Chapter 2. Comments and Responses

2.1. Introduction

A public review process was held for the North Central Coast MPAs Project DEIR. The purpose of the public review process was to provide information and solicit input on the content of the Proposed Project and DEIR. CEQA requires the Commission to make a good-faith reasoned analysis and respond to comments received (CEQA Guidelines, Section 15088). This chapter contains copies of the comment letters received on the North Central Coast MPAs Project DEIR during the public review process and responses to each comment.

Each comment letter received on the DEIR has been assigned a letter (A–O); comments within each letter have been numbered consecutively in the right margin of the letter adjacent to the individual comment (e.g., A-1, A-2, B-1, B-2…). Each comment letter is followed by the Department's response to that letter. The responses are numbered to correspond with the comments as identified in the right margin of the letter. Where the response indicates that a change was made to the DEIR, the relevant text change can be found in Chapter 3 of this FEIR.

As required by CEQA Guidelines Section 15132, this chapter provides responses to substantive and significant environmental issues raised in the comments. Detailed responses are not provided to comments on the benefits of the Proposed Project or Alternatives 1, 2, or 3. Responses are provided for each comment that raised a significant environmental issue or an issue related to the adequacy of the EIR. Some comments do not address the completeness or adequacy of the draft EIR, do not raise significant environmental issues, do not request additional information, or constitute unsubstantiated narrative or opinion. In such cases, a substantive response to such comments is not required under CEQA (See CEQA Guidelines Section 15088). When a comment is not directed to significant environmental issues related to the Proposed Project and/or the DEIR, the comment is noted but a detailed response is not provided.

2.2. Responses to Comments

The following represents the responses to all comments received during the public comment period on the DEIR. Table 2-1 lists the commenters and indicates the order in which the comment letters and responses to those letters can be found in this document. In addition to specific responses to individual comments, master responses are provided to address several major recurring themes that have been noted in comments received throughout this process. Unless otherwise noted, all code sections cited are to the Fish and Game Code.

Table 2-1. Commenters on DEIR

Letter	Commenter	Date of Comments
A	Gulf of Farallones National Marine Sanctuary	April 23, 2009
B	Allan Jacobs	May 1, 2009
C	Ocean Conservancy, Natural Resource Defense Council, Defenders of Wildlife	May 1, 2009
D	Marine Conservation Biology Institute, California Coastkeeper Alliance, Heal the Bay, Audubon California, The Otter Project, Russian Riverkeeper, National Parks Conservation Association, Golden Gate Audubon Society, Earth Care, San Diego Coastkeeper	May 4, 2009
E	Curt Billings	May 4, 2009
F	Chris Cervellone	May 4, 2009
G	California State Lands Commission	May 4, 2009
H	Environmental Action Committee	May 4, 2009
I	Chris Grossman	May 4, 2009
J	Paul, Hastings, Janofsky & Walker LLP	May 4, 2009
K	Ralph Kanz	May 4, 2009
L	Partnership for Sustainable Oceans	May 4, 2009
M	Recreational Fishing Alliance	May 4, 2009
N	U.S. Department of the Interior, Minerals Management Service	May 4, 2009
O	U.S. Department of the Interior, National Park Service	May 4, 2009

2.2.1. Master Response 1.0—Improper Implementation of the MLPA

An overarching theme of some comments has been that the MLPA process in general, and the north central coast MPA project in particular, either exceeds the scope of the statute, or otherwise impermissibly deviates from its requirements, particularly with its use of the State Marine Reserve (SMR) designation. Although these comments constitute unsubstantiated narrative or opinion, a discussion here is useful to understand the context within which the other themes are addressed.

At the outset, the MLPA is an environmental statute and remedial in nature; remedial statutes are liberally construed so as to effectuate their object and purpose, and the remedial effect of provisions should not be impaired by construction. (3 Sutherland Statutory Construction (6th ed.), § 60:2, p. 199). This construction of Fish and Game laws has been supported in published cases; conversely, statutory interpretations of Fish and Game statutes will be rejected when they lead to absurd results in light of the clear policy statement of legislative purpose. (*In re Makings* (1927) 200 Cal. 474, 478-479; *Pennisi v. Department of Fish & Game* (1979) 97 Cal.App.3d 268 , 272-273; *Young v. Department of Fish & Game* (1981) 124 Cal.App.3d 257, 271;

Department of Fish & Game v. Anderson-Cottonwood Irrigation Dist. (1992) 8 Cal.App.4th 1554, 1563).

In enacting the MLPA, the Legislature stated why it was necessary to modify the existing collection of MPAs to ensure that they are designed and managed "to take full advantage of the multiple benefits that can be derived from the establishment of marine life reserves." (Section 2851(h)). "Marine life reserves," which are now called State Marine Reserves, are defined in the MLPA as no-take areas. (Section 2852(d)). The MLPA also directs the MLPA Program to have an "improved" SMR component, and contemplates that the process for the establishment, modification, or abolishment of existing MPAs includes the creation of new MPAs. (Sections 2853(b)(6), 2853(c)(5), 2855(a), 2857(c)). The agenda driving this process is the one expressed by the Legislature in its detailed articulation of MLPA through its findings and declarations, definitions, goals and elements, Master Plan components, and objectives and guidelines. (Sections 2851-2853, 2856, 2867). Since the Legislature does not engage in idle acts, the fact that it expressly authorized the Commission in Section 2860 to regulate commercial and recreational fishing and any other taking of marine species in MPAs, and not just marine reserves, presumes such authority can be exercised.

Of course, how the Commission exercises that authority is a matter solely within its purview. In any case, the authorization of new SMRs cannot be reasonably construed as reflecting a bias against fishing, when the MLPA expressly states that such reserves "may help rebuild depleted fisheries." (Section 2851(f)). Further, the *Marine Life Management Act* (MLMA) links the maintenance, restoration, and enhancement of marine habitat to the primary fishery management goal of sustainability. In that respect, the Legislature also emphasizes that even fishery management decisions—which include the prevention of overfishing, the rebuilding of depressed stocks, the facilitation of conservation and long-term protection, and the restoration of marine fishery habitats—must not sacrifice long-term goals for short-term benefits. (Sections 7055(a), 7055(b), 7056(a), 7056(i)).

Some comments additionally complain that the proposed project does not adequately address such issues as funding, enforcement and monitoring. These subjects are expressly identified as Master Plan components (Sections 2856(a)(2)). Consistent with the MLPA's emphasis of timeliness over completeness, the MLPA only requires that these components be addressed in the Master Plan in the form of *recommendations*. There is no authority for the proposition that the MLPA requires funding, enforcement and monitoring issues to be comprehensively and finally addressed prior to, or contemporaneous with, the MPA designation process.

2.2.2. Master Response 2.0—Inadequacy of Science Standard

A recurring theme questions the adequacy of the science driving the MLPA process, asserting that the science being used is not the "Best Available Scientific Information" (BASI) and recommending that the process not continue until more research and study is conducted. However, state law emphasizes timeliness over

certainty or perfection. By way of review, in 2004 the National Academy of Sciences sponsored a major discussion of BASI in the context of the *Magnuson-Stevens Fishery Management Act*, and noted that "best" explicitly suggests that there is no better scientific information available and implicitly suggests the use of the most relevant and contemporary data and methods. However, the MLPA process is expressly based "on sound scientific guidelines" and "the best readily available science." (Sections 2853(b)(5), 2855(a)). The MLPA use of best *readily available* science is an important qualification that emphasizes timeliness over certainty or perfection. Similarly, the *Marine Life Management Act*, which predates the MLPA, qualifies its application of BASI with the language: "...on other relevant information that the department possesses, or on the scientific information or other relevant information that can be obtained *without substantially delaying the preparation of the plan*." [*Emphasis added*] (Section 7072(b)).

The MLPA emphasis of timeliness over certainty or perfection of information is further underscored by the concept of adaptive management, which recognizes that this process proceeds in the face of "scientific uncertainty" and prospectively contemplates that "monitoring and evaluation shall be emphasized so that the interaction of different elements within marine systems may be better understood." (Section 2852.) The objective of adaptive management under the MLPA is not to reduce uncertainty through increased scientific rigor, but rather to produce practical information that guides management decisions. To date, the California experience with adaptive management of marine resources is exemplified through the *Marine Life Management Act* (Sections 90.1, 7056(g)) and the Nearshore Fishery Management Plan, which addresses the critical concepts of the *precautionary principle*, and the variability of adaptive management strategies in *data poor*, *data moderate*, and *data rich* circumstances.

That the Legislature, as a matter of public policy, has favored timeliness over certainty of information does not mean that inadequate science should be used. In that respect, external peer review is a strong guarantor of the adequacy of the science. The MLPA mandates that an external peer review process be established, and allows use of the process identified in Section 7062 of the *Marine Life Management Act* "to the extent practicable." (Section 2858.) Section 7062(a) allows for submission to peer review of documents "that include, but are not limited to [marine living resources management documents]." However, such submissions are discretionary.

Also, it is important to understand that the charge of the peer review entity is not to authenticate the data presented to them, but to evaluate the scientific methodology employed and the facial plausibility of the conclusions that can be drawn there from. More importantly, the peer review entity is not expected to approve, disapprove, or comment on the wisdom of those conclusions. This must be so, because reasonable people can in good faith arrive at different conclusions using the same data and methodology.

In that regard, the Department undertook such a peer review of the scientific basis for the Master Plan. Consistent with the statutory direction of Section 7062, the scientific design guidelines used in preparing alternative MPA recommendations were

reviewed by a panel convened by Oregon Seagrant. The reviewers were selected by Seagrant independent of the Department, and asked to review: (1) the MLPA Master Plan Science Advisory Team (SAT) guidance on MPA network design; and (2) the consideration of habitats in the design of MPAs provided by the SAT. The reviewers were also asked: (1) in general, is the document logically organized and factual? (2) are its recommendations clearly and unambiguously stated? (3) are there specific statements that you feel are incorrect or misleading? and (4) is there anything of importance that was not stated or covered? The three reviewers found the document and advice appropriate and not lacking in any way.

2.2.3. Master Response 3.0—Inadequacy of Socioeconomic Analyses

A variant of Master Response 1.0 is that the socioeconomic information is fatally deficient. However, nothing in the MLPA imposes an affirmative duty to generate socioeconomic data beyond that which is required by other applicable laws, such as the *Administrative Procedures Act* (Government Code § 11346.3) or—to the extent a socioeconomic change induces significant adverse environmental impacts—the *California Environmental Quality Act*. The MLPA authorizes the establishment of a Master Plan team of scientists, one of which “may” have expertise in socioeconomics (Section 2855(b)(3)(A)). The preferred siting alternative must incorporate information and views provided by people who live in the area and other interested parties, including economic information (Section 2857(a)). Here, the term “economic information” relates back to “information” so we reasonably interpret this to mean that it is the “people who live in the area and other interested parties” that provide the economic information. Conversely, neither the five MLPA Program elements in Section 2853(c), nor the eleven Master Plan components in Section 2856(a)(2), address socioeconomics. Socioeconomics, then, is only one factor to consider in the development of a siting alternative (Sections 2855(c)(2), 2857(a)), which still must be consistent with the ecosystem-based goals and elements (Section 2853) and sound scientific guidelines (Section 2857(c)) of the MLPA. Consistent with CEQA Guidelines (14 C.C.R. §15131(a)), there is no duty to mitigate for adverse socioeconomic impacts under the MLPA. The MLPA expressly addresses mitigation of adverse impacts “on marine life and habitat in MPAs,” and if the Legislature had intended that socioeconomic impacts also be mitigated, it plainly would have said so (Section 2862). However, detailed socioeconomic information generated during the siting process may be relevant in the subsequent implementation of regulations under the *Administrative Procedures Act*.

2.2.4. Master Response 4.0—Failure to Consider Existing Marine Protected Areas

There is no authority for the proposition that the MLPA requires holistic understanding of the resource contributions of existing MPAs before new ones may be considered. Indeed, such a conclusion is precluded by a plain reading of the statute. The MLPA only contemplates “an analysis of the state’s current MPAs, based on the preferred siting alternative, and recommendations as to whether any specific MPAs should be consolidated, expanded, abolished, reclassified, or managed differently so

that, taken as a group, the MPAs best achieve the goals of Section 2853 and conform to the guidelines in subdivision (c) of Section 2857." (Section 2856(a)(2)(F)). This indicates that the assessment of existing MPAs is driven by the configuration of the preferred siting alternative, not the reverse. That assessment of existing MPAs is intended as part of the ongoing process, as opposed to being a necessary precondition to future MPAs, is further indicated in the Master Plan component requiring "recommendations for monitoring, research, and evaluation in selected areas of the preferred alternative, including existing and long established MPAs, to assist in adaptive management of the MPA network" (Section 2856(a)(2)(H)). Also, the MLPA requires that the Fish and Game Commission "promptly act" on petitions to "add MPAs" and states that "nothing in this chapter" restricts any existing authority to designate new MPAs prior to the completion of the Master Plan." (Section 2861(a), (c)). If a comprehensive assessment of the resource contributions of existing MPAs was required before new MPAs could be created, then these provisions would be rendered null.

2.2.5. Master Response 5.0—Failure to Consider Existing Fishing Management Measures

The MLPA expressly states that MPAs and fisheries management are complementary. (Section 2851(d)). Similarly, the *Marine Life Management Act* declares that conservation and management programs "prevent overfishing, rebuild depressed stocks, ensure conservation, facilitate long term protection and, where feasible, restore marine fishery habitats." (Section 7055(b); see also Section 7056(b), (c)). Although MPAs and fisheries management are complementary, they are not equivalent. The purpose of habitat protection in the MLMA is to advance the "primary fishery management goal" of sustainability (Section 7056). Moreover, that which is being managed is a specific fishery—which may be based on geographical, scientific, technical, recreational and economic characteristics (Section 94)—and so may only provide limited protection of a particular habitat.

Conversely, although the MLPA considers fishery habitat (Section 2851(c), (d)), it also encompasses broader, ecosystem-based objectives that are not limited to *only* fishery management. If only existing fishery conservation and management measures were considered in designing the MLPA networks, then arguably only some of the ecosystem goals and objectives might be met. Other goals and elements would be undervalued (e.g., improving "recreational, educational and study opportunities provided by marine ecosystems" and protecting "marine natural heritage...for their intrinsic value." (Section 2853(b)). The MLPA also states that one of the purposes of the marine reserve component is to generate baseline data that allows the quantification of the efficacy of fishery management practices outside the reserve (Section 2851(e), (f)). This would be difficult to implement if the MPA design itself must consider those very same existing conservation and management measures.

Moreover, it is important to remember that the MLMA is the most comprehensive revision of state marine fishery management procedures in history. The subsequent enactment of the MLPA the following year strongly suggests the Legislature recognized

that fishery conservation and management measures alone were inadequate to the task of broad ecosystem protection. Finally, had the Legislature intended existing fishery conservation and management measures to be considered in designing MPAs, then it plainly would have said so, as it did in the MLMA. (Section 7083). As it is, the fact that the MLPA allows the Commission to “regulate commercial and recreational fishing and any other taking of marine species in MPAs” (Section 2860(a)) strongly suggests that fishery measures are not intended to be considered in the design of MPAs but may in fact be subject to limitations beyond those already existing under fishery management regimes. Thus, while the design of fishery management measures should properly consider the existence of MPAs, the reverse is not true.

The conclusion that existing fishery management measures are not properly considered in designing MPAs are further bolstered by three “real world” considerations. First, the direction from the Legislature is to use “the best readily available information” and studying the interaction of existing fishery management practices would add another dimension of complexity that retards, not facilitates, the process (See Theme 1.0). Second, the subject of interaction with existing fishery management processes reflects exactly the kind of “scientific uncertainty” acknowledged by the Legislature when it authorized the application of adaptive management to the MLPA process (See Theme 2.0). Third, the unfortunate reality is that existing fishery management processes do not always work. Indeed, as evidenced by the disastrous collapse of the west coast groundfish and the red abalone fisheries, they can fail entirely. Fishery conservation and management measures alone do not necessarily guarantee either fishery sustainability or ecosystem health.

Nevertheless, to the extent practicable, information on existing fisheries management measures was considered in the development of siting alternatives. Presentations were made by Department and federal fisheries management experts, data on the locations and types of existing measures were provided, and changes were made to various proposals in response to comments on other ongoing management. The fact that the final siting alternatives overlap significantly with existing fisheries closures is one indication of the efforts taken to prevent duplication of protection while still meeting the MLPA goals described above.

2.3. Letter A, from Gulf of Farallones National Marine Sanctuary

Letter A

Jeff Thomas

From: Irina Kogan [Irina.Kogan@noaa.gov]
Sent: Thursday, April 23, 2009 11:03 AM
To: mlpacomments@dfg.ca.gov
Cc: maria Brown; Karen Reyna
Subject: DEIR comments from Gulf of Farallones National Marine Sanctuary

Thank you for the opportunity to comment on this thorough and well organized document. We would like to share a few technical comments:

1. page 1-6
"*Submarine canyons (~~drowned river~~ gorges that incise the continental shelf) are not present in the study region.*" A-1
Submarine canyons are gorges but are not necessarily drowned rivers.

2. page 1-12 A-2
"*National Marine Sanctuaries Program*" has recently been elevated to an Office. Hence the new name is Office of National Marine Sanctuaries (ONMS).

3. pages 2-11, 2-18, 2-25, 2-32
The area of special closures is dashed out since the number is so low. Please consider reporting the area for consistency. A-3

4. pages 2-14, 2-15 A-4
superscript 'a' references table 2-6. The correct reference is Table 2-7.

5. pages 2-17, 2-24, 2-31, 2-38
The 'species intended to protect' column is highly variable from site to site and between alternatives. Additionally, the information in the boxes may not reflect the SAT evaluation. From experience as a stakeholder, it is not clear that this was intentional on the part of the stakeholders. At a minimum, the information would make more sense if it was calibrated against the SAT evaluation of species that could be protected at each specific Special Closure site. A-5

6. pages 4-16, 4-17 A-6
The references to 3 miles - should that be 3 nautical miles?

Also, it may be more clear to discuss existing closures in terms of state versus federal implemented closures (e.g. EFH) thereby removing duplication of information and to organize the closure information by trawl RCA, non-trawl RCA and recreational RCA.

7. page 6-1
MBNMS has 36 species of marine mammals (not 26) A-7

8. Figure 7.4-1f
The Farallon Islands are federally managed by the USFWS and need to be shaded. A-8

9. Figure 7.5-1
The locations for the LIMPETS program are not on the maps. There are 5 Rocky intertidal monitoring locations: Duxbury Reef, Point Bonita, Fitzgerald Marine Reserve, Pillar Point, Pigeon Point and 16 sandy beach monitoring sites: Salmon Creek Beach, Doran Beach, Limantour Beach, Stinson Beach, Muir Beach, A-9

1

Rodeo Beach - North, Rodeo Beach - South, Crissy Field Beach, Baker Beach, Ocean Beach, Fort Funston Beach, Linda Mar Beach, Montara State Beach, Surfers Beach, Dunes Beach, Pescadero State Beach

For gps positions, please see
http://limpetsmonitoring.org/sb_north.php

http://limpetsmonitoring.org/ri_north.php

A-9 cont'd

Thank you for considering these technical comments. Please do not hesitate to contact Irina Kogan (irina.kogan@noaa.gov or 650-712-8791) if you have questions regarding any of the above comments.

2

2.3.1. Responses to Letter A

Response to Comment A-1: Comment noted.

Revisions to the DEIR:

The text on page 1-6 has been corrected as noted (refer to Chapter 3 of the Final EIR).

Response to Comment A-2: Comment noted.

Revisions to the DEIR:

The text on page 1-12 has been corrected as noted (refer to Chapter 3 of the Final EIR).

Response to Comment A-3: Comment noted.

No changes to the DEIR required.

Response to Comment A-4: Comment noted.

Revisions to the DEIR:

The text on pages 2-14 and 2-15 has been corrected as noted (refer to Chapter 3 of the Final EIR).

Response to Comment A-5: Comment noted.

Revisions to the DEIR:

DEIR Tables 2-7, 2-13, 2-19, and 2-25 have been revised to reflect consistency in the species protected within each special closure (refer to Chapter 3 of the Final EIR).

Response to Comment A-6: Comments noted. Existing fishing closures have been described consistent with the Regional Profile of the north central coast study region.

Revisions to the DEIR:

References to nautical miles has been added on pages 4-16 and 4-17 as noted (refer to Chapter 3 of the Final EIR).

Response to Comment A-7: Comment noted.

Revisions to the DEIR:

The text on page 6-1 has been corrected as noted (refer to Chapter 3 of the Final EIR).

Response to Comment A-8: Comment noted.

Revisions to the DEIR:

A footnote has been added to Figure 7.4-1f noted that the Farallon Islands are federally managed by the USFWS (refer to Chapter 3 of the Final EIR).

Response to Comment A-9: Comment noted.

Revisions to the DEIR:

Figure 7.5-1 in the DEIR has been revised to illustrate the locations of the LIMPETS program (refer to Chapter 3 of the Final EIR).

2.4. Letter B, from Allan Jacobs

Letter B

MLPA North Central Coast CEQA
Department of Fish and Game
Marine Region
20 Lower Ragsdale Drive, Suite 100
Monterey, Ca. 93940
(Sent via e-mail to mlpacomments@dfg.ca.gov)

May 1, 2009

This letter and the attached table of data are my public input response to the Draft Environmental Impact Report; California Marine Life Protection Act Initiative; North Central Coast Marine Protected Areas Project: March 2009.

I am presenting my conclusion first (in spite of all the lessons from my English teachers) because I want you to understand where "I 'm coming from." I know much of what I have written below will sound negative and accusatory. For that I ask your forgiveness in advance and ask in my own defense only that you understand my frustration and read it objectively to see that what I have written is logical, factual, and scientifically valid.

Conclusion:

You must understand that many of the local folks, like me, have purposely chosen our lifestyle of living close to the land and being a living, contributing, and participating part of the local ecosystem. Taking away part of our traditional marine heritage by putting MPAs on our part of ocean, because another part of the ocean that we cannot control is sick, is, in and by itself, severely impacting **our** environment. What is the purpose of having these MPAs in the first place if they create only hardship for law-abiding local citizens, depriving us of our income, our healthy and ecologically sound food source, our healthful out door recreation, and in fact, taking away our chosen lifestyles which include participating as a part of the local ecosystem? It is ironic that the creation of poorly designed local MPA arrays like in the IPA would cause these very same MPAs to fail to meet the goals and objectives of the MLPA. And it is doubly ironic that the very people who care for and understand the local ecosystem the most, and who take pride in being a part of it, will be deprived of continuing in their role of being a part of the "balance of nature" that makes it the way it is. The phrase: "greatest good for the greatest number of people" comes to mind here. There are times in the decision making part of government where the value of wilderness must be weighed against the other needs of the people being served by the government. I believe the Port facilities at Arena Cove in the City of Point Arena is a perfect example of a case where the needs of society outweigh the needs for wilderness. In fact it is such a small City and so chuck full of wildlife that keeping it as it is, is perfectly compatible with nature. Point Arena is very unique and special in many ways both natural and civilized. Last year as part of its 100th year anniversary, the City adopted a logo that includes the iconic and historic Point Arena Lighthouse and the Point Arena Mountain Beaver, a federally listed endangered subspecies, that continues to thrive within the city limits. The Arena Cove Pier is a public pier within the city limits and it is self funded by Commercial landings – mostly sea urchins bound for Japan – and supplemented by the yearly Sea Food Festival founded by volunteers from the local fishing fleet. Mitigating the unsound MLPA proposals by

1

adoption of proposal 2XA would be a step in the right direction to preserve this valuable, irreplaceable cultural resource. To lose all this unique intertwining of nature and civilization (a truly balanced and healthy ecosystem) because of someone's blind efforts to force us to be more "natural" by not letting us continue being a part of our marine heritage, is just too sad to contemplate.

Introduction:

My first finding upon reading the Draft EIR is that the main point of the EIR is contained in the pages ES-16 through ES-19. Within these few pages you say that essentially there is little significant difference between the current MLPA proposals. Furthermore, it states that there are "no significant unavoidable impacts". Therefore, the document continues, there are no mitigation measures, as "mitigation is not required for less than significant impacts". Let me just say at this point that I disagree with these findings. In fact, I am somewhat dumbfounded by the simplicity of your conclusions and the apparent lack of substantial support for your conclusions. Where do I begin to explain why I disagree? I feel like just screaming and giving up in disgust and discouragement. But that is not my style. So I will start my general comments by concentrating on the paragraph quoted below from page ES-16: B-1

"All of the alternatives generally meet the science guidelines of the master plan for MPAs and include similar percentages of habitat. However, the Proposed Project was identified by selecting and slightly modifying the MPAs from each of the three alternatives to better meet the scientific guidelines and goals of the MLPA. Because the Proposed Project is the most likely to achieve the full range of MLPA goals and objectives, it has therefore been identified as the Commission preferred alternative."

There is nothing scientific or magical that says if you take several plans and combine parts from all of them that it will result in a scientifically superior product. Imagine the engine from a Mack truck installed in a VW Bug. Remember Frankenstein's Monster? He was cobbled together from parts of other bodies in much the same fashion as the Proposed Project was cobbled together by the BRTF. There is no reason to believe that the BRTF's success will be any greater than Dr. Frankenstein's. B-2

So who exactly decided that the "Proposed Project is the most likely to achieve the full range of MLPA goals and objectives"? It was, and it continues to be my opinion that the Commission has not made that decision yet. This is based upon my understanding of the Bagley-Keene Open Meeting Act of 2004, and written and verbal statements by many officials, including at least one Fish and Game Commissioner. It is also my opinion, based upon my knowledge of the MLPA, and again, the written and verbal statements of many officials, that the choice of best plan rests with the Fish and Game Commission after due process, including the approval of the Joint Committee on Fisheries and Aquaculture. So I still wonder: Who says that the "Proposed Project" a.k.a. the IPA is any better or more likely to be finally adopted than any other of the four alternatives? This is a shining example of a lack of objectivity and prejudice that we don't expect and don't want from a supposedly scientific document that is supposed to just look for the existence of environmental impacts and simply report them back to us in a matter of fact fashion. It has tainted my trust and confidence in the whole process. So

2

I don't agree with your bottom line of "no significant unavoidable impacts" and the paragraph quoted above is convincing evidence to me that the findings are not objective and are tainted by prejudice. B-2 cont'd

I am dividing the rest of my responses into five parts for ease of reading, writing, and understanding. The five parts are:
1. The need for more details about the Red Abalone and Red Sea Urchin fisheries.
2. The need for a detailed comparison of environmental impacts **between** each of the proposals - especially in Northern Sonoma County and Southern Mendocino County area (approximately Subregion 1)
3. The need for data measuring the negative impacts on the environment resulting directly from the socio- economic effects of the MLPA.
4. Significant corrections to my quoted oral comments at the Scoping Meeting and my subsequent written input.
5. Correction of a false rumor

Part 1
Red Abalone and Red Sea Urchin Fishery Details

The authors of the Draft EIR left out significant data about the Abalone fishery. They also did not discuss the great differences between the abalone "protection" of the different proposals. This is an extremely volatile issue on the North Coast. Your document devotes too few of its pages to this issue (except for the public comments section which is loaded with abalone comments). Perhaps this is because the Ecotrust studies completely ignored the abalone fishery. During the MLPAI process, the California Department of Fish and Game (CDFG) was the main contributor of abalone data. Your document didn't even publish a complete set of abalone data from the CDFG. Compare your Chart 7-12 on page 7-38 to the complete chart with the title: "Table 1", "Abalone report card landing sites and associated 2002 – 2006 reported landings" from CDFG on page 8 of my written "MLPA CEQA Scoping Comments: Detailed Version July 7, 2008" in Appendix G, the written Comments section of the Draft EIR. Your chart is confusing about the Point Arena Lighthouse Report Card Site and incomplete in other ways as well. By now there should be an updated version of this chart available that includes the 2007 and 2008 data too. B-3

The basic concerns about Abalone are:
A. Do abalones really need so much protection? What evidence does The CDFG have that long term fishing pressure in the intertidal zone will effect the over-all population? The Department of fish and game should have a wealth of data supporting the fact that the abalone population north of the Golden Gate has been managed at a sustainable level before any additional MPAs are established. B-4
B. There should be expert opinions about the negative effects of shifting effort and therefore increasing the take in areas between MPAs. I believe the CDFG data and expert scientific opinions will confirm my belief that there will not be a reduction of overall effort just because there is a reduction of habitat open to abalone take. Please refer to my more detailed discussion of this in my previous written comments (in appendix G). The negative effects of shifted effort are certain to take place. B-5

3

C. In the area south of the Golden Gate, abalone take has been completely closed for several years. What are the results? For instance, did closing the abalone take at Franklin Point in San Mateo County cause an increase in abalone population? Surely some of our Abalone Fees were spent looking into this important source of data. B-6

D. Let's see what the CDFG biologists say about the Abalone Plan. Was it working without the MPAs? Will it work better or worse with them? B-7

E. What is the relationship between abalone populations and sea urchin populations? Are SMRs or restrictive MPAs like the Sea Lion Cove SMCA likely to cause Urchin Barrens and reduced abalone populations? I and most others with experience in the ocean believe this will happen – absolutely for sure. Do you have evidence it will not happen? There is evidence that it will happen. Consider this: "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 where kelp populations are lower, red abalones have declined in abundance as red sea urchins increased." (Karpov, et al 2001) What is the position of other unbiased biologists? B-8

F. You must run a comparison of the percentage of abalone habitat that each Proposal protects. Contrary to the general comments about the proposals being similar, with regard abalone habitat, they are quite different. For example I made the following calculations just for the amount of abalone habitat proposed to be closed in the area between Alder Creek and the Gualala River: Proposal 1-3 = 12.5 %; Proposal 2XA = 12.5%; Proposal 4 = 34.4%; and IPA = 34.4%. B-9

Summary: I know with 100 % certainty that there will be significant avoidable negative impacts to the abalone populations between proposed MPAs, and within the MPAs as well. Furthermore, the negative impacts may be mitigated to a large degree by simply choosing the best Proposal. The best proposal in this case is 2XA. The negative impacts to abalone could be further mitigated by including regulations in certain MPAs that allow the sustainable harvest of Red Sea Urchins and Red Abalones B-10

Part 2

Detailed Comparisons of Environmental Impacts **Between** Each of the Proposals

If one only looks at the statistics of the four MLPA proposals in a general way they do look similar. But if one takes a closer look there are glaring, obvious differences. It would be highly negligent for a document of the physical dimensions and importance of this EIR to ignore completely the important ecological differences between proposals. You should know that environmental damage is a very local thing. Using an approach that says all proposals are similar by looking only at the overall averages is poor science. Let's use rock fish habitat in the area near Point Arena as an example. The over-all percentages of protection by the four proposals don't indicate what is happening on this local level. According to CDFG the overall protection rates are: Proposal 1-3 = 21.6 %; Proposal 2XA = 18.0 %; Proposal 4 = 26.9 % and IPA = 20.1%. But when we do this for just the local area between Alder Creek and the Gualala River we get: B-11

Proposal 1-3 = 28.3 %; Proposal 2XA = 16.2 %; Proposal 4 = 30.3 % and IPA = 28.5 %
Furthermore, if you break it down by types of habitat, for this example rock fish, you get:
Proposal 1-3 = 34.1 %; Proposal 2XA = 17.6 %; Proposal 4 = 34.1 % and IPA =34.1%

4

I'm sure you can now see a great difference between the four options in the Point Arena area. I hope you will agree that a difference in "protection" of nearly double between 2XA and the others is a significant difference and the wrong choice of MPAs will certainly have significantly different environmental impacts. B-11 cont'd

Let's further consider geography and catch history along with the percentages. Proposals 1-3, 4, and IPA place two large MPAs that don't allow the take of rockfish on either side of the Port of Arena Cove. These two MPAs are on prime traditional fishing grounds. Together they leave only a small portion open to fishing in front of the harbor. This, in combination with the existing depth restrictions, will leave less than about 4 square miles within easy reach of local fishermen – what some have referred to as "The Box". Remember, Arena Cove is the fourth largest commercial port in the North Central Coast Region. Knowing the facts I have just presented, can any rational person deny that there will be significantly increased effort and therefore significantly more take in "The Box" created by three of the four proposals? Will this increased take do more damage to the environment than the additional MPAs will help? I believe the answer to this question is: Yes, it is absolutely true that "The Box" created by the imposition of both the Saunders Reef SMCA to the south and the Point Arena SMR to the north in combination with existing depth restrictions, will result in more lasting damage to the environment than will be mitigated by having both of these MPAs. B-12

Summary: The EIR must contain a section devoted to the issue of shifted effort of fishermen at a local level. I know there are already studies completed in the South Central Coast Study Region, you should find them and include their findings. You did quote from some studies in the Channel Islands but remember there is a great difference in accesses available to mainland coastal California fishermen that the Island studies will not measure. B-13

The EIR must also contain a section devoted to a comparison between the various Proposals, comparing the amount of protection for each of the most popular species or groups of species. Yes this is a lot of work, but not insurmountable considering the resources of the CDFG even under the current budgetary crisis. As an example I have attached a summary of my statistics, with the title "South Mendocino Impact". If I can do it just using my own local knowledge and the maps provided by the CDFG during the MLPAI process, it should be a piece of cake for you and your resources. B-14

I believe with 100 % certainty that there will be significant avoidable negative impacts to the marine life populations between some MPAs. The single most severely affected area in this regard is directly in front of the Port of Arena Cove. The negative impacts may be mitigated to a large degree by simply choosing the best proposal. The best proposal in the case of Arena Cove is proposal 2XA, because it is the only alternative that does not include a Saunders Reef SMCA to the south of Arena Cove. The negative impacts could be further mitigated by including regulations in certain MPAs that allow the sustainable harvest of non-endangered rockfish, algae (kelp and other edible seaweeds), and/or other species. B-15

5

Part 3

Impacts on the environment resulting directly from socio- economic effects

We residents of the coast north of the Russian River feel that there is only one option that gives us a chance of socio-economic survival and that is proposal 2XA. Even 2XA will impose much more hardship than benefits. We all understand that EIRs are not directly concerned about economic considerations, but there are economic situations that can directly result in significant negative environmental impacts. It is my understanding that CEQA recognizes this. Again, I remind you that while the statistics for the four MLPA proposals look similar and not too alarming in the general sense, they are quite dissimilar and much more alarming when viewed from a more local perspective.

Let's begin with my predictions of the commercial losses predicted just for Point Arena: Proposal 1-3 = 12.8 %; Proposal 2XA = 11.0 %; Proposal 4 = 15.8 %; and IPA = 14.9 %. (Ecotrust predictions are listed on the attached "South Mendocino Impact" table.) Notice the great differences between these predictions at a local level and those in the Scoping comments letter of July 7, 2008, from "Ocean Conservancy" in Appendix G. Both are based on the same Ecotrust study. Of course this is a worst case scenario, but still a fair comparison. The author of the "Ocean Conservancy" letter failed to include that the Ecotrust data was most severe in the Point Arena area and that not all proposals were equal in their severity. Furthermore, you should consider the concept that there is a threshold in economic losses below which there will not be a "temporary inconvenience" but instead a spiraling downward trend (a domino effect) that will result in the **complete loss** of industry and infrastructure. We recently saw this nearly happen on an international scale. It could easily happen on our local scale in Point Arena due to the MLPA. B-16

Here is how economics has a direct effect on the environment: An alert person, knowing the ways of commercial fishermen, would be quick to point out that commercial fisherman will make adjustments to MPAs by moving their efforts to other areas. At Point Arena this issue is compounded by three of the proposals that make it even harder to just shift effort to other locations because they place MPAs on both sides of the harbor. At the same time these same three proposals are also the most likely to cause the need to move farther. The economics of the situation is such that many locals predict that the commercial fishery at Arena Cove will no longer be viable under proposals 1-3, 4, or IPA and maybe not even under Proposal 2XA, due to the increased expense, time and danger of extending fishing trips past the proposed MPAs. This would be absolutely catastrophic for the City of Point Arena's Pier Facilities, which are a valuable "cultural resource" for all members of the public. These Pier and Harbor facilities are funded virtually entirely by commercial landings. A reduction of just enough of the landings to dip below the economic threshold would force the city to close the Pier Facilities or face bankruptcy. B-17

So how would the loss of the infrastructure of the Port of Arena Cove affect the environment? Here's a short list:

1. Reduced Fish and Game enforcement access. Without quick access from Arena Cove for Game Wardens, the new MPAs will become a Poachers' paradise.
2. Reduced access for research and monitoring of the local ecosystem – especially the necessary legislated requirements for local MPAs.

6

3. Loss of the only boat launching access for a large part of the coast to the members of the public who would like go out on the ocean in small boats for consumptive as well as non-consumptive purposes - including visiting MPAs for education, and research as well as other permitted uses.
4. Reduced opportunity for people to participate in a local sustainable food source. Instead of catching our own sea food or purchasing locally caught sea food that is currently managed in a sustainable fashion, we would pay more for a product that is inferior and produced or caught while causing more environmental damage elsewhere. For example: Instead of buying fresh locally caught wild salmon, restaurants or individuals would buy "farmed" salmon. B-17 cont'd

Summary: It is true that this aspect of environmental impacts is controversial. But it is also true that a misstep here could have catastrophic repercussions locally that would have a ripple effect that would be most unpleasant. What I am suggesting you do in this area is to start by looking closely at the Ecotrust data. You will see it is incomplete in some areas. It is especially incomplete in the Point Arena area. Once you see the areas of omission in the economic data, (two examples: there is no accounting of the value of sport fishing north of Bodega Bay, and there is no value listed for the abalone fishery) you will need to do some research of your own. A good starting place would be to look at the recently available report: "The Economic Structure of California's Commercial Fisheries" by Steven C. Hackett et al. It is a "Fulfillment of Contract P0670015, California Department of Fish and Game", and according to the abstract: "Both sets of supplemental materials are available from the Marine Region of the California Department of Fish and Game." That's where I've been told to send these comments, so it should be easy enough for you to use. I only saw a copy for the first time today and it appears to be the perfect application for finding the economic value of commercial landings. Once you have the best economic data, you should send someone to Point Arena in person to speak directly with local officials to establish the economic threshold for disaster that I have referred to above. Finally, use all of the best data to compare the effects of each of the four proposals on the local environments (at least for the Port of Arena Cove and at the Subregion level). B-18

Part 4
Corrections

I am requesting some significant changes be made to the printed record of my input to the scoping process. These changes would correct errors that significantly change the meaning of what I said or wrote.
1. Please place page 5 of my written comment between page 4 and page 6 using the page numbers that are hand written in the lower right hand corner of the pages. Apparently the fax was sent out of sequence.
2. In my Oral comment there were several homonyms that the stenographer incorrectly transcribed. It would be no big thing except when it changed my true spoken meanings and intent of my words.
These are written in the "PUBLIC SCOPING MEETING"; Thursday, June 19, 2008. B-19

7

A. on page 13 line 7 it says; "Three of the four proposals -- 1, 3, 4 -- and IPA's…" it should read: "Three of the four proposals, 1-3, 4 and IPA,"
B. on page 13 line 21 it says: "Arena per." It should say: Arena Pier."
C. on page 14 line 19 it ends with "and" but should be "an"
D. of minor concern are the comments attributed to "Phil Jacobs" for example on page 25, line 23. There was no person there named Phil Jacobs – there was Phil Sanders and Allan Jacobs. It's not important to me who actually made the comments as long as they were recorded – I'm sure Phil feels the same. But I thought it should be mentioned. B-19 cont'd

Summary: At the very least, place page 5 of my written comments between page 4 and page 6 using the page numbers that are hand written in the lower right hand corner of the pages. Leaving it as it is makes both of us look bad.

Part 5
Correction of a false rumor

Some people falsely assumed after the June 11, 2008 meeting that the Commission as a whole somehow voted in favor of the IPA. Nothing could be further from the truth. This is a rumor that has had a very serious and lasting negative affect on those of us who know that the IPA is not the most scientifically correct proposal. We had hoped that the EIR would be impartial and proceed solely based on scientific evidence rather than on philosophical and/or political pressures. Your written caption under the map in "figure 2-1" in the Draft EIR says "***California Fish and Game Commission Preferred Alternative*** This marine protected area (MPA) proposal was selected on June 11, 2008 by the California Fish and Game Commission (CFGC) as its preferred alternative." The same map and caption as in your "figure 2-1" was displayed at the Scoping Meetings and I believe it is at least largely responsible for perpetuating this false and malicious rumor, and perhaps even the original source of the misinformation. When I first found out how many people believed this rumor, I sent an email to a Department of Fish and Game official questioning its validity. Here is what she wrote back on August 7, 2008: "Regarding selection of a preferred alternative: The Commission has not taken formal action to identify the BRTF-recommended Integrated Preferred Alternative (IPA) or any other alternative as its preferred alternative. The Commission did direct the Department to prepare for the CEQA process using the IPA as the preferred project and the RSG proposals as regulatory alternatives (these must be specified for the CEQA process to commence). The Commission directed the Department to prepare an Initial Statement of Reasons for Regulatory Change with all four proposals to bring back to the Commission in a notice hearing. The Commission will take comments on all proposals, but public comments should focus on how the IPA does or does not meet their needs." B-20

The Commissioners should also tell you that they have not chosen the IPA, or any other Alternative, "…as its preferred alternative." To have done so at the June 11 meeting would have been a flagrant infraction of the law. The California Attorney General's Office, in reference to section 11125 of the Bagley-Keene Open Meeting Act of 2004, says: "…that at least 10 days prior to the meeting, notice of the meeting must be given along with an agenda that sufficiently describes the items of business to be transacted or discussed." This simply means that if the agenda does not say a decision

8

will be made then the Commission cannot make any decision. In fact, we were told specifically by many official sources that no such decision would be made at the June 11 meeting which was in agreement with the written agenda. Many of us chose not to attend the June 11 meeting and/or testify based upon both what we were told and what was written (or more importantly – what wasn't written) in the agenda. B-20 cont'd

I believe it is your responsibility to try to correct this error of perpetuating the false rumor that the Commission has already chosen the IPA "…as its preferred alternative." I realize (and I hope you do too) that it is like "trying to put the toothpaste back in the tube" but if you do not try to make corrections you may find yourself in a legal predicament. You may want to consult your lawyers on this.

Summary: I recommend that you make the following changes in future drafts of the EIR:

1. Rewrite the captions and descriptions and all other references to the IPA, starting with "figure 2-1", so that they more accurately reflect the reality that it is just one of several equally valid Proposals that are before the Commission **and** the Joint Legislative Fisheries and Aquaculture Committee for final approval. B-21
2. For making comparisons in your document, use the original Proposals' names as they were presented to the Commission on June 11, 2008. They include Alternatives 0, 1-3, 2XA, 4, and the BRTF IPA (Blue Ribbon Task Force Integrated Preferred Alternative). In this way the general public as well as the government officials will not be confused when discussing comparisons of proposed alternatives and it will be perfectly clear that the Commission is still considering the scientifically best option based upon the original work submitted to them by the BRTF. B-22

Thank you for your consideration,

Allan Jacobs
(707) 882-2455
P.O. Box 33
Point Arena, Ca 95468
gbcottage@mcn.org

9

Attachment to Letter B

South Mendocino Impact
Analysis of impact on the South Mendocino County Portion of Subregion 1
Compiled by Allan Jacobs

	Proposal 1-3		Proposal 2XA		Proposal 4		Preferred Alternative	
Criterea	Amount	%	Amount	%	Amount	%	Amount	%
Abalone Habitat	2.0 mi	12.5%	2.0 mi	12.5%	5.5 mi	34.4%	5.5 mi	34.4%
Rock Fish Habitat	5.8mi	34.1%	3.0 mi	17.6%	5.8 mi	34.1%	5.8 mi	34.1%
Sea Urchin Habitat	2.0 mi	12.5%	2.0 mi	12.5%	2.7 mi	16.9%	2.7 mi	16.9%
Salmon Habitat	4.38 mi²	5.8 %	4.96 mi²	6.6%	5.05 mi²	6.7 %	4.38 mi²	5.8 %
Dungeness Crab Habitat	11.03 mi²	24.3 %	7.92 mi²	17.4 %	12.02mi²	26.5 %	11.03 mi²	24.3%
Total South Mendocino Coast by Length	6.0 mi	27.1%	3.4 mi	15.4%	7.1 mi	32.1%	7.1 mi	32.1%
Total South Mendocino Coast by Area	21.63 mi²	28.3 %	12.38 mi²	16.2 %	23.21 mi²	30.3 %	21.83 mi²	28.5 %
Total North Central Coast (DFG)	164.6 mi²	21.6%	137.5 mi²	18.0 %	204.9 mi²	26.9 %	153.3 mi²	20.1 %
Predicted Com. Fishing Loss for Point Arena. (Ecotrust 5/13/08)	$ 59,510	12.8 %	$ 67,139	14.4 %	$ 83,332	17.9 %	$ 76,623	16.5 %
Predicted Com. Fishing Loss (My Estimate)	$ 59,510	12.8 %	$ 51,124	11.0 %	$73,642	15.8 %	$69,075	14.9 %

Total Coastline for south Mendocino County portion of the North Central Coast Region: 22.1 miles long, 75.6 mi² area
Total south Mendocino County portion of the North Central Coast Region Habitats: abalone and sea urchin: 16 linear miles of coast; rock fish: 17 linear miles of coast; Dungeness crab: 45.4 mi²; and Salmon: 75.6 mi²

10

2.4.1. Responses to Letter B

Response to Comment B-1: Comments noted. The Department disagrees with the commenter's assertions that the Proposed Project (i.e., the Integrated Preferred Alternative) would fail to meet the goals and objectives of the MLPA. The commenter does not provide evidence to support a contrary conclusion. The Proposed Project is the result of an extensive planning process including the work of a comprehensive stakeholder involvement process considering a wide variety of public concerns. As presented in the Impact Analysis section of chapters 5 through 7, there would be no significant and unavoidable impacts from the Proposed Project or Alternatives 1, 2, and 3. See also Master Response 1.0.

No changes to the DEIR are required.

Response to Comment B-2: Following review of the North Central Coast Regional Stakeholder Group (NCCRSG) proposals and the recommendations of the

Blue Ribbon Task Force (BRTF), the Integrated Preferred Alternative (IPA) was identified by the Commission at its June 11, 2008 meeting. For the purposes of CEQA analysis, the IPA is the Proposed Project. At a future hearing, tentatively scheduled for August 2009, the Commission will consider adoption of the IPA for the north central coast study region. At such time, the Commission could also elect to adopt an alternative to the IPA (e.g., Alternatives 1, 2, or 3) or any combination therein. This decision is within the Commission's discretionary authority. The DEIR presents a legally adequate analysis that provides a scientifically valid and defensible approach to the impact analysis.

No changes to the DEIR are required.

Response to Comment B-3: The abalone data presented in the DEIR was the data used by the NCCRSG during the development of the various MPA arrays. Abalone catch estimates for a given season are generated during the following year, so 2007 catch and effort estimates became available in late 2008 and were not yet available when the DEIR was written. See also Master Response 5.0.

Revisions to the DEIR:

Table 7-12 on page 7-38 of the DEIR has been revised to reflect abalone report card landing data for 2002 thru 2007 (Refer to Chapter 3 of the Final EIR).

Response to Comment B-4: In June 2004, Department biologists surveyed the intertidal habitat for abalone at Sea Lion Cove (Stornetta) and at Moat Creek for comparison. The density of red abalone at Sea Lion Cove was 0.6 abalone per meter square. At the high use Moat site it was nearly 7 times lower at 0.09 abalone per meter square. Several months later, the Bureau of Land Management opened the Sea Lion Cove area to the public and to abalone harvest. The intertidal habitat there was re-sampled by the Department in Fall 2007, replicating the survey conducted in 2004 for effective comparison. The abalone population had decreased by 85% to a level comparable to the Moat Creek intertidal fished site to the south.

Productive and relatively pristine intertidal abalone habitat is a rare commodity along the mainland coast of California and the Stornetta experience illustrates why it should be protected whenever possible. Scientists from PISCO (the Partnership for Interdisciplinary Studies of Coastal Oceans) who also surveyed the area estimate that it may take 20 years for abalone populations to recover to their pre-2004 levels if the area is protected from harvest.

See also Master Response 5.0.

No changes to the DEIR are required.

Response to Comment B-5: The commenter suggests there may be additional evidence to support the assertion but does not provide any additional evidence. Based

on the most recent abalone report card data from 2007, the estimated catch shift from the IPA affected sites would be approximately 22,000 abalone. The Point Arena Lighthouse area catch, comprised primarily of Sea Lion Cove, dropped precipitously from 2006 to 2007, by almost 60% to an estimated 7,558 abalone from a high of 18,511 abalone. This catch and associated effort have already dispersed to other areas in Sonoma and Mendocino Counties. In addition, other shifts of large magnitude have occurred due to annual variations in effort and catch patterns. For example, between 2005 and 2007, the estimated abalone catch in the north central coast study region increased by over 40,000 abalone, or 32%. Some individual site catch estimates, like those for the Fort Ross area, have varied by as much as 90% between 2002 and 2007. So even without the establishment of any MPAs, catch and effort shift of a large magnitude regularly occur. See also Master Response 5.0.

No changes to the DEIR are required.

Response to Comment B-6: See Department memo dated March 19, 2009 regarding "Department of Fish and Game response to the Commission regarding the abalone resource at Sea Lion Cove area, Mendocino County" The memo states, "…the Abalone Recovery Management Plan (ARMP) (Section 7.1.1.3) recommends the use of MPAs as additional protection to assist with the recovery of abalone populations an help support populations in fished areas." While we have not looked at the San Mateo County coast since the closure, we have intensively examined other locations with red abalone habitat south of San Francisco. For the past 3 years Department divers in collaboration with California Abalone Alliance divers and other agency divers have surveyed the grounds around San Miguel Island in the northern Channel Islands. Preliminary results show that the recovery of abalone populations at San Miguel Island, historically one of the most productive red abalone locations in southern California, has been a slow process since the 1997 closure. See also Master Response 5.0.

No changes to the DEIR are required.

Response to Comment B-7: See Department memo dated March 19, 2009 regarding "Department of Fish and Game response to the Commission regarding the abalone resource at Sea Lion Cove area, Mendocino County" The memo states, "[a]ccording to the ARMP, new MPAs should be established to address the deficiencies of current MPAS," including "…an insufficient range of habitats, which should include shallow and intertidal areas that are not well represented." The establishment of MPAs as study control sites to assess the impacts of harvest on abalone populations is an essential element of the ARMP. See also Master Response 5.0.

No changes to the DEIR are required.

Response to Comment B-8: See the Department memo dated March 19, 2009 regarding "Review of Information Pertaining to Risk of Urchin Barrens Occurring Inside Marine Protected Areas that Restrict Urchin Harvest." While the interaction of MPAs and sea urchin populations is complex and not easily characterized, there is considerable

evidence that the establishment of MPAs in nearshore rocky habitats does not necessarily lead to the formation of sea urchin barrens. Evidence from ongoing studies in two northern California areas closed to sea urchin harvest suggests that urchin populations can be stable in the absence of commercial harvest. The Gerstle Cove area in Sonoma County and the South Caspar Point area in Mendocino County were closed to commercial sea urchin fishing in 1990 in part to study recovery rates of fished down sea urchin populations. Urchin populations have increased in both closures and have been surveyed intermittently during the intervening 18 years along with adjacent control sites. Red abalone, red sea urchin and their habitats were assessed along scuba transect lines using Department Abalone Recovery and Management Plan protocols. In 2008 surveys, preliminary results showed that kelp abundance was almost identical inside and outside the Caspar Point commercial urchin closure area, a sign that despite their relatively high density inside the closure, red sea urchins had not created an urchin barren after nearly two decades. At the Gerstle Cove urchin closure area, despite the fact that red sea urchin densities were 2.5 times greater inside, abalone densities were not significantly different outside the closure and algal abundance was also very similar, demonstrating that high urchin densities do not necessarily prevent stable kelp and abalone abundances.

However, it must be noted that even if commercial urchin fishing were to be allowed in MPAs, a large percentage of the available urchin biomass would not be subject to harvest since commercial urchin harvesters target only red sea urchins greater than the legal size limit and of marketable gonad quality.

See also Master Response 5.0.

No changes to the DEIR are required.

Response to Comment B-9: The Department is unclear as to how these values were derived. See also Master Response 5.0.

No changes to the DEIR are required.

Response to Comment B-10: Comment noted. The Department does not anticipate negative impacts to abalone populations from creating MPAs and protecting abalone from harvest.

No changes to the DEIR are required.

Response to Comment B-11: The DEIR provides a complete and legally adequate analysis of direct and indirect environmental impacts, mitigation measures, and alternatives. Regional and local differences in levels of protection between the Proposed Project and Alternatives are design considerations that were addressed by the BRTF with input from the NCCRSG, the SAT, and local communities. Each MPA package alternative under consideration by the Commission provides increased protection within the north central coast study region for marine habitats and species

over existing baseline conditions; therefore, none of the alternatives would result in an adverse impact to biological resources from a CEQA perspective. In fact, because the focus of the Proposed Project and Alternatives 1, 2, and 3 is one of conservation and protection, only beneficial effects or impacts are anticipated by each.

The DEIR does provide a comparison of the degree of beneficial effects among the MPA packages on a regional level as the MPA design basis is that of a network, not a series of independent preserves. Since the purpose of the CEQA is to disclose potential adverse physical effects on the environment resulting from a project, and none would result from either the Proposed Project or Alternatives 1, 2, or 3, a detailed analysis or comparison of project versus alternative benefits by MPA is not required, nor would it alter the results of the analysis contained in the DEIR. Such analysis and comparison is part of the design process noted above.

No changes to the DEIR are required.

Response to Comment B-12: The commenter presumes that fisherman in the Port of Arena Cove would limit themselves to fishing only in State waters in front of the harbor under the Proposed Project and Alternatives 1 and 3, and furthermore that this would result in lasting environmental damage that would not be offset MPA designations of the Proposed Project or Alternatives 1 and 3. The commenter fails to provide any substantial information suggesting that there are reasonably foreseeable impacts that were not evaluated in the DEIR relative to this issue. Displaced fishing effort, in particular, was discussed in detail in the DEIR. Furthermore, the Department disagrees that the Proposed Project and Alternatives 1 and 3 would be ineffective or detrimental in achieving MLPA goals, which is implied in the commenter's line of thinking.

No changes to the DEIR are required.

Response to Comment B-13: The DEIR addressed the potential for shifts in fishing effort in Chapters 4, 5, 6 and 7. One of the primary concerns associated with shifts in fishing effort is the potential for serial depletion of a species on a local or regional level. Serial depletion is considered in adaptive management as required by the MLPA. Adaptive management enables the Commission to address issues such as serial depletion when identified by the Department in association with long term monitoring of the MPA network. See also Master Response 3.0.

No changes to the DEIR are required.

Response to Comment B-14: See Response to Comments B-11 and B-12.

No changes to the DEIR are required.

Response to Comment B-15: See Response to Comments B-11 and B-12.

No changes to the DEIR are required.

Response to Comment B-16: CEQA does not require an evaluation of socio-economics per se, but does extend to the secondary effects of socio-economic influences, where they would have a measurable effect on the physical environment. The DEIR provides a detailed evaluation of impacts related to socio-economic considerations (see Chapter 4 of the DEIR and related impact analysis). The commenter does not provide evidence to support the potential for a measurable physical environmental effect associated with any potential socio-economic effect of the Proposed Project. See also Master Response 3.0.

No changes to the DEIR are required.

Response to Comment B-17: The commenter does not provide evidence to support the assertion that the commercial fishery at Arena Cove would no longer be viable or that pier and harbor facilities would be forced to close under the Proposed Project, thereby eliminating access for enforcement, research and monitoring. The commenter additionally presumes without evidence that enforcement of MPAs is largely predicated upon having quick access, and that lacking such access would result in increased poaching in MPAs. The Department disagrees with this statement. Department enforcement and surveillance activities utilize a combination of boat, aircraft, and land based wardens. Furthermore, the commenter characterizes Arena Cove as the only public boat launch for a large part of the coast. Additional public boat launches exist at Albion which is 18 miles north of Point Arena and Anchor Bay which is 13 miles to the south. Finally, reduced opportunity for people to participate in a local sustainable food source is not a physical effect on the environment under CEQA, and the assertion that this would cause more environmental damage elsewhere is unsubstantiated. See also Response to Comment B-16 and Master Response 3.0.

No changes to the DEIR are required.

Response to Comment B-18: Comments noted. See Response to Comments B-12, B-16, and B-17. See also Master Response 3.0.

No changes to the DEIR are required.

Response to Comment B-19: Comments noted.

Revisions to the DEIR:

The scoping summary report in Appendix C of the DEIR has been corrected to reflect the reordered sequence of the commenter's scoping letter, and the minor corrections to the scoping transcript have been made as noted (Refer to Chapter 3 of this FEIR).

Response to Comment B-20: The Department concurs with email response the commenter received on August 7, 2008. In order to complete environmental review under CEQA, the Commission had to identify which of the NCCRSG MPA packages to

move forward as the project, and which to consider as alternatives to the project. On June 11, 2008, the Commission identified the BRTF IPA as the Proposed Project thereby indicating their initial preference for the north central coast study region and allowing the commencement of environmental review. The public is incorrect in falsely assuming or construing this to mean that the Commission has already voted on and approved the IPA. This has never been indicated by the Commission, Department MLPA staff, or their consultants. With regard to CEQA, the Commission's final action occurs when it certifies the EIR as part of its legally noticed public meeting.

No changes to the DEIR are required.

Response to Comment B-21: Comment noted. Chapter 2 of the DEIR clearly identifies which MPA package is the Proposed Project and which MPA packages represent the alternatives.

No changes to the DEIR are required.

Response to Comment B-22: See Response to Comment B-21.

No changes to the DEIR are required.

2.5. Letter C, from Ocean Conservancy, Natural Resources Defense Council and Defenders of Wildlife

Letter C

Delivered by electronic mail to: mlpacomments@dfg.ca.gov

May 1, 2009

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

Re: Comments on Draft Environmental Impact Report for NCC MPAs

Dear Department of Fish and Game:

Please accept the following comments on behalf of Ocean Conservancy, the Natural Resources Defense Council and Defenders of Wildlife. As you know, our organizations have been deeply involved in the implementation of the Marine Life Protection Act (MLPA) throughout its history. We are writing today to comment on the Draft Environmental Impact Report (DEIR) for the proposed North Central Coast (NCC) marine protected area (MPA) network alternatives. 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 potential significant adverse environmental impacts under the California Environmental Quality Act (CEQA). The CEQA analysis confirms this expectation.

That said, the CEQA analysis also concludes that some MPA alternatives are more likely to achieve the conservation goals of the MLPA, than others. Specifically, it finds that Alternative 3 provides the greatest environmental benefits of all the proposals, that Alternative 2 consistently protects less habitat with less coverage than other MPA proposals,[1] and that the No-Project Alternative (failure to move ahead with implementing the MLPA) is likely to have a significant adverse environmental impact.[2] Based on this analysis and other sources of information, the Proposed Project will provide substantial benefits to the state of California by protecting marine life and underwater habitats, while also having the advantage of balancing the interests of a wide variety of stakeholders. C-1

In our view, the DEIR provides a legally sufficient and fundamentally sound foundation for the state's decision and fulfills the purposes of CEQA to "prevent the elimination of fish or wildlife species due to man's activities [and] ensure that fish and wildlife populations do not drop below self-perpetuating levels,"[3] as well as to "inform governmental decision makers and the public

[1] DEIR 9-7.

[2] DEIR 9-4.

[3] Public Resources Code §21001(c).

Ocean Conservancy & NRDC NCC Draft EIR comments
May 4, 2009
Page 2

about the potential, significant environmental effects of proposed activities."[4] We have suggestions for improving the accuracy, completeness, and logical consistency of some portions of the document, and have organized our specific comments by chapter. C-1 cont'd

Executive Summary

Overall, the Executive Summary provides a useful overview of the contents of the DEIR and the Proposed Project and alternatives. However, in the section entitled, "Comparison of Proposed Project and Alternatives," we recommend further clarification in the final Environmental Impact Report (EIR).

While it's true that the Proposed Project and all three alternatives would "increase conservation benefits" when compared to the No-Project Alternative and all "generally meet the science guidelines,"[5] the differences and degree to which they do so are worth noting and should not be overly generalized.

C-2

The Science Advisory Team (SAT) creates and issues science guidelines that are sometimes applied with minimum thresholds and sometimes provide a preferred amount or a range, but frequently have neither. The SAT's review of proposals evaluates how much habitat is covered in a proposed number of MPAs of a given size and distance apart, appropriately leaving the *policy decisions* of "how much is enough" to the Blue Ribbon Task Force (BRTF) and California Fish and Game Commission (FGC). For this reason, it is inappropriate and, moreover, inaccurate, to say that "all of the packages presented would meet the SAT guidelines and project goals."[6] The BRTF has explicitly chosen a Preferred Alternative, which is now the Proposed Project, and the FGC has yet to make its policy decision of which alternative, under their reading of the MLPA and the science guidelines, best meets the SAT guidelines and project goals. We recommend removal of this statement in the Final EIR.

We additionally recommend that this section explicitly state in its comparison of alternatives that Alternative 3 is the "Environmentally Superior Alternative," as later noted on page 9-6.

Chapter One

As mentioned in our letter to the California Department of Fish and Game (DFG) dated July 7, 2008, the EIR should include a brief discussion of the science of marine reserves, marine protected areas and MPA network design, as well as the potential benefits of MPAs for living marine resources and habitats within the NCC. The EIR should discuss the ability of 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 management approach. We believe this discussion should be included in either this chapter, Section 1.2, or in the Executive Summary, under C-3

---

[4] CEQA Guidelines §15002(a)1.

[5] DEIR ES-16.

[6] DEIR ES-17.

"Project Background and Need." C-3 cont'd

Chapter Two

In its description of Alternative 3, Section 2.5.3 should note that this proposal is the "Environmentally Superior Alternative," as later noted on page 9-6. C-4

Section 2.5.5 mistakenly equates meeting minimum SAT guidelines with meeting project goals. For this reason, this section should be revised. It should note that, while all of the packages presented may meet some minimum SAT guidelines, the alternatives differ in how well they meet MLPA goals, especially when considering minimum versus preferred guidelines. C-5

In Section 2.6, we recommend further discussion of the enforcement, monitoring, management, education and biological benefits of siting MPAs adjacent to existing onshore protected areas, marine labs, or similar institutions. Per our letter dated July 7, 2008, we recommend that this section also provide a comparative analysis of how many MPAs in each alternative are sited near onshore protected areas, marine labs, or similar institutions. C-6

In Section 2.6.2, we recommend adding a sentence stating that, in addition to the 245 existing wardens in the field responsible for both inland and marine patrol, 14.2 new wardens have also been added to California's budget for the 2008-2009 fiscal year. C-7

Chapter Four

Generally, we are disappointed with the way in which Chapter 4 deals with socioeconomic considerations for several reasons:

- Chapter Four goes well beyond the socioeconomic information required under CEQA.
- The introduction of Chapter Four fails to set the historical context of consumptive ocean use in California.
- Despite findings on page 6-41, Chapter Four makes an assumption that displacement will occur "to some level for both commercial and recreational fishing activities."[7]
- Chapter Four does not explicitly acknowledge the shortcomings of the Ecotrust analysis and inappropriately uses the Ecotrust data to predict economic impacts of MPAs.
- Throughout this chapter, the DEIR does not consider the medium and long-term socioeconomic *benefits* of the NCC MPA project to non-consumptive and consumptive users, local businesses and the tourism industry.

<u>Chapter Four goes well beyond the socioeconomic information required under CEQA.</u> C-8

[7] DEIR 4-26.

Ocean Conservancy & NRDC NCC Draft EIR comments
May 4, 2009
Page 4

While we appreciate the efforts of DFG to provide substantive background information and to help provide context and inform the decision making process, the EIR should explicitly state that CEQA does not require the consideration of direct economic or social factors in its impact analyses. Chapter Four correctly notes that "economic or social effects *shall not* be treated as significant effects on the environment"[8] and CEQA says an EIR,

> may trace a chain of cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes caused in turn by the economic or social changes. The intermediate economic or social changes *need not be analyzed in any detail greater than necessary to trace the chain of cause and effect*. The focus of the analysis shall be on the physical changes.[9]

C-8 cont'd

Despite this clear guidance by CEQA, Chapter Four includes extensive discussion of social and economic considerations that go well beyond the information required under CEQA to describe indirect physical effects caused by changes in human use patterns. We therefore suggest DFG integrate much of this discussion into Chapter Two as background information, or include it as a separate appendix.

<u>The introduction of Chapter Four fails to set the historical context of consumptive ocean use in California.</u>

In Section 4.2 of the DEIR, the summary in the second paragraph neglects to accurately convey information on recent trends or set the historical context of consumptive ocean use in California. Although page 4-1 acknowledges the commercial fishing data collected from 1992-2006, it fails to state that annual commercial landings during that time frame have *steadily declined* from 30 million to 10 million pounds.[10] This amendment not only clarifies the information presented, but also provides a context for why an effective MPA network is needed in the NCC to help provide insurance against similar economic declines in the future.

C-9

<u>Despite findings on page 6-41, Chapter Four makes an assumption that displacement will occur to some level for both commercial and recreational fishing activities.</u>

Despite the finding on page 6-41 that adverse impacts due to displacement under all alternatives will be "less than significant," despite the fact that no other worldwide studies have found reduced habitat quality or a corresponding decrease in abundance or diversity of marine species, and despite the acknowledgement on the same page that that "no published data on existing MPAs have shown negative environmental impacts," Chapter Four and subsequent chapters spend a considerable amount of time operating under the assumption that adverse impacts resulting from displacement of effort will occur. This conclusion is stated in the very first sentence of Chapter Four and throughout that chapter, perhaps in most detail in Section 4.3.1, 4.3.3 and 4.4. Although the "displacement effort" assumption is in *direct conflict* with the

C-10

---

[8] DEIR 4-1, emphasis added.

[9] California Environmental Quality Act Guidelines, § 15131(a), emphasis added.

[10] Figure 13, *California Marine Life Protection Act Initiative Regional Profile of the North Central Coast Study Region*, October 8, 2007, p 86.

Ocean Conservancy & NRDC NCC Draft EIR comments
May 4, 2009
Page 5

"worst-case" Ecotrust assumption used later in Chapter Four, this displacement assumption also serves as the basis for analysis in subsequent chapters on potential displacement-related indirect effects on the physical environment.

The DEIR itself acknowledges on page 4-19 that these potential displacement effects are "speculative" and that losses could be "offset by increased biomass and aggregate harvests within fishing locations outside MPAs."[11] Although mitigation of displacement need not be analyzed because there is no substantial evidence that displacement from any of the alternatives considered in the DEIR will have significant environmental effects, and mitigation measures are therefore not required under CEQA,[12] the DEIR itself acknowledges that mitigation of any negative short-term impact is likely to occur. C-10 cont'd

To improve clarity in the EIR, we suggest that all discussion and analyses of potential biological effects (including those related to fishery displacement and congestion) be confined to Chapter Six. C-11

Furthermore, in considering potential impacts associated with displaced efforts in Chapter Four and beyond, we encourage careful consideration of the extent to which the Regional Stakeholder Group (RSG) and BRTF made efforts to avoid favorite fishing grounds. Because this is a stakeholder-driven process, with extensive and effective participation by fishing interests, all of the MPA proposals steer clear of fishing grounds that are currently being heavily fished in favor of fishing grounds that are not, either because of inaccessibility or a reduction in local fish populations over time. Although all alternatives would place between 18-26.9% of the study region in MPAs, significantly less of the important fishing grounds are included therein. These figures demonstrate the success of the RSG process in avoiding favored fishing grounds. Given the strong process bias against inclusion of the most productive fishing grounds in MPAs, it is extremely unlikely that effort displaced by establishing MPAs in relatively less heavily fished areas could significantly impact habitats or biological communities outside MPAs. C-12

A comparison between the NCC MPA alternatives and the Central Coast adopted MPA network further illustrates this point. The Proposed Project for the NCC, for example, would place 20% of the study region in MPAs, with a worst-case Ecotrust short-term impact of 6.3% on the commercial fishing industry. The Central Coast MPA network placed 18% of its study region in MPAs at a worst-case Ecotrust impact of 11.2%. Notably, the Central Coast Final EIR concluded that adverse impacts on marine species populations and habitats outside MPAs from displacement and congestion of effort outside MPAs would be "less than significant" under CEQA. The NCC worst-case short-term socioeconomic Ecotrust impacts are estimated at just over half the estiamted impacts of the Central Coast. C-13

<u>Chapter Four does not explicitly acknowledge the shortcomings of the Ecotrust analysis.</u>

---

[11] DEIR 4-19.

[12] California Environmental Quality Act Guidelines, § 15126.4(a)(3).

Although Ecotrust's "worst case" assumption that all displaced effort will discontinue is in *direct conflict* with the DEIR's pervasive "displacement" assumptions that fishermen are opportunistic and will fish other areas outside MPAs, Chapter Four also relies heavily on the Ecotrust analysis. We believe this discrepancy should be further clarified in the Final Environmental Impact Report (FEIR).

C-14

Page 4-21 does acknowledge that the Ecotrust analysis "represents a worst case scenario" and that it is more likely that fishing effort would be redirected to areas outside MPAs. However, Chapter Four does not apply the Ecotrust analysis with sufficient caution or specifically state the shortcomings of the information therein. While the Ecotrust analysis is a useful tool for avoiding preferred fishing grounds in the MPA design phase, it is not appropriate to rely on this data as an estimate of potential "costs" of MPAs or MPA networks.

The EIR should describe the time horizon of the commercial Ecotrust survey.

Chapter Four *does not* explicitly acknowledge the time horizon of the commercial Ecotrust survey. Throughout the DEIR, short and long term effects of the MPA alternatives are compared and contrasted. Chapter Four should explicitly state that because Ecotrust collected data by asking fishermen to estimate importance of areas over their *cumulative* fishing experience, the Ecotrust commercial survey should not be used to estimate short term effects. Fishermen may give high importance to a once favorite but now depleted area. In such a case the Ecotrust methodology will overstate the cost of putting an MPA at that site, because the costs were actually incurred earlier by factors other than the MPA. Given continuous changes in fishing regulations from year to year, as well as the downward trends in catch, the Ecotrust estimates show the stated importance over *cumulative experience* but do not necessarily say anything about where fishing will occur over the short term and therefore cannot be used to predict responses to MPA placement.

C-15

Fisheries such as squid harvest, for example, are highly variable as to location; others have become uneconomic in recent years, but might become viable when marine populations are restored or oceanographic conditions changes. In various places within Chapter Four, the DEIR uses a five year time horizon for short term versus long term effects.[13] However, Ecotrust commercial survey data are likely far more relevant in considering long term changes over short term effects.

Ecotrust tables are used incorrectly.

In the DEIR, Tables 4-4 and 4-5 present the Ecotrust data for "fishing grounds within the north central coast study region." This data is later the basis for estimating displacement effects in the DEIR. Page 4-23, for example, alludes to the data as a means of "comparing median displacement values as averaged across all commercial fisheries and landing ports" and page 4-25 discusses the comparison of "median displacement values as averaged across all recreational types and fisheries."

C-16

It is inappropriate, however, to use Tables 4-4 and 4-5 in this manner, because those percentages do not account for fishermen moving to state waters outside the NCC study region or to federal

[13] DEIR 4-19, for example.

waters. Ecotrust provided the RSG, BRTF and FGC with tables showing percentage area of *total commercial and recreational fishing grounds* affected by each proposal. Those are the tables that should be presented in the EIR to get a view of the stated importance of MPA areas to the survey respondents.

For example, the Bodega Bay MPA in the Proposed Project has a stated importance value on the Bodega Bay Port complex's crab fishery *of 16.4% within the NCC study region*, but it is *only 2.9% for that port's fishery as a whole*. The MPA network outlined in the Proposed Project will not "displace" 16.4% of the Bodega crab fishery. In fact, the table should show 2.9%, as it represents the estimated value to the Bodega Bay survey respondents out of *their entire* crab fishing grounds. There is simply no rational basis for calculating potential displacement based on only a portion of the fishing grounds. C-16 cont'd

Incidentally, the DEIR also contains at least one summary error in the medians; one value is 46%, which is higher than any entry in the table. Additionally, a few of the commercial median values do not match what we calculated, using a standard definition of median value as the average of the two middle scores when there is an even number of scores. C-17

The Ecotrust surveys cannot be used to estimate distances traveled in displaced fishing trips.

Generally in the Proposed Project, the largest fully protected state marine reserves (SMR) are located the farthest from ports. Chapter 4 should specifically explain that the RSG explicitly designed MPA networks to leave open fishing opportunities close to ports.

On the other hand, some favorite fishing grounds excluded from the MPA proposals, per the request of fishermen, are actually relatively far from ports. For example, one commercial passenger fishing vessel (CPFV) operator from Half Moon Bay pointed out the importance to his operation of the fishing grounds off the Pescadero coast – an area that is both far from the nearest port *and also* not included in any MPA alternative. C-18

Another contentious area was the San Mateo coast north of Montara Lighthouse. This area is excluded from the Proposed Project's MPA network, although it is farther from Half Moon Bay's adjacent proposed Fitzgerald State Marine Reserve. In other words, for Half Moon Bay alone, two very important fishing sites that were left open at the direct request of fishermen are *farther* from the port than is the proposed MPA. Thus, fishermen are already making trips farther away, irrespective of adoption of the NCC MPA network. Clearly a variety of factors influence where fishermen choose to fish and distance to port is only one factor. C-19

The North San Mateo Coast also illustrates another problem with computing distance effects, because it is also important to boats from San Francisco's port. And nearly all fishing grounds close to the port of San Francisco are excluded from the MPA proposals. C-20

Moreover, Chapter Four lists potential short and long term costs, including "increased cost of harvesting due to increased travel related cost, resulting in lower net income to fishermen (displacement effort)."[14] But the DEIR makes this assertion without any supporting data. A full C-21

[14] DEIR 4-18.

consideration of where the MPAs are located in relation to ports and important fishing grounds could just as likely find that the average trip duration after MPA network adoption may remain unchanged or may be even shorter. C-21 cont'd

The Ecotrust recreational fishing data should not be used for quantitative estimates of displaced recreational fishing trips.

The EIR must explicitly state the caveats and qualifications associated with the recreational survey. According to Ecotrust's final report,

> [i]t should be noted that, with respect to the recreational fishery analysis, the use of a stratified solicited sample limits the use of traditional statistical measures—for example, confidence intervals—meaning they may not deliver their advertised precision. Nevertheless, this approach does allow us to make broad generalizations about preferences of the overall recreational fishing population and the four user groups within the study area, adding increased thematic resolution to the MLPA decision-making process.[15]

C-22

Put another way, these data are not useful for quantitative analysis, projections or comparisons. For this reason, the Ecotrust data should not be used for quantitative estimates of displaced recreational fishing trips.

<u>Throughout this chapter, the DEIR does not consider the medium and long-term socioeconomic benefits of the NCC MPA project to non-consumptive and consumptive users, local businesses and the tourism industry.</u>

Chapter Four of the EIR must discuss the potential positive socioeconomic effects of adoption of a NCC MPA alternative. Although page 4-19 does briefly acknowledge that increases in biomass could offset the displacement effect that may be caused by adoption of an MPA alternative, it does not address these potentially positive socioeconomic effects in a proportionate manner to which it covers the potential negative effects. The EIR should undertake a substantive discussion of potential positive socioeconomic impacts and analyze the medium and long-term benefits of the NCC MPA alternatives, including a discussion of the potential benefits of MPAs to non-consumptive users, consumptive users, local businesses and the tourism industry. C-23

As two final typographical edits to Chapter Four, page 4-20 misspells the word "effect" in reference to the effect of the poor Asian economy on overseas fish sales. And page 4-26 mistakenly says displacement consequences are outlined in Sections 4.3.1 and 4.3.2, where 4.3.2 does not discuss displacement. Further discussion does, however, take place in 4.3.3. C-24

Chapter Five

---

[15] See page 31 in *Commercial and recreational fishing grounds and their relative importance off the North Central Coast of California*, Report to the California Marine Life Protection Act Initiative, In partial fulfillment of Contract No. 06-054, Ocean Protection Council and No. 2007- 0114M, Resources Legacy Fund Foundation, by Astrid Scholz, Charles Steinback, Sarah Kruse, Mike Mertens, Matt Weber, June 30th, 2008.

Ocean Conservancy & NRDC NCC Draft EIR comments
May 4, 2009
Page 9

Air quality

Generally, the discussion in Chapter Five must include an 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, the commercial salmon closure and a poor crab season. 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 the possibility fishermen traveling farther to avoid MPAs. C-25

Section 5.1.3.1 discusses the methodology in calculating potential impacts of an MPA network on the air quality of the NCC study region. The DEIR assumes additional transit times and distances due to displacement.

However, as discussed above in our comments on Chapter Four, there are inherent difficulties in predicting the distance fishermen will travel once an MPA network is adopted in the NCC. Distance of MPAs from ports is not a good indicator for speculating time on the water and distance traveled, and a broad suite of factors external to the MPA process will almost certainly impact how close or far fishermen travel. The catch rate of fish along the borders of MPAs may increase over time, reducing speculating time and related costs. Thus, it is nearly impossible to separate these inextricably linked factors to calculate a rise or reduction in air quality to any single factor, including MPA implementation. C-26

Page 5-8 correctly acknowledges that it is impossible to accurately model project-induced commercial fishing vessel emission scenarios because it is not possible to predict the entire range of responses by individual fishermen to an MPA network. It also acknowledges, as we did above, that "some fishermen may travel to fishing grounds comparable distances to their current situation."[16] C-27

Page 5-9 accurately notes that recreational fishing habits are unlikely to be substantially different as the result of the Proposed Project or its alternatives. C-28

Section 5.1.3.3 accurately finds that the Proposed Project and its alternatives have no impact or no significant impacts and that no mitigation is required for all of the evaluation criteria on air quality. C-29

Water quality

Although we do not agree with introducing assumptions about displacement and extended travel distances and times as a result of MPA network implementation in the context of water quality, we concur with the findings of Section 5.2.3.3. This section finds that the Proposed Project and its alternatives have no impact or no significant negative impact and that no mitigation is required for all of the evaluation criteria on water quality. C-30

We are also pleased to see page 5-27 note that the Proposed Project and its alternatives may C-31

[16] DEIR 5-8.

actually have a beneficial impact on water quality in the NCC study region, due to siting adjacent to or near existing Areas of Special Biological Significance. C-31 cont'd

Chapter Six

We appreciate the discussion on local habitat types and the background information on locally important rare habitat types, such as bull kelp (*Nereocystis lutkeana*). However, the discussion of kelp forests on page 6-15 accurately states that the majority of bull kelp is found in the northern half of the NCC study region, but mistakenly implies that this is limited to Sonoma County. As shown in Figure 6.1-1a, much of the NCC study region's bull kelp is also found in Mendocino County. C-32

Section 6.1.1.4, page 6-30, includes a very brief discussion of the effects of MPAs in the Channel Islands. We appreciate this discussion as a means for setting the context for the section on "Species Likely to Benefit." However, a broader discussion of the scientific benefits of MPAs generally should be presented in Section 1.2 or in the Executive Summary, as the benefits of MPAs should serve as background information for the entire project, not just for Chapter Six. Additionally, a more thorough discussion of the benefits of MPAs should be covered on page 6-42 under the section entitled *Beneficial Impacts to Biological Resources.* C-33

<u>Impact BIO-1</u>

Under "Impact BIO-1" on page 6-40, the DEIR correctly states that congestion outside MPA boundaries as a result of MPA network implementation "has not been documented in other areas." We appreciate the discussion that follows, which cites specific worldwide examples, showing that benefits of MPAs vastly outweigh any "displacement effect." Although results are preliminary, the DEIR should also include the Channel Islands as a specific example to show that the concentration of fishermen outside MPA boundaries has not had a detrimental effect on unprotected marine populations and habitats. C-34

As referenced above in the discussion of Chapter Four, page 6-41 finds that the Proposed Project and *all* its alternatives will have "less than significant impacts" due to displacement and congestion of fishing outside of MPAs. It also acknowledges that no other worldwide studies have found reduced habitat quality or a corresponding decrease in abundance or diversity of marine species and that "no published data on existing MPAs have shown negative environmental impacts."

Given the acknowledgements above and the finding that *all of the alternatives* will have a *less than significant impact* adverse impact on marine species due to displacement, the statement on page 6-42 that Alternative 2 "has a smaller potential to result in the displacement of fishing activities" is unsupported and should be deleted. It also seems speculative and unsupported to state that Alternative 3 "has slightly more potential to result in displacement of fishing activities" simply because it has slightly more MPA coverage. These assertions seem not only unnecessary, but also inaccurate, given the fact that Alternative 3 is the "environmentally superior alternative" and could just as easily have fewer potential adverse impacts because of increased productivity and resilience. C-35

Ocean Conservancy & NRDC NCC Draft EIR comments
May 4, 2009
Page 11

Impact BIO-2

The DEIR omits important SAT guidance designed to help compare the proposals in terms of biological benefits. We recommend starting the discussion in Bio-2 by using this guidance to compare the proposals. The MLPA Master Plan states that,

> For an objective of protecting the diversity of species that live at different depths and to accommodate the ontogenetic movement of individuals to and from nursery or spawning grounds to adult habitats, MPAs should extend from the intertidal zone to deep waters offshore,[17] and
>
> For an objective of protecting adult populations, based on adult neighborhood sizes and movement patterns, MPAs should have an alongshore span of 5-10 km (3-6 mi or 2.5-5.4 nmi) of coastline, and preferably 10-20 km (6-12.5 mi or 5.4-11 nmi),[18] and
>
> MPA network component proposals with similar numbers and sizes of SMCAs may in fact differ markedly in the type, degree, and distribution of protection throughout the study region. *Thus, the purpose of categorizing MPAs by their relative level of protection is to simplify comparisons of the overall conservation value of MPAs within and among proposed network components*,[19] and
>
> SMRs provide the greatest likelihood of achieving MLPA goals 1, 2, and 4.[20]

C-36

Only the Proposed Project, Alternative 1 and Alternative 3 contain a preferred size SMR (Stewarts Point SMR) extending from the mainland intertidal shoreline to the deep water at the state water boundary.

The Proposed Project, Alternative 1 and Alternative 3 include more area and are superior to Alternative 2 because, as noted by the SAT, larger size SMRs offer better protection to more species.

Additionally, this section is particularly perplexing to us because the conclusions drawn on page 6-45 do not correspond to any of the preceding supporting data. This is discussed in more detail, by alternative, below. C-37

Proposed Project

We agree with the assertion that there will be substantial biological benefits because of the increased habitat protection. We also agree that there will be substantial benefits to overfished rockfish populations. C-38

---

[17] MLPA Master Plan, page 34.

[18] MLPA Master Plan, page 34.

[19] MLPA Master Plan, page 52 (emphasis added).

[20] MLPA Master Plan, page 53-54.

Alternative 1

The DEIR jumps from discussion of the Proposed Project on page 6-42 to Alternative 2 on page 6-43, with no discussion of Alternative 1. Still, based on the Chart 6-1, which states that Alternative 1 has more MPAs total and more SMRs, and Chart 6-2, which shows that Alternative 1 protects a slightly higher percentage than the Proposed Project of some habitats and slightly less for others, and based on a higher total square mileage of MPAs and SMRs, it seems impossible to determine that Alternative 1 will have "slightly fewer" benefits to biological resources. C-39

Alternative 2

We disagree with the determination of the DEIR that "[b]enefits to biological resources resulting from Alternative 2 would be somewhat greater than those of the Proposed Project, as there would be slightly more habitat preserved."[21]

Chart 6-1 shows that Alternative 2 has only around 8% SMRs and around 18% MPAs total, where the Proposed Project has 11.5% SMRs, and 20% MPAs total. Chart 6-2 shows that for nearly every habitat except "soft bottom (0-30m)," the Proposed Project has a higher percentage protected than Alternative 2. This is especially true where the Proposed Project protects a much greater percentage of "rocky intertidal," "hard bottom (0-30m)," hard bottom (30-100m)," and "kelp forest," all of which are key habitat types neglected by Alternative 2. Notably, according to the Science Advisory Team, many of the species most likely to benefit from MPAs are species associated with these hard bottom habitats. Finally, the Proposed Project would protect 153.4 square miles of MPAs, including nearly 86 square miles of SMRs. Alternative 2 would protect only 137.2 square miles of MPAs, including 68 square miles of SMRs. C-40

Thus, there is no factual basis for a statement that Alternative 2 would have a greater biological benefit because it protects more habitat, especially given that later in the DEIR, page 9-7 explicitly states that Alternative 2 consistently protects less habitat with less coverage when compared to the other alternatives.

We strongly urge DFG to rectify this factual error and correctly state that Alternative 2 would provide *slightly less* biological benefit than the Proposed Project.

Alternative 3

As the "environmentally superior alternative" and because it protects the most habitat, we agree that Alternative 3 would provide an increased biological benefit over the Proposed Project and other alternatives. C-41

Chapter Seven

---

[21] DEIR 6-45.

Ocean Conservancy & NRDC NCC Draft EIR comments
May 4, 2009
Page 13

We generally appreciate the overall discussion of social and cultural resources. We agree with the discussion on 7-21 stating the MPAs will actually contribute to recovery and sustainability of the commercial fishing industry and that tourism in the NCC study region will continue to grow. However, we do not agree with the assertion pervasive throughout this DEIR that consumptive users may need to drive or boat longer distances to access fishing grounds. That being said, we agree with the conclusion on page 7-21 that the MPA project will not contribute to urban decay. C-42

While we appreciate Table 7-22, Section 7.3.1.2 should specifically acknowledge those federal and state agencies, marine labs and county parks that have submitted letters offering to contribute resources to enforcement and monitoring of MPAs in the NCC. We also recommend adding a sentence stating that, in addition to the 245 existing wardens in the field responsible for both inland and marine patrol, 14.2 new wardens have also been added to California's budget for the 2008-09 fiscal year. C-43

Section 7.3.1.3 should more explicitly acknowledge the enforcement, monitoring, management, education and biological benefits of siting MPAs adjacent to existing onshore protected areas, marine labs, or similar institutions. We also recommend that this section provide a comparative analysis of how many MPAs in each alternative are sited near onshore protected areas, marine labs, or similar institutions. Because of the administrative costs associated with implementation of any MPA network in the NCC, additional information on which alternatives best make use of available partners and resources is invaluable for decision makers. C-44

Chapter Eight

Section 8.2.1 again references the potential of increased transit times of displaced commercial and recreational fishing vessels, despite the fact that some of the largest SMRs in the Proposed Project and its alternatives were *purposefully* placed farthest from ports and some of the fishermen's stated favorite fishing grounds are *already* far from ports (see *The Ecotrust surveys cannot be used to estimate distances traveled in displaced fishing trips,* above). We agree that these potential changes and the chance of vessel abandonment do not represent a significant threat to the environment. C-45

Page 8-7 again assumes a displacement effect and an increased travel time to fishing grounds. Table 8-1 is inherently speculative and cannot be relied upon in determining potential emissions resulting from the MPA project. Still, we agree that the "Proposed Project's contribution to GHG emissions is not considered cumulatively considerable."[22] C-46

Page 8-9 again alludes to the possibility of local adverse impacts on non-designated areas, despite the acknowledgement in Chapter Six on page 6-41 and 6-42 that worldwide, no reserves have had negative impacts outside reserve boundaries and the finding that the Proposed Project and its alternatives would have less than a significant adverse impact on marine species and habitat outside MPA boundaries. We believe it is misleading to again reference this possibility, since it was essentially dismissed in Chapter Six. C-47

---

[22] DEIR 8-8.

Ocean Conservancy & NRDC NCC Draft EIR comments
May 4, 2009
Page 14

Chapter Nine

Page 9-4 acknowledges that the "No Project" Alternative "could lead to continued declines in certain populations and a less resilient ecosystem" and that this would be a potentially significant biological resources impact.[23] C-48

Section 9.4 states that Alternative 2 will result in the least amount of fishing displacement. But again, because all the alternatives were found to have less than significant adverse impacts on areas outside MPAs, we do not believe this requires acknowledgement in this section. C-49

As stated in Section 9.4, we agree that Alternative 3 is the "environmentally-superior alternative," that its benefits will outweigh any potential short-term adverse impacts and that it will contribute to the rebuilding of overfished species. We agree that Alternative 2 "tends to contain the least amount of rocky and sandy habitats and that Alternative 3 consistently protects the most of all habitat types. C-50

Page 9-7 states that Alternative 3 and the Proposed Project have larger MPAs within the preferred size range. The DEIR should also state that Alternative 3 has four preferred size high protection MPAs, which is proportionate for that of the adopted Central Coast MPA network. C-51

Page 9-7 again states that "[a]ll of the alternatives generally meet the science guidelines of the master plan for MPAs." As stated in our comments of the Executive Summary, we believe that this statement is misleading and that the degree to which each of the alternatives meets the guidelines is worth noting and must not be overgeneralized. C-52

Conclusion

We appreciate this opportunity to comment on the DEIR. We support the efforts of DFG in producing this DEIR and look forward to a final EIR with improved accuracy and clarification. We support the Proposed Project and look forward to continued collaboration on the state's MLPA design and implementation.

Sincerely,

Samantha Murray & Kaitilin Gaffney
Ocean Conservancy

Karen Garrison
Natural Resources Defense Council

Government Relations Consultant
Defenders of Wildlife

[23] DEIR 9-4.

2.5.1. Responses to Letter C

Response to Comment C-1: Comment noted.

No changes to the DEIR are required.

Response to Comment C-2: Comments noted. The Proposed Project and Alternatives 1, 2, and 3 meet the MLPA requirement to improve on the existing array of MPAs. Individual MPAs meet the SAT guidance to varying degrees; however, each MPA network when considered in total meets the SAT guidance.

Revisions to the DEIR:

The subsection “Environmentally Superior Alternative” has been added to the DEIR Executive Summary following the subsection “Mitigation” on page ES-18 (Refer to Chapter 3 of this FEIR).

Response to Comment C-3: The Department appreciates this reference to additional information regarding potential benefits of MPAs for living marine resources and habitats within the north central coast study region. However, because it does not fundamentally alter the impact analysis in the DEIR, no change to the DEIR is warranted.

No changes to the DEIR are required.

Response to Comment C-4: The identification of the environmentally superior alternative correctly occurs in Chapter 9 (Alternatives Analysis) following the environmental analysis of the Proposed Project and its alternatives.

No changes to the DEIR are required.

Response to Comment C-5: See Response to Comment C-2.

No changes to the DEIR are required.

Response to Comment C-6: Inclusion of addition discussion and comparative analysis regarding the benefits of siting MPAs adjacent to existing onshore protected areas would not fundamentally alter the impact analysis in the DEIR; therefore, no change to the DEIR is warranted.

No changes to the DEIR are required.

Response to Comment C-7: The Department appreciates this reference to additional information regarding the inclusion of 14.2 new wardens in the California budget for the 2008-2009 fiscal year. However, because it does not fundamentally alter the impact analysis in the DEIR, no change to the DEIR is warranted.

No changes to the DEIR are required.

Response to Comment C-8: The restrictions of the application of socioeconomic factors to CEQA analysis is clearly stated in Section 4.1 of the DEIR. CEQA guidance does not preclude the inclusion of Chapter 4 as background information in framing the potential for indirect physical environmental effects that may result from economic or social effects.

No changes to the DEIR are required.

Response to Comment C-9: The Department appreciates this reference to additional information regarding trends in consumptive ocean use in the north central coast study region. However, because it does not fundamentally alter the impact analysis in the DEIR, no change to the DEIR is warranted.

No changes to the DEIR are required.

Response to Comment C-10: The Department disagrees. The commenter has mischaracterized the DEIR analysis regarding displacement effects. Chapter 4 of the DEIR describes the potential displacement of consumptive users to areas outside of MPAs because this is a real condition inherent in the use restrictions within the various types of MPAs. The degree to which displacement occurs is uncertain. For clarity, the findings on page 6-41 speak to the potential for adverse impacts to marine species populations and habitats outside of MPAs as result of displacement of fishing effort outside of MPAs. The conclusion of the DEIR is that this potential biological resource impact would be less than significant for the Proposed Project and Alternatives 1, 2 ,and 3. However, the DEIR considers a reasonable worst-case scenario in analyzing displacement relative to other physical environmental resources such as air quality. In the face of uncertainty, the DEIR has made reasonable worst-case assumptions such that it fully discloses the maximum potential extent of the Proposed Project impacts.

No changes to the DEIR are required.

Response to Comment C-11: A brief discussion of potential biological effects related to fishery displacement and congestion has been included in Chapter 4 to improve readability and assist readers in understanding the importance of the socioeconomic data. However, Chapter 6 provides a more detailed assessment of these biological effects. By providing this information in both places in the DEIR, readers are expected have an improved understanding of the impact analysis.

No changes to the DEIR are required.

Response to Comment C-12: Comment noted. This conclusion is consistent with the analysis in Chapter 6 of the DEIR.

No changes to the DEIR are required.

Response to Comment C-13: Comment noted.

No changes to the DEIR are required.

Response to Comment C-14: The DEIR Chapter 4 discussion of commercial and recreational fisheries displacement (Sections 4.3.3.1 and 4.3.3.2) gives appropriate context by stating clearly that the Ecotrust data represents a worst case scenario, and that it would be more likely that fishing effort would be redirected versus completely lost. There is no discrepancy. Chapter 4 presents the Ecotrust results because that represents the current body of available analysis for potential socioeconomic impacts of the Proposed Project and Alternatives 1, 2, and 3 in the north central coast study region.

No changes to the DEIR are required.

Response to Comment C-15: Chapter 4 of the DEIR does not presume to use the Ecotrust data to predict responses to MPA placement. As identified in Section 4.3, there are several considerations that influence the behavioral response of the fishing industry. Furthermore, the DEIR states clearly in Section 4.4 that the choices of individual fishermen following implementation of the Proposed Project or Alternatives 1, 2, or 3 cannot be predetermined.

Chapter 4 only references a five year time horizon in one location on page 4-19 in reference to the estimated timeframe necessary for habitat and fish stocks to improve and the expected long-term benefits to commercial fishing.

No changes to the DEIR are required.

Response to Comment C-16: Comment noted. It is true that Tables 4-4 and 4-5 in the DEIR overstate the effect of the Proposed Project and Alternatives 1 2, and 3 when considering fishing grounds located outside of the north central coast study region. However, for the purposes of gauging the intensity of displacement, the DEIR has made the conservative assumption that all displacement effects would occur within the north central coast study region. In reality, the intensity of displacement within the north central coast would be less than is presented in the DEIR, although the extent to which this would occur is speculative. The Department does not anticipate that displacement to locations outside of the study region would result in significant adverse impacts, for the same reasons that displacement would not have adverse impacts within the study region.

No changes to the DEIR are required.

Response to Comment C-17: Comment noted.

Revisions to the DEIR:

The median values listed on page 4-23 and page 4-25 of the DEIR have been reviewed and corrected as noted (Refer to Chapter 3 of this FEIR).

Response to Comment C-18: The Department appreciates this reference to additional information regarding MPA design considerations in determining fishing trip displacement in the north central coast study region. However, this information does not fundamentally alter the impact analysis in the DEIR. The DEIR considers a reasonable worst-case scenario in analyzing displacement relative to physical environmental resources such as air quality (see air quality impact analysis methodology on page 5-6 of the DEIR). In the face of uncertainty, the DEIR has made reasonable worst-case assumptions such that it fully discloses the maximum potential extent of the Proposed Project impacts. No change to the DEIR is warranted.

No changes to the DEIR are required.

Response to Comment C-19: See Response to Comment C-18.

No changes to the DEIR are required.

Response to Comment C-20: See Response to Comment C-18.

No changes to the DEIR are required.

Response to Comment C-21: The text on page 4-18 of Chapter 4 provides examples of conditions under which commercial fisheries might suffer short- or long-term costs. These are provided as examples and do not need to be supported by additional data beyond the citations provided. See also Response to Comment C-18.

No changes to the DEIR are required.

Response to Comment C-22: See Response to Comments C-14 and C-18.

No changes to the DEIR are required.

Response to Comment C-23: The Department appreciates the desire of the commenter to include additional information regarding potential positive socioeconomic effects of the Proposed Project and Alternatives 1 2, and 3. However, because it does not fundamentally alter the impact analysis in the DEIR, no change to the DEIR is warranted.

No changes to the DEIR are required.

Response to Comment C-24: Comment noted.

Revisions to the DEIR:

Typographical edits to Chapter 4 on pages 4-20 and 4-26 have been made as noted (Refer to Chapter 3 of this FEIR).

Response to Comment C-25: The inclusion of non-MPA related factors in the air quality section would not fundamentally alter the impact analysis in the DEIR. The DEIR air analysis considers a reasonable worst-case scenario (see air quality impact analysis methodology on page 5-6 of the DEIR), thereby fully disclosing the maximum potential extent of the Proposed Project impacts. Only less than significant impacts were identified. No further change to the DEIR is warranted.

No changes to the DEIR are required.

Response to Comment C-26: See Response to Comments C-14, C-16, C-18, and C-25.

No changes to the DEIR are required.

Response to Comment C-27: Comment noted.

No changes to the DEIR are required.

Response to Comment C-28: Comment noted.

No changes to the DEIR are required.

Response to Comment C-29: Comment noted.

No changes to the DEIR are required.

Response to Comment C-30: Comment noted.

No changes to the DEIR are required.

Response to Comment C-31: Comment noted.

No changes to the DEIR are required.

Response to Comment C-32: Comment noted.

No changes to the DEIR are required.

Response to Comment C-33: The Department appreciates the desire of the commenter to include additional information regarding the scientific benefits of MPAs. However, because it does not fundamentally alter the impact analysis in the DEIR, no change to the DEIR is warranted.

No changes to the DEIR are required.

Response to Comment C-34: Comment noted. Inclusion of preliminary results for the Channel Islands would not fundamentally alter the impact analysis in the DEIR; therefore, no change to the DEIR is warranted. Productivity monitoring results for the Channel Islands can be obtained in the report titled *Channel Islands First Five Years of Monitoring: 2003-2008* available at http://www.dfg.ca.gov/marine/channel_islands/fiveyears.asp.

No changes to the DEIR are required.

Response to Comment C-35: The Department agrees that the qualitative assessment of the degree of difference among the Proposed Project and Alternatives 1, 2, and 3 is minimal and speculative.

Revisions to the DEIR:

The impact statements under Impact BIO-1 on pages 6-41 and 6-42 have been edited to more clearly reflect the similarities of the Proposed Project and Alternatives 1, 2, and 3 as noted (Refer to Chapter 3 of this FEIR).

Response to Comment C-36: The Department appreciates the desire of the commenter to include additional SAT guidance to inform a comparative discussion of the benefit of the Proposed Project and Alternatives 1, 2, and 3. However, because it does not fundamentally alter the impact analysis in the DEIR, no change to the DEIR is warranted.

No changes to the DEIR are required.

Response to Comment C-37: Comment noted.

No changes to the DEIR are required.

Response to Comment C-38: Comment noted.

No changes to the DEIR are required.

Response to Comment C-39: The discussion of Alternative 1 habitat protection is in the DEIR; however, it was inadvertently added to the end of the paragraph on the Proposed Project at the bottom of page 6-42.

Revisions to the DEIR:

Typographical edits have been made on page 6-42 as noted (Refer to Chapter 3 of this FEIR).

Response to Comment C-40: Comment noted. The reference to Alternative 2 has having somewhat greater biological benefit than that of the Proposed Project is a typographical error. The biological benefits of Alternative 2 would in fact be somewhat less than that of the Proposed Project.

Revisions to the DEIR:

The text describing the beneficial impact of Alternative 2 on page 6-45 of the DEIR has been revised as noted (Refer to Chapter 3 of this FEIR).

Response to Comment C-41: Comment noted.

No changes to the DEIR are required.

Response to Comment C-42: Comment noted. See Response to Comments C-14, C-16, and C-18.

No changes to the DEIR are required.

Response to Comment C-43: See Response to Comments C-6 and C-7.

No changes to the DEIR are required.

Response to Comment C-44: See Response to Comment C-6.

No changes to the DEIR are required.

Response to Comment C-45: See Response to Comment C-18.

No changes to the DEIR are required.

Response to Comment C-46: See Response to Comment C-18.

No changes to the DEIR are required.

Response to Comment C-47: See Response to Comment C-10.

No changes to the DEIR are required.

Response to Comment C-48: Comment noted.

No changes to the DEIR are required.

Response to Comment C-49: Comment noted.

No changes to the DEIR are required.

Response to Comment C-50: Comment noted.

No changes to the DEIR are required.

Response to Comment C-51: Comment noted. Because the provided information does not fundamentally alter the impact analysis in the DEIR, no change to the DEIR is warranted.

No changes to the DEIR are required.

Response to Comment C-52: See Response to Comment C-2.

No changes to the DEIR are required.