluation Methods for MPA Proposals, draft prepared November 9, 2007, p. 16) However, proposed Special Closures of either 300, 500 or 1,000 feet are being considered, only 5.5, 9.47 and 18.9 percent of the minimum recommended by the SAT to protect seabird and marine mammals forage areas. Without adequate spacing of protection, these Special Closures appear to fail to fulfill the SAT's guidelines for evaluating the realization MLPA goal 2. As we have seen with the inadequate numbers of hotspots and percentage of populations of marine mammals and seabirds above, these proposals fail the SAT's test of whether they protect significant enough animals to be worthwhile.

- **Do Special Closures (Vessel No Traffic Areas) Protect MPAs from Environmental Threats of Large Vessel Traffic?**

Due to their extremely small size and proposed locations, Special Closures cannot protect MPAs in Pt. Reyes, the Farallon Islands and Fitzgerald Marine Reserve from vessel traffic lanes that run right through or near these protected areas. Documents show that about 3,600 large vessels pass through or near these areas every year to enter San Francisco Bay ports and pose a significant threat to all 3 MPA proposals.

The MLPA process has failed to consult with the US Coast Guard about coordinating necessary measures to insure the realization of MLPA goal 1, protecting "the structure, function, and **integrity** of marine ecosystems." Proposed Special Closures emphasize only small vessel traffic from recreational and fishing crafts while ignoring the more significant threat of large cargo vessels and oil supertankers which not only causes disturbances of protected species but also cause fatal ship strikes of marine mammals, generate the largest source of ocean noise pollution and make significant contributions to air pollution and greenhouse gas emissions.

- **Why Do the IPA and the 3 Stakeholder MPA Proposals Fail to Assess the Impact of Shipping?**

Despite receiving some comments concerning the need to assess nearby shipping lanes on proposed MPAs and the catastrophic crash by the Cosco Busan cargo ship in November 2007, the planning process for the North Central Coast failed to take this issue into account. Considering the rapidly growing rate of cargo traffic in California waters which contributes greenhouse gas emissions, air pollution, lethal ship strikes of marine mammals and ocean noise pollution, the planning process faces significant legislative and legal risks by failing to take these issues into account.

- **Does the IPA Take Into Account Greenhouse Gas Emission Reduction Mandated Under AB32?**

The California Global Warming Solutions Act of 2006, known as AB 32, mandates that the state of California's greenhouse gas emissions be reduced to 1990 levels by 2020, roughly a 25% reduction.

We encourage the Department of Fish and Game to work with the California Air Resources Board, which is charged with monitoring and regulating sources of emissions of greenhouse gases that cause global warming in order to reduce emissions of greenhouse gases to achieve the objectives of the Act as it applies to the MPAs.

- **Has There Been a Study of the Economic and Social Value of Non-Consumptive Uses of the Coastal Marine Ecosystem?**

In Fall 2007 there was discussion of the North Central Coast regional planning process conducting a study of the economic and social value of non-consumptive uses of the Coastal marine ecosystem. However, we are unaware of whether this study was ever conducted. Such a study is necessary before the process can be completed as the limitation of focus on fishing may be eclipsed by the larger economic and social value of non-consumptive uses of the marine ecosystem for recreation, education and scientific research.

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CALIFORNIA SEA URCHIN COMMISSION

July 22, 2008

MLPA Scoping Comments
Mr. Stephen P. Wertz
Senior Marine Biologist Supervisor
Department of Fish & Game
20 Lower Ragsdale Drive
Monterey, California 93940

Subject: MLPA North Central Coast CEQA Scoping Comments

Dear Mr. Wertz:

The California Fisheries Coalition is pleased to submit this information regarding an issue that needs to be analyzed and disclosed in the Environmental Impact Report being prepared pursuant to the California Environmental Quality Act to aggregate the full impacts that may result from the establishment of marine protected areas in the north central coast MLPA region.

We feel an avoidable negative environmental impact will occur in the Salt Point and Stewarts Point areas if the Integrated Preferred Alternative is adopted. The IPA recommends a State Marine Park (SMP) at Salt Point allowing only recreational fishing and no commercial fishing to take place. At Stewarts Point the IPA recommends a Marine Reserve (SMR). No harvesting of sea urchins would be allowed within either Marine Protected Area as presently proposed.

Significant documentation exists to conclude that sea urchin harvesting in areas otherwise rich in species diversity and supported by a large healthy stand of kelp can help conserve or restore diversity. The natural species diversity and abundance in the Salt Point and Stewarts Point areas will decrease if the preferred alternative plan is implemented.

One expressed objective of the Salt Point SMP is to ensure vibrant recreational fishing off shore of the State Park. Precluding sea urchin harvesting will have the opposite effect. Likewise the Stewarts Point SMR is to increase general species diversity. Abundant kelp is a prerequisite for abundant abalone as well as many fin fish species, however, sea urchin are known to increase their populations to an extent that they easily dominate an area creating an "urchin barrens," an area significantly overgrazed by sea urchin to the point that other kelp dependant species are negatively impacted.

A comparison of areas closed to the harvest of sea urchins and areas where sea urchins are harvested in several northern California locations has already been studied. Natural diversity and abundance in many other kelp dependent species has been shown to increase with the harvest of sea urchins. "Red sea urchin removal apparently led to increased red abalone abundance even at a site that was heavily fished by recreational abalone fishers. Meanwhile at a nearby reserve site

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where kelp populations are lower, red abalones have declined in abundance as red sea urchins increased." (Karpov, et al 2001)

Presently the northern California recreational abalone fishery is managed partly by gear restrictions - only free diving is allowed, therefore, abalones have a refuge in waters deeper than 30 feet. If the harvest of red sea urchins is prohibited at Salt Point, sea urchins will eventually proliferate in deeper water and out-compete abalones in this habitat. Abalone populations and recreational abalone diving will lose the larval replacement benefits of the deeper water refugia.

Abalone surveys taken in 1971 and 1986, prior to the establishment of the sea urchin fishery in the north area show a much lower abundance of abalone than the surveys of 2006 and 2007. (See survey results below.)

Early in the 1990's the Salt Point and Stewart Point areas supported a viable sea urchin fishery out of Bodega Bay which kept the sea urchin population in check. But due largely to market conditions sea urchin harvesting has languished in recent years. In time, the sea urchins will again dominate the bottom, the kelp will disappear, and abalone will be restricted to intertidal and shallow subtidal habitats.

A participate in a major widespread Fish and Game survey of abalone habitat, predators and competitors in the north area in the early 1970's explains what he saw: "As a participant in the North Coast Abalone Survey, I remember that most of the abalone population was determined to be "intertidal." Subtidal reefs were all urchin barrens with spine to spine urchin populations dominating. Abalone populations were sparse, occupying only the very edges of subtidal habitat and in some cases abalone were observed forced off into the sand. In the 1980's, urchin harvesting removed all but "sub-legal" urchins from those reefs and abalone once again started to re-establish themselves." (Ken Boettcher, personal communication)

In southern California the Department undertook efforts to reduce the sea urchin population in the 1970's and 80's in order to protect and increase kelp beds for the specific purpose of increasing species diversity and abundance. Today many of these kelp beds are consistently at some of the most expansive levels recorded, with commercial sea urchin diving controlling the population of sea urchins and protecting healthy kelp beds.

Surveys of the north coast completed by Fish and Game and others show approximately a 100% increase in abalone populations after sea urchin harvesting began in the 1980's. Four out of five transect studies taken prior to the start of the sea urchin fishery reveal densities of abalones significantly lower than those following an active sea urchin fishery.

ABALONE SURVEYS
(Parker, et al 1986, Deacon 1973, Personal communication, Jerry Kashiwada (DFG))

	No. Transects			Density		
Survey Area/Year	**1971**	**1986**	**2006**	**1971**	**1986**	**2006**
Todd's Point			34			0.43
Caspar Cove			35			0.57
Van Damme	10	25	28	0.12	0.24	0.69
Point Arena			36			0.64
Salt Point		31	36		0.43	0.89
Ocean Cove			36			0.86
Timber Cove			37			0.81
Fort Ross	25	42	37	0.94	0.21	0.57
Totals/Average			279			0.68

REFERENCES: The report on the 1986 survey was: Parker, D.O., P.L. Haaker, and K.C. Henderson. 1988. Densities and size composition of red abalone, Haliotis rufescens, at five locations on the Mendocino and Sonoma county coasts, September 1986. Calif. Dept. Fish and Game, Marine Resources. Div., Admin. Rep. No. 88-5, 65pp.

Deacon J. (1973), Habitat selection and competition among abalone and sea urchins at Sea Ranch California M.Sc. thesis, UC Davis, 83pp.

The potential negative environmental impacts resulting from prohibiting sea urchin harvesting at this important location must be considered in the CEQA review of this proposed project. While CEQA calls for mitigating significant impacts the preferred option is to avoid those impacts, if at all possible. An easily available remedy for this situation would be to change the designation from a State Marine Park and a State Marine Reserve to Marine Conservation Areas and allow sea urchin harvesting as the only commercial fishing authorized. This modification would have negligible resource impacts from sea urchin harvesting (a highly selective fishery with minimum impact) but large benefits from very healthy kelp stands.

Thank you for the opportunity to submit these comments. We urge your full attention to them and trust they will contribute to a comprehensive and valuable environmental impact analysis. Please contact me if I can clarify any of our statements or be of any further assistance.

Sincerely,

Vern Goehring

Vern Goehring
Executive Director

Cc: Melissa Miller-Henson

Jeff Thomas

From: Lynn Takata [LTakata@dfg.ca.gov]
Sent: Wednesday, July 09, 2008 9:45 AM
To: Jeff Thomas
Subject: Fwd: CEQA Comment for North Central Coast MPA Project

4 of 7....

Lynn Takata

Staff Environmental Scientist
Marine Life Protection Act
California Dept. of Fish and Game
1416 9th Street, Rm 1341-B | Sacramento, CA 95814
(Tel) 916-651-7669 | (Cell) 916-261-4185 | (Fax) 916-651-7672 LTakata@dfg.ca.gov

>>> "Donna" <Donna@gstex.com> 7/8/2008 4:51 PM >>>
RE: Drakes Estero

On behalf of the Alliance for Local Sustainable Agriculture (ALSA), we strongly request that if the designation of Drakes Estero is changed from a State Marine Conservation Area (SMCA) to a State Marine Reserve (SMR), thereby making it a no-take zone and necessitating the removal of mariculture from the Estero, that the following be studied before a final decision is made. We believe that Drakes Estero and the citizens of California will be negatively impacted by the potential ending of nearly 80 years of continuous oyster farming operations at this site.

1. Biological Resources

2. Cultural Resources

3. Water Quality

4. Population and Housing

5. Public Services

6. Recreation

While there is no indication or plan that Drakes Estero will in fact become an SMR, there is vague language in the BRTF's Integrated Preferred Alternative that may be interpreted as having a preference for this outcome.
We want to go on the record that should this change be contemplated the impacts above must be studied before removal of mariculture can be considered. Any negative findings if oyster farming were to cease would necessarily prevent Drakes Estero from becoming an SMR.

Sincerely,

Donna Yamagata

Secretary

_____

ALSA

PO Box 1316

Pt. Reyes Station, CA 94956

415-669-9691

Jeff Thomas

From: Lynn Takata [LTakata@dfg.ca.gov]
Sent: Wednesday, July 09, 2008 9:44 AM
To: Jeff Thomas
Subject: Fwd: MLPA North Central Coast CEQA Scoping Comments

2 of 7....

Lynn Takata

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Marine Life Protection Act
California Dept. of Fish and Game
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>>> Ralph Kanz <rkanz@earthlink.net> 7/8/2008 10:40 AM >>>
What will be the impacts on sport and commercial fisheries? How will this proposed project improve fisheries management? The current fisheries management system is broken. The proposed project does nothing to resolve this crisis. One of the goals of the project is "to help sustain, conserve, and protect marine life populations, including those of economic value, and rebuild those that are depleted." How will the proposed project maintain the economic value of our fisheries if it does nothing more than restrict fishing access? The basic concept seems entirely speculative when combined with the current broken fishery management system. There is an underlying theory to this process that where a fish is taken is more important than the number and size of the fish captured.

There has not been an adequate discussion of transfer of effort between fisheries. Closing one area does not reduce total fishing effort and can cause a change in target species leading to unanticipated impacts.
If the underlying fishery management system currently in place is not changed, there will be transfer of effort leading to potential over-fishing of other species. The closure to salmon fishing this year has caused a major impact to the California halibut fishery in San Francisco Bay. The Department of Fish and Game now admits they have not made an assessment of this fishery to know if it can withstand this additional pressure. When the salmon fishery weakened in 1983 the pressure on California halibut increased significantly when commercial salmon fishermen switched to gill netting halibut. When gill netting was restricted due to the impacts on marine birds and mammals, the State allowed nearshore trawling that had a devastating impact on the fishery. In the mid-1990's when massive numbers of small halibut were being harvested from San Francisco Bay, the State finally reduced the sport limit from five to three fish. But nothing has been done about the size limit even though the science suggests that the yield per recruit would increase significantly with an increase in the minimum size limit. Even though it is a high value fishery, there has never been a limited entry system implemented for the commercial California halibut fishery. How will the proposed project improve the California halibut fishery and result in improving its economic value? What does the science, not speculation, say about this? The EIR must address these issues.

Up to this point the MPA process has not considered the effects on green house gas emissions caused by this proposed project. As currently proposed many vessels will be forced to travel longer distances to participate in fishing or other activities. How do you propose to balance the speculative improvement in resources that could be achieved by other means, with the increase in green house gas emissions? The EIR must address this issue.

Ralph Kanz
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Cover Page

July 7, 2008

831-649-2894

Faxing 12 pages (excluding this page) from
Allan Jacobs re: MLPA CEQA Scoping Comments
Also e-mailing to - MLPA Comments@dfg.ca.gov

MLPA CEQA Scoping Comments
July 7, 2008

I am unsure of just how much detail you want or require for meaningful input about the Environmental Impact of the MLPA protected areas (MPAs). So as a member of the public and long time coastal resident, I am setting my concerns down in writing as well as having made an oral presentation. I do so with the hope and expectation that these serious issues will be addressed in an environmental impact study and that I will have access to interim as well as final reports. Please consider this a formal request to be kept informed of the progress of the EIR and related documents.

I am including the following documents:

1. An introduction that very briefly outlines my main points. (two pages)
2. A written copy of my prepared statement that I presented orally at the Scoping meeting at Gualala on Thursday, June 19. It should be virtually identical to what was recorded at the meeting. (two pages)
3. A far more detailed version of the same concerns that includes some pertinent data. (seven pages)

Thank you for this opportunity to participate,

Allan Jacobs

Allan Jacobs
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MLPA CEQA Scoping Comments
Introduction and Brief Version
July 7, 2008

I have been a resident of the Point Arena area for the last 38 years. During that time I have been a High School Science and Math Teacher, Commercial Fisherman, and an avid Sport Fisherman. My experience and concerns therefore are most closely oriented to the Point Arena area or Subregion 1 of the North Central Coast Region. The points that I am making are most specifically referring to this area, but they are generally applicable to the impact of the MLPA along the whole coast. The affects of the MLPA are more pronounced as you look north and they are especially severe near the port of Arena Cove because of the proposed MPAs (especially in Proposal 4 and the IPA Proposal) immediately to the north **and** to the south of the port. Although the EIR/CEQA process doesn't consider socioeconomics, it is important to note that the area nearest the Port of Arena Cove including the Arena Cove Pier, which is run by the City of Point Arena, will suffer significant economic losses as a result of the negative environmental impacts.

In a general sense, I would like to see consideration of humans as a biological species. We have occupied a legitimate ecological niche in our coastal waters for at least 10,000 years. We have been a part of the ecosystem as fishermen, hunters and gatherers. The sudden removal of humans from these large MPA areas will no doubt have unforeseen negative environmental impacts. It would seem a wiser approach to minimize these effects by starting with minimum sized MPAs with greater spacing, than seeking mitigation now or later for the eventual problems. As an effective mitigation measure, perhaps the EIR could call for a reduction of the size and spacing of the proposed MPAs, especially those near harbors, that the CDFG says "...fall short of scientific and Blue Ribbon Task Force guidance for level of protection and are not necessary to meet scientific guidance on size, spacing, and habitat representation..."

Here are four other very specific problems that will have negative affects on our environment as a direct result of the proposed MPAs:

1. Problem: The formation of urchin barrens. An urchin barren is the marine equivalent of an over-grazed pasture.
Cause: The main cause is the removal of the sea urchin's last remaining major predator in this area, Human Urchin Divers.
Suggested Mitigation: Until the cause and effect of urchin diving can be more clearly understood, allow commercial urchin harvesting to continue within all but one of the smaller, and closely monitored MPAs with good sea urchin habitat.

2 Problem: The predictable results of over harvesting of the most popular species and then serial depletion of other species in the spaces between MPAs.
Cause: The shifting of fishermen from the traditional, highly productive, heritage sites within the proposed MPAs to other less productive places between MPAs, depletion of the more popular species, and eventual targeting other species that were not heavily fished before.

Suggested Mitigation: Remove excess MPAs that are deemed unnecessary by the CDFG to the overall program; especially those nearest to ports; for example: the Saunders Reef SMCA and the Sea Lion Cove SMCA, or adopt Proposal 2XA.

3. **Problem:** There will be an increase of pollution due to the locations of MPAs.
Cause: Currently, the commercial and sport fishermen operating out of Arena Cove use small boats and fish near the port. The unique placement of the MPAs very near the port of Arena Cove will reduce or end medium distance fishing trips. Boating traffic will be more concentrated closer to port, increasing pollution nearby, and due to the need for more longer trips by some larger vessels, there will also be an increase in pollution overall.
Suggested Mitigation: Remove excess MPAs that are deemed unnecessary by the CDFG to the overall program; especially those nearest to ports; for example: the Saunders Reef SMCA and the Sea Lion Cove SMCA, or adopt Proposal 2XA.

4. Problem: Public rights of access and recreational use of public commons would be further reduced without due process.
Cause: Wording in the definition of MPAs will allow an unspecified "managing agency" to restrict even activities "such as walking, swimming, boating and diving".
Suggested Mitigation: Change the wording of the CDFG definitions to allow all nonconsumptive uses within any MPA and to control pollution and disturbance of wildlife by the application of laws and regulations already existing outside the MLPA.

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Environmental Impact Scoping Meeting
Public Comment
By Allan Jacobs
June 19, 2008

Humans as a biological species occupy a legitimate ecological niche in our coastal waters. For at least 10,000 years we have been a part of the ecosystem as fishermen, hunters and gatherers. The restrictive MPAs proposed for the Point Arena area would deprive us of much of this important traditional cultural heritage. This is clearly not the right thing to do. Taking humans out of an ecosystem that we have long been a part of is, by itself, a change that has a negative affect on the environment.

There are four other very specific problems that will have negative affects on our environment as a direct result of the proposed MPAs:

The first environmental problem has to do with a law of nature that says: If you remove a predator from an ecosystem there will soon follow a population explosion of their prey, resulting in a population depletion or even extinction of the prey species' food supply, followed closely by great fluctuations in the populations of codependent species, replacement of desirable species by undesirable species, and even the extinctions of some species. In this specific case the predator species being removed by MPAs are Human Urchin Divers, the prey is Red Sea Urchins and the preys' food supply includes Kelp. The predictable end result is called an urchin barren. An urchin barren is the marine equivalent of an over-grazed pasture. It consists of waves of sea urchins eating everything as they slowly move across the rocky bottom. Abalone cannot compete and become rare or disappear altogether and the urchins will not let kelp establish itself, thus greatly reducing the diversity and value of the ecosystem. I have been told by professional divers that the perfect example of this exists in the current Point Cabrillo State Marine Conservation Area where no harvest of invertebrates has been allowed for years.

The second specific environmental problem would be caused by the shifting of fishermen from the traditional, heritage sites within the proposed MPAs to other places. What must be seriously considered in the EIR, are the predictable results of over harvesting of the most popular species and serial depletion of other species in the spaces between MPAs. You need to especially consider the Subregion 1 area because the far greater proportion of closed habitat here will have an even greater impact. For example, what is being proposed in the IPA Proposal for Subregion 1, will close 36.4 % of the Abalone habitat, 27.9 % of the Sea Urchin habitat, and 36.2 % of the Rockfish habitat. At Arena Cove, the size and spacing of MPAs makes matters even worse. It is the only port with both sport and commercial facilities in Subregion 1. Three of the four Proposals, 1-3, 4, and IPA, place large restrictive MPAs both to the immediate North and to the immediate South leaving a portion of the coast of only about 6.5 miles in length still open to fishing. This close spacing will cause fishermen to choose between concentrating their efforts near the Port or risking longer trips. There will be no medium length trips. This is a part of the world where the ocean conditions change rapidly and

MLPA CEQA Scoping Comments
Detailed Version July 7, 2008

Humans as a biological species occupy a legitimate ecological niche in our coastal waters. For at least 10,000 years we have been a part of the ecosystem as fishermen, hunters and gatherers. For example there is ample evidence of the use of the Point Arena headlands (Stornetta/BLM public access area) by indigenous native people in the form of "Indian Middens". There can be no doubt that this was an important traditional and cultural site since prehistoric times. The local Pomo tribal members used this area for gathering traditional sea food up until the early 1970's when the County access site reverted to private ownership and they were denied further land-based access. This access was restored about four years ago when the BLM took over control. The restrictive MPAs proposed for the Point Arena area north of Arena Cove would again deprive them of this important traditional cultural heritage. This is clearly not the right thing to do. The Department of fish and game has the statistics to show Indigenous People's harvest of abalone if you want to see it because they issue special licenses to local Native Americans. It should be a simple matter to cross reference the Abalone take from the Point Arena Abalone Report Card site with those special Native American Licenses. Of course times have changed in the past two centuries. The human population is now more numerous and includes a multitude of ethnic groups, all of whom brought their own marine customs and heritages. Taking humans out of an ecosystem that we have long been a part of is, by itself, a change that is a negative affect on the environment.

Here are four other very specific problems that will have negative affects on our environment as a direct result of the proposed MPAs:

1. Problem: The lack of urchin divers will cause the formation of urchin barrens.
Cause: This problem has to do with a law of nature that says: If you remove a predator from an ecosystem there will soon follow a population explosion of their prey, resulting in a population depletion or even extinction of the prey species' food supply, followed closely by great fluctuations in the populations of codependent species, replacement of desirable species by undesirable species, and even the extinctions of some species. In this specific case the predator species being removed by MPAs are Human Urchin Divers, their prey is Red Sea Urchins and the preys' food supply includes Kelp. The predictable end result is called an urchin barren. An urchin barren is the marine equivalent of an over-grazed pasture. It consists of waves of sea urchins eating everything as they slowly move across the rocky bottom. Abalone cannot compete and become rare or disappear altogether. The urchins cut kelp off at the base, not allowing the kelp to establish itself as a kelp forest. Without the kelp forest the whole kelp bed ecosystem, with all of the many interdependent organisms disappears. The formation of an urchin barren greatly reduces the diversity and value of the coastal ecosystem. I have been told by professional divers that the perfect example of an urchin barren exists in the current Point Cabrillo State Marine Conservation Area where no harvest of invertebrates has been allowed for years. The threat of the development of an urchin barren is very real any where on the north coast where Commercial Sea Urchin Divers would be prevented from working.
Suggested Mitigation: Until the cause and effect of urchin diving can be more clearly understood, allow commercial urchin harvesting to continue within all but <u>one</u> of the

smaller, closely monitored MPAs with good sea urchin habitat. Once a controlled study has been completed in this single experimental MPA, changes might be warranted. There are existing CDFG regulations and economic pressures that control the commercial divers, who in turn have kept the sea urchin population in balance. The introduction or reintroduction of a predator (for example Sea Otter) would not be an acceptable solution, as it would do more damage than it would prevent. There should be research data readily available on this topic. At one time the urchin problem was so bad in Southern California that the CDFG consented to the use of poison. I heard one official claim that there are many extra large fish in the Arena Rock area of the Point Arena SMR that hold the sea urchins in check. Do not be deceived by this unscientific claim. I think he might have gotten this idea from a National Geographic article about MPAs in New Zealand. The EIR needs to show the true and complete facts surrounding the threat of urchin barrens, not data from a magazine article about an ecosystem in New Zealand. If you want to include anecdotal evidence, at least get it from actual divers or biologists familiar with the north coast of California.

2. Problem: The over harvesting of the most popular species and then serial depletion of other species in the spaces between MPAs.
Cause: There will be a shifting of fishermen from the traditional, highly productive, heritage sites within the proposed MPAs to other less productive places between MPAs. The increased fishing pressure will have a definite negative environmental effect on the more popular target species. One side effect of this is that as the most popular species become fewer, the fishermen will target other species in their stead. These newly targeted species then become depleted. This will be repeated with a new target – hence the term "serial depletion". You need to especially consider the Subregion 1 area because the far greater proportion of closed habitat here will have an even greater impact on the adjacent areas. For example, what is being proposed in the IPA Proposal for Subregion 1, will close 36.4 % of the Abalone habitat, 27.9 % of the Sea Urchin habitat, and 36.2 % of the Rockfish habitat. At Arena Cove, the size and spacing of MPAs makes matters even worse. It is the only port with both sport and commercial facilities in Subregion 1. Three of the four Proposals, 1-3, 4, and IPA, place large restrictive MPAs both to the immediate North and to the immediate South leaving only a portion of the coast of about 6.5 miles in length still open to fishing. In addition the current CDFG regulations further restrict Abalone fishermen to a depth they can only reach by holding their breath. In the case of rock fish we are limited to a legal fishing depth of less than 120 feet. For the area in front of the port of Arena Cove, the rockfish depth restriction/MPA combination has been called the "Box Effect". This "Box Effect" in conjunction with the IPA Proposal reduces the accessible Rock Fish habitat adjacent to Arena Cove to less than 7 square miles. This close spacing will cause fishermen to choose between concentrating their efforts near the Port or risking longer trips. This is a part of the world where the ocean conditions change rapidly and severely so most small boats will invariably choose to stay between the proposed MPAs. This will create much greater fishing pressure in the zone of coastline adjacent to the Point Arena Pier. There will be no medium length trips. The MLPA Initiative team, their data contractor, Ecotrust, and the CDFG have not studied this problem. This is a problem that will have the most serious affect on the local

environment around Arena Cove but it also will affect other areas along the coast and must therefore be a topic for the EIR.

The problem of displacement of catch is most easily shown for Abalone because the data from abalone report cards is so complete and was made available to the public by the CDFG. It follows as a logical conclusion though, that Sea Urchin and Rock Fish catch displacement will also occur for the same reasons and in approximately the same locations especially within Subregion 1 near Arena Cove. Consider the following data table from the California Department of Fish and Game:

Table 1. Abalone report card landing sites and associated 2002-2006 reported landings.

		Estimated Annual Landings (number of abalone)					
Ref #	**Report Card Site**	**2002**	**2003**	**2004**	**2005**	**2006**	**Annual Average**
1	[redacted]	1,673	1,574	4,223	15,602	18,511	[redacted]*
2	Arena Cove	12,628	11,917	10,946	7,364	9,786	10,528
3	Moat Creek	6,153	7,716	7,522	5,520	7,094	6,801
4	Schooner Gulch	587	730	559	803	388	613
5	Saunders Landing	912	1,137	1,769	1,338	906	1,212
6	Anchor Bay	5,446	6,470	5,593	4,759	4,945	5,443
7	Robinson Pt	789	1,311	1,164	605	1,061	986
8	Gualala Point	1,181	1,311	970	817	958	1,047
9	Sea Ranch	14,466	13,710	13,115	10,941	10,822	12,610
10	Black Point	360	293	171	310	0	227
11	Stewarts Point	2,418	2,458	2,077	1,155	1,760	1,974
12	Rocky Point	376	561	285	760	311	459
13	Horseshoe Cove	2,418	2,011	1,860	1,479	1,346	1,823
14	Fisk Mill Cove	7,043	7,369	8,127	8,125	8,259	7,784
15	Salt Point	11,763	11,738	11,414	8,533	9,113	10,512
16	Ocean Cove	5,777	6,664	5,855	5,280	7,378	6,191
17	Stillwater Cove	3,643	4,325	2,956	4,872	3,495	3,858
18	Timber Cove	8,713	9,221	7,990	8,209	9,165	8,660
19	Fort Ross & Reef Camp	36,546	37,429	37,186	32,767	43,002	37,386
20	Jenner	1,882	2,344	2,580	2,746	2,201	2,350
21	Salmon Creek	60	10	1,803	803	2,485	1,032
22	Bodega Head	1,099	1,524	1,016	1,633	1,139	1,282
23	Tomales Point	2,873	3,719	2,191	2,211	1,579	2,515
24	Point Reyes	622	968	639	465	388	616
	NCCSR total	**129,428**	**136,510**	**132,011**	**127,097**	**145,885**	**134,186**

*The Point Arena Lighthouse report card landing site includes data from Stornetta Ranch which opened to public access in 2004. Due to the recent increase of effort at this site, averages from 2002-2003 and 2005-2006 are reported below in Table 5 **to reflect differential catch before and after the public gained access to Stornetta Ranch**; data from 2004 are excluded because the area opened part way through the abalone season.

First look at line 1. Notice that for the years '02 and '03 the average take is1,624 the year '04 was the year that most of the Point Arena Lighthouse area (the BLM/Stornetta) became open to the general public. In the following two years, '05 and '06 the average became 17,057, a difference of 15,433. This seems like a large increase in over all take from the state waters, but it isn't. Looking at the bottom line you will see

the total take for the North Central Coast has not changed significantly. The bottom line variations you do see are most likely due to weather and tides. It should be obvious that there are a finite number of fishermen – they just went to different areas. For example look at line two, Arena Cove, a public access only about 2 miles south of the BLM access, in the same time that the Point Arena catch increased by 15,433, the Arena Cove catch decreased by 3698. This is not a coincidence. Look at line 9, The Sea Ranch, about 20 miles south. Their catch decreased by 3207 in the same time frame.

If you reduce the Point Arena take to zero with the Point Arena SMR and the Sea Lion Cove SMCA and add to that the closure at Saunders Reef SMCA and the Stewarts Point SMR, the combined catch shift will cause a reversal of this trend. Unfortunately for Arena Cove and Sea Ranch and other Subregion 1 areas, this reversal will not just go back to what it was before the opening of the BLM/Stornetta access. There will be an additional catch displacement of 5087 abalones, just from the Point Arena, Saunders Reef, and Stewarts Point "Report Card Sites". If we use mathematics to calculate the increased abalone take at The Sea Ranch and Arena Cove areas due to displacement by the IPA Proposal, here's what to expect. Using the same proportion as they decreased with the opening of the BLM/Stornetta access opener, the predicted increase from their '05-'06 average will be an increase of 5229 abalones at Arena Cove and 4367 abalones at The Sea Ranch. Assuming three abalones per person there will be 1743 more people at Arena Cove and 1456 at The Sea Ranch locations. Will there be room for them? I don't think so. Will there be enough resource for them? Who knows? Will there be a negative environmental impact? Absolutely! How much will the overall effect be? That's a good question that needs answering. I have shown a reasonable estimate here for abalones. One can logically expect a similar effect for any other species.

You can check my calculations yourself. You may use different approaches to do your own mathematical analyses, but the results will be similar because the logic is correct. There are some who will claim that the spillover effect, large mature organisms migrating out of MPAs, will compensate for the displacement of fishermen, but in the case of abalone and sea urchins this will not be true. The adults of these species will not migrate far enough along the coast to matter. With rockfish there is no data that I am aware of that shows that the spillover will be large enough to make up for displacement.
Suggested Mitigation: Remove excess MPAs that are deemed unnecessary by the CDFG to the overall program; especially those nearest to ports and traditional public access points. Here is what the Department said about the Saunders Reef SMCAs on page 3 of the April 18, 2008 Memorandum from John Ugoretz: "The Department recommends removing the following MPAs because they fall short of scientific and Blue Ribbon Task Force guidance for level of protection and are not necessary to meet scientific guidance on size, spacing, and habitat representation:" The first on this list are Proposals' 1-3 and 4 Saunders Reef SMCAs. The IPA version of the Saunders Reef SMCA is virtually identical to that of Proposal 4, so the CDFG evaluation would also apply to it. So remove the Saunders Reef SMCA and also remove the Sea Lion Cove SMCA which does not meet the criteria either but was left off the CDFG list. Or just adopt the 2XA proposal for Subregion1, which basically has already reduced the number of unnecessary MPAs. Additionally, the State Government should fund increases in parking lot sizes and amenities and access trails, since the MLPA is a state mandate and many access points are State Parks and/or adjacent to State Highway 1.

3. **Problem:** There will be an increase of pollution from boats due to the locations of MPAs. There also will be an increase of pollution and environmental damage on the land near the remaining areas of public access due to the increased parking and foot traffic in some areas.
Cause: The root cause here is the same as in problem 2 above, namely the displacement of users to fewer areas. I will provide further details in two separate areas: A. Boat access related and B. Land access related.
A. Boat access related: Currently, the fishermen operating out of Arena Cove use small boats and fish near the port. It is the ideal sustainable fishery of small boats, short trips, and commercially taken local products sold to local consumers as well as to world wide markets. The proposed MPAs will force the commercial fleet (and the larger sport boats) to motor further when the fishing grounds near port can't support them, because of the reduced size of the fishing grounds and greater fishing pressure. The unique placement of the MPAs very near the Port of Arena Cove will cause a reduction or end of medium distance fishing trips. Longer trips mean more fuel consumption. Longer trips also require larger boats for safety; so after the enacting of MPAs you will see larger boats **and** longer trips thus multiplying the fuel consumption and related rate of pollution even more. So boating traffic will be more concentrated closer to port, increasing pollution there, and at the same time there will be an increase in pollution overall, due to the need for more extended trips by larger vessels. Bigger boats also require greater catch levels to make them economically viable. More trips and longer trips also mean an increased chance of accident. Boat accidents - even small ones - are messy affairs - with all the fuel, oil, metals, plastics, and other debris. And don't forget the fuel burned by helicopters and rescue boats and the recovery of wrecked vessels. The severity and quantity of these effects will vary due to the locations of MPAs relative to the ports and which fishery is being considered, but all ports will be affected in these ways. In fact longer and more frequent trips by bigger boats also will cause more disturbances of marine birds and marine mammals.
B. Land access related: This part of the problem was a special concern of The Sea Ranch residents who attended the Scoping Meeting in Gualala as they have several Government mandated Public Access Sites along the length of their privately owned development. The problem is most obvious on days of very low tides during abalone season. Even under current situations the parking lots are inadequate in capacity and too few, so fishermen often just pull off the road, creating a traffic hazard and damaging roadside flora and fauna. Because the MPAs reduce the number of sites open to the public, even more people will be concentrated into the fewer permitted access points increasing the damage there.

Suggested Mitigation: Remove excess MPAs that are deemed unnecessary by the CDFG to the overall program; especially those nearest to ports and traditional public access points; for example: the Saunders Reef SMCA, and the Sea Lion Cove SMCA. (As explained in more detail in the mitigation statement for Problem 2 above.) Or adopt the 2XA proposal for Subregion1. In addition, State Government funded increases in parking and access trails seems appropriate since the MLPA is a state mandate and many access points are state parks and/or adjacent to State Highway 1

4. Problem: Public rights of access and recreational use of public commons would be further reduced without due process. I remember seeing the word "recreation" in a list of topics covered by CEQA on the large screen during the Scoping Meeting. This problem would definitely come under that heading.

Cause: I have been worried from the beginning of the MLPA process about hidden rules and regulations that will be used after an MPA is enacted. This is one aspect of MPAs that has been largely ignored. Wording in the definition of MPAs will allow an unspecified "managing agency" to restrict even activities "such as walking swimming, boating and diving". Here's one example from the CDFG definition of an SMR:

> "**Restrictions [36710(a) PRC]:** it is unlawful to injure, damage, take or possess any living, geological or cultural marine resource, except under a permit or specific authorization from the managing agency for research, restoration or monitoring purposes. While, to the extent feasible, the area shall be open to the public for managed enjoyment and study, the area shall be maintained to the extent practicable in an undisturbed and unpolluted state. Therefore, access and use (such as walking swimming, boating and diving) may be restricted to protect marine resources."

An example of the application of this rule could be: if someone (from the unspecified "managing agency") decides unilaterally that boat traffic through the Point Arena SMR endangers some wildlife or causes some form of pollution, they could force boaters to detour MANY MILES around the SMR. Whenever I have brought this point up, they (MLPA staff and Proponents of SMRs) have assured me: "Oh no, that's not what we mean – we would never do that." But in spite of the memos from Fish and Game and others saying boats will never be restricted, I see the restrictions, as quoted above and others like it, still listed on the CDFG MLPA web site under definitions. Most concerning is the lack of a definition of pollution and a lack of identification of the "managing agency". I fear it might be something like a University Professor who decides that boat engines are too loud, so by edict he can prevent the nonconsumptive uses that have been enjoyed for generations.

If, indeed An EIR is supposed to look into recreational concerns, this seems to me to be a perfect place to analyze the affects of MPAs. During the many meetings I attended there was a belief expressed by some that ANY disturbance is too much. Some one must make an unbiased determination of the facts and put it before the pubic in clear terms. An EIR seems the appropriate vehicle for this determination of how the MPAs and special closures affect nonconsumptive recreational users like surfers, beachcombers, nonconsumptive divers, birdwatchers, boaters and recreational watercraft users of all types, etc.

Suggested Mitigation: Change the wording of the CDFG definitions to allow all nonconsumptive uses within any MPA and to control pollution and disturbance of wildlife by the application of laws and regulations already existing outside the MLPA.

Conclusion: Our coastal area is now supposed to be shared by all U.S. citizens equally. The MLPA, as it is currently being applied to the area called Subregion 1, is not being applied in a uniform, equal fashion. The MLPA Proposals have been given preferential treatment in favor of the interest of the "Academic Elite" (researchers associated with university and government science programs), large organized Preservationist Organizations working with professional lobbyists, and specialized user groups like nonconsumptive divers. This is being done at the great expense of the interests of the majority of the residents of local communities whose cultural heritage, economics and individual life styles are dependent upon a sustainable, modest consumptive use of our marine resources. Recent efforts by a myriad of government agencies has managed marine wildlife resources responsibly and reported many successes. The further reductions and limitations in publicly available marine resources, as imposed by the MLPA proposals in Subregion 1, are clearly excessive and unnecessary, to the point of creating more environmental problems than they solve, as I have outlined above.

Assuming that we must have MPAs according to the Marine Life Protection Act, then the best way to minimize the severity of all of the problems that I have outlined, would be to approve the least restrictive array of MPAs, especially in Subregion 1. Of the existing proposals, Proposal 2XA is the best option in this regard. It is the only proposal that is officially backed by local communities (with official endorsements from the County of Mendocino, the Cities of Fort Bragg and Point Arena, The Sea Ranch Association, and the Farm Bureaus of Mendocino and Sonoma Counties). 2XA proposes fewer and smaller MPAs with better spacing. It fulfills all CDFG requirements and satisfies the goals and objectives of the MLPA. It is the only proposal that leaves the area to the south of the port of Arena Cove completely open to fishermen. Thus proposal 2XA not only has lowest environmental impact, it also, because of its local backing, would have the additional advantage of having increased local stewardship of marine resources and more local support for enforcement.

Allan Jacobs

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severely so most small boats will invariably choose to stay between the proposed MPAs. This will create much greater fishing pressure in the zone of coastline adjacent to the Point Arena Pier.

The third environmental problem is an increase of pollution due to the locations of MPAs. Currently, the commercial fishermen operating out of Arena Cove use small boats and fish near the port. The proposed MPAs will force the boats to motor further when the fishing grounds near port can't support them. Longer trips mean more fuel and also require larger boats for safety; so after the enacting of MPAs you will see larger boats **and** longer trips thus multiplying the fuel consumption and the related rate of pollution even more. Bigger boats also require greater catch levels to make them economically viable so there will be more trips. More and longer trips also mean an increased chance of accident. Boat accidents - even small ones - are messy polluting affairs - with the spilled fuel, oil and debris.

The fourth environmental problem is one of public rights of access and use. I have been concerned from the beginning of the MLPA process about hidden rules and regulations that will be used after an MPA is enacted. For example from the CDFG definition of SMR "While, to the extent feasible, the area shall be open to the public for managed enjoyment and study, the area shall be maintained to the extent practicable in an undisturbed and unpolluted state. Therefore, access and use (such as walking swimming, boating and diving) may be restricted to protect marine resources." My interpretation of this is: if someone (from the unspecified "managing agency") decides unilaterally that boat traffic through the Point Arena SMR endangers some wildlife or pollutes they can force us to detour MANY MILES around it. Whenever I have brought this point up, they (MLPA staff and Proponents of SMRs) have assured me: "Oh no, that's not what we mean – we would never do that." But in spite of the memos from Fish and Game and others saying boats will never be restricted, I still see the restrictions, as quoted above and others like it, still listed on the CDFG MLPA web site under definitions. Most concerning is the lack of definition of pollution and a lack of identification of the "managing agency". I fear it might be something like a University Professor who decides that boat engines are too loud.

Assuming that we must have MPAs according to the Marine Life Protection Act, then the best way to minimize the severity of all of the problems that I have outlined, would be to approve the least restrictive array of MPAs in Subregion 1. Of the existing proposals, Proposal 2XA is the best option in this regard.. It proposes fewer and smaller MPAs with better spacing. It fulfills all CDFG requirements and satisfies the goals and objectives of the MLPA. It is the only proposal that leaves the area immediately to the south of the port of Arena Cove completely open to fishermen.

Jeff Thomas

From: Lynn Takata [LTakata@dfg.ca.gov]
Sent: Wednesday, July 09, 2008 11:00 AM
To: Jeff Thomas
Subject: Fwd: Abalone / closure of public access

Hi Jeff,

Another CEQA Scoping comment

Lynn Takata

Staff Environmental Scientist
Marine Life Protection Act
California Dept. of Fish and Game
1416 9th Street, Rm 1341-B | Sacramento, CA 95814
(Tel) 916-651-7669 | (Cell) 916-261-4185 | (Fax) 916-651-7672 LTakata@dfg.ca.gov

>>> cheryl babineau <alibirods@sbcglobal.net> 7/9/2008 9:49 AM >>>
We have been free divers since 1974...we have followed all F&G rules and closures, and restricting of take....With the price of gas we are luck to be able to drive to salt point once a season to dive for abalone..we have seen the increase in the abalone population...

Now we see that public assess to the coves were diving is safe and fun are threatened with closures...This is unacceptable to a public that supports our resources financially through purchases of licenses...If we can not have access to dive then there is no reason to buy a license and support our resources...this will have a horrible effect on other businesses as you have seen through the closure of other fishing to our recreational fishermen who are also tourist and spend a lot of money in our small coastal town.

I urge you to reconsider these "abalone protection"
closures..this action will only result in financial hardships, an increase in poaching, and an increase in Diver deaths as recreational divers attempt to enter in none closed and dangerous access points.

Cheryl & David Babineau
Alibi Custom Rods
831.247.0535

Jeff Thomas

From: Lynn Takata [LTakata@dfg.ca.gov]
Sent: Wednesday, July 09, 2008 9:48 AM
To: Jeff Thomas
Subject: Fwd: NORTH CENTRAL COAST MARINE PROTECTED AREAS PROJECT NOPComments from Herman I. Kalfen, JD, REA, Kalfen Law Corporation
Attachments: 3.17.08 letter to Wiseman MLPA.pdf

. I trust that you will print and include all seven pages of my said letter as my comments to the above referenced NOP.

Again, please consider this email and my hereto attached said March 17, 2008 letter as my comments to the above referenced NOP. Please also be certain that I am included in all future mailing lists and correspondence regarding the MLPA, any related meeting or DEIR or other comment periods or meetings. Please do not hesitate to contact the undersigned if you have any questions.

Thanks, Herm

Herman I. Kalfen, JD, REA
Kalfen Law Corporation
1 Embarcadero Center, Suite 500
San Francisco, CA 94111

415.315.1710 (office phone)
415.433.5994 (office fax)

Kalfenlawoffice.com (law office website)
Beyondashadow.com (separate environmental services website)

Please consider the environment before printing this e-mail.

HERMAN I. KALFEN
ATTORNEY AT LAW
1 Embarcadero Center, Suite 500
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FACSIMILE 415.433.5994

17 March 2008

Ken Wiseman
Executive Director
CA Marine Life Protection Act Initiative (MLPA)
California Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

RE: California Marine Life Protection Act Initiative - Objection / Request for Information / Comments for Administrative Record / Public Comments to DEIR

Dear Mr. Wiseman:

Thank you for your presentation on Friday, February 8, 2008 in Pacifica regarding the above. At that time, and again herein, the undersigned raises concerns and requests additional information.

1. INTRODUCTION & BACKGROUND

I have been a California Coastside resident for over 15 years. I currently live in Pacifica, CA. I am an environmental attorney with 15 years of experience in government and private practice. I have a Certificate in Environmental and Natural Resources Law and I am also a Registered Environmental Assessor. The undersigned also sits on the Board of the Law of the Oceans, a non-profit based in Santa Barbara, CA.

As an environmental attorney, I have litigated many matters. Among them, I helped protect the bluff tops in Half Moon Bay from impermissible development along the Oceanshore railroad right of way. In addition, I am the only person I know that has proceeded under the emergency provisions of the Endangered Species Act to advance rapid construction to save the drinking water supply of a city. This was in Safford, Arizona while I was an environmental attorney for

the Federal Emergency Management Agency (FEMA Disaster Number DR #0977). I received a commendation from the Lieutenant Governor of Arizona for my leadership in Safford.

I most recently brought a Writ of Mandamus against the Montara Water and Sanitary District (MWSD) regarding its attempt to build a new million gallon water tank and fill it with newly discovered water, fueling Coastside growth, without sufficient environmental documentation. As one result of our suit, the MWSD told the Superior and Appeal Courts that its EIR was "a mistake." That matter is currently still under review and pending before the Coastal Commission. In this instance, I am writing this letter as a private citizen, a private citizen very concerned about the instant project.

2. MARINE / SCIENTIFIC / ENVIRONMENTAL ISSUES TAKE BACK SEAT WHILE GIVING APPEARANCE SCIENCE + NEEDS OF SPECIES AT FOREFRONT VIA VERY MISLEADING MAPS

The scientific facts underlying preservation of the marine environment are not driving this process, despite a façade to the contrary. The concerns and studies of the scientists are not driving this process. Instead, it looks like the process is being driven with a goal of reaching a compromise with all the interests, especially commercial fishing interests, despite the scientific data. Worse, the process is designed to make it appear as if there is the scientific interests and the environmental interests are represented fully, when in fact these interests have been minimized and marginalized, while the system is designed to make the opposite appears true. This is done primarily via a system of deceptive and misleading maps as explained below.

The project currently has six maps. The first map is called "Draft Proposal 1 (EC)". The second map is called "Draft Proposal 2 (JD)". The third map is called "Draft Proposal 3 (TC)". The fourth map is called "Draft Proposal 4 (JC)". The fifth map is called "External A". The sixth map is called "Proposal 0."

The sixth map Proposal 0" is the current map (a no action alternative). It *appears* that each of these five other maps represents five distinct alternatives, one being the scientific, one being the environmentalists, one being commercial fisherman, and so forth. This is not true. It may be unintentialy misleading or otherwise, but misleading it is.

There is NO map that represents only the scientific beliefs. There is NO map that represents only the environmentalists' beliefs. There IS a map that represents the commercial fisherman's interests. That is the ONLY "pure" interest represented. All the other maps all represent what the commercial fisherman want with some compromise with environmentalists and others.

I use maps from Subregion 4 (Double Point to Point Arena) dated 1/24/08 in this letter herein to illustrate my points, but each point is exactly applicable to all region.

3. ALL OTHER 4 MAPS WERE MADE WITH COMPROMISE WITH COMMERCIAL FISHERMAN IN PRIOR ROUND - FIFTH MAP ADDED THIS ROUND IS "EXTERNAL A" IS WHAT ONLY COMMERCIAL FISHERMAN WANT - NOT A PRODUCT OF ANY PRIOR COMPROMISE – THIS MAP WILL BE USED FOR YET ANOTHER FURTHER FUTURE ROUND OF COMPROMISE WITH CURRENT FOUR OTHER MAPS THAT WERE ALREADY RESULT OF PRIOR COMPROMISE WITH COMMERCIAL FISHERMAN

It is not apparent that this map "External A" is by the commercial fisherman. This is made worse by fact that all other maps were product of compromise in earlier round with Commercial Fisherman. This is made worse by the fact that all of this information is not readily apparent. This is made worse by the fact that it seems likely that the next round will involve further compromise among the maps. This is made worse by the fact that there is no pure map that reflects what the environmentalists want, and no pure map what the radical environmentalists want, and no pure map of what the scientists want and no pure map showing the location of endangered species, so that these maps, along with the pure commercial fisherman map might be considered in this further round of compromise.

4. REGARDING THE 5 MAPS – REQUESTS FOR INFORMATION - WHO IS BEHIND EACH MAP / NOT CLEAR / NOT TRANSPARENT / APPEARS MISLEADING / EACH FIVE PRIOR MAPS WERE MADE WITH COMPROMISE WITH COMMERCIAL FISHERMAN BUT THAT IMPORTANT FACT NOT CLEAR / NOT STATED

Please tell me the names and entities that were specifically involved in the delineation of each North Central Coast Project, all subregions. It is not transparent the way it is. It does appear that you have divided the Coast into units that may be appropriate for study, but would be challenged as improper segmentation under CEQA, if not considered one project.

Moreover, it looks to many viewers that each map represents a differing viewpoint or plan. In fact, each map is a compromise previously done among environmentalists, commercial fisherman and others. I had referred to these maps as a prior horse trade.

5. NO MAP COULD BE FOUND SHOWING WATERS THAT CONTAIN ENDANGERED SPECIES

Please provide me a map, if one exists, to scale of the other maps, with a new color of hash marks delineating areas where there are endangered species.

6. NO MAP COULD BE FOUND SHOWING MAP THAT SCIENTISTS BELIEVE IS NECESSARY TO PROTECT THE MARINE ENVIRONMENT

Please provide me a map, if one exists, to scale of the other maps, with a new color of hash marks delineating areas showing areas that scientists have suggested require protection based upon the science. We understand that there are maps from prior attempts at an MLPA produced by related science advisors. What did those prior scientists support? What do the current scientists support? There are no maps showing either of these important groups. Each should be its own map.

7. NO MAP COULD BE FOUND SHOWING WATERS THAT ENVIRONMENTAL GROUPS SUPPORT WITHOUT PRIOR COMPROMISE

Please provide me a map (or maps), if one exists, to scale of the other maps, with a new color of hash marks delineating areas showing areas that various environmental groups have suggested, without the prior compromise to dilute its intent. Environmental Groups that come to mind include NRDC, Audubon (who was talked down to at the February 8 hearing), PETA, Law of the Oceans, and Earthjustice.

8. CEQA QUESTIONS – ALL MAPS SIMILAR, RESULT OF SIMILAR PRIOR HORSE TRADING / NOT A REASONABLE RANGE OF ALTERNATIVES / ALSO PROJECT DIVIDED WITH IMPROPER SEGMENTATION UNDER CEQA

The maps offered do not represent a reasonable range of alternatives under CEQA due to the similarities of same. In addition, it does appear that you have divided the Coast into units that may be appropriate for study, but would be challenged as improper segmentation under CEQA.

Also, the undersigned does not follow your current CEQA process. It does appear that perhaps you have determined final agency action and published a Certification of an EIR for parts of this plan, maybe also have draft EIR's circulating for related parts, even while this MLPA process is ongoing and continuing. Please advise.

9. STAKEHOLDER RANGE AND EMPOWERMENT ISSUES

Please provide information regarding the state holders. It does seem from an initial review of your website that the majority of the stake holders represent commercial fishing interests. Please advise how stakeholders were solicited and selected. It does appear that current use of a range of stakeholders is to give the project an air of inclusiveness, but the stakeholders are only marginally empowered. Moreover, the project and the stakeholders impact is mitigated by use of the misleading maps as set forth above. Nevertheless, the undersigned also hereby requests to be added as a stakeholder.

10. CONCLUSION / REQUEST FOR INCLUSION IN MAILING LISTS / ADMINISTRATIVE RECORD / ANY & ALL MLPA DEIR COMMENTS

I look forward to obtaining materials from you and attending additional meetings to help clear up what might be a series of misunderstandings. Also to that end, please be certain that I am added to your mailing lists.

In addition, **this is request that this letter be included in the official administrative record of these proceedings. I would also like this letter to be considered as my comments to any and all draft EIR's that might be produced regarding the entire MLPA & each and every and any Subregion.**

We do believe that a compromise is possible that is mutually beneficial to all interests. We are concerned, however, that this process, as being implemented, currently does not provide sufficient information or techniques to accomplish same, although an appearance of the reverse is true.

Moreover, we are concerned that we will obtain a compromise using the current process, although keeping all happy in the short term, will provide irreversible failure for all parties in the longer term. Therefore, we consider this letter to be on the behalf of, and to the benefit of all parties concerned.

Please do not hesitate to write if you have any questions or if I may of any assistance to you. Thank you in advance for your attention and assistance.

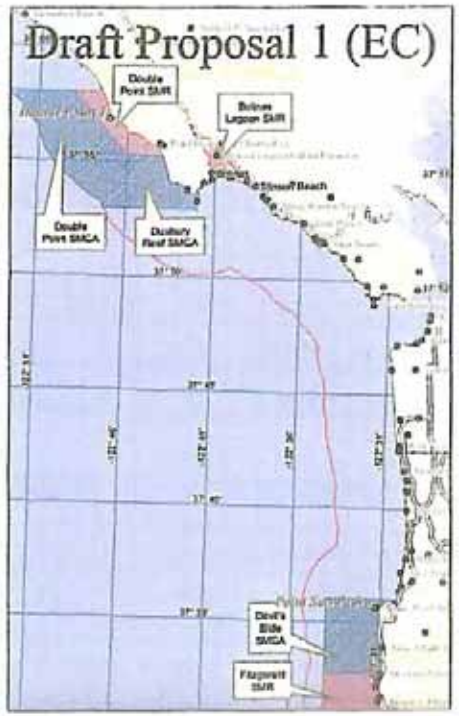
Sincerely,
LAW OFFICE OF HERMAN I. KALFEN

(signed)

Herman I. Kalfen, JD, REA

Attachment: set of six color maps (size reduced)

Cc: Concerned Citizens / Entities Mailing List

MLPA North Central Coast Study Region: Subregion 4

Double Point to Point San Pedro