

2.14. Letter L, from Partnership for Sustainable Oceans

Letter L



PARTNERSHIP FOR
SUSTAINABLE OCEANS

Recreational Fishermen Protecting California's Ocean Resources

Via Email: mlpacomments@dfg.ca.gov

May 4, 2009

MLPA North Central Coast CEQA
c/o California Department of Fish and Game
Marine Region
20 Lower Ragsdale Drive, Suite 100
Monterey, California 93940

Re: MLPA CEQA Comments – North Central Coast (State Clearinghouse #2008062028)

To Whom It May Concern:

The following are the comments of the Partnership for Sustainable Oceans (PSO) on the Draft Environmental Impact Report (EIR) for the California Marine Life Protection Act Initiative North Central Coast Marine Protected Areas Project. Members of the PSO include the American Sportfishing Association, Coastside Fishing Club, Sportfishing Association of California, Southern California Marine Association, National Marine Manufacturers Association, Berkeley Conservation Institute, Contributing Members of the Avalon Tuna Club, International Game Fish Association, Kayak Fishing Association of California, Nor-Cal Kayak Anglers, Shimano Sport Fisheries Initiative, United Anglers of Southern California and thousands of individual recreational anglers throughout California.

The PSO has serious concerns regarding the Draft EIR, and find it an inadequate assessment of the impacts or evaluation of the full range of options. In general, we find the Draft EIR:

- includes a series of omissions and misstatements about the Proposed Project, the Integrated Preferred Alternative (IPA), as well as the other three alternatives;
- falsely asserts a finding of “no significant impact”, and that mitigation issues can be avoided, by underestimating needs for enforcement, scientific monitoring and education sections;
- downplays or ignores the socioeconomic impact to the fishing community and local coastal economies, and
- includes several instances of inconsistencies in the stated facts of the various proposals.

| L-1

In our opinion, the most egregious error of omission is that the Draft EIS never mentions that the Proposed Project (the Integrated Preferred Alternative (IPA) as submitted by the Blue Ribbon

| L-2

Partnership for Sustainable Oceans Governing Group: American Sportfishing Association, Coastside Fishing Club, Southern California Marine Association, Sportfishing Association of California and United Anglers of Southern California
Members: Berkeley Conservation Institute, Contributing Members of the Avalon Tuna Club, International Game Fish Association, Kayak Fishing Association of California, National Marine Manufacturers Association, Nor-Cal Kayak Anglers and Shimano Sport Fisheries Initiative

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Task Force) fails to meet the Science Advisory Team guidelines for size and spacing at even the moderate-high level of protection. The SAT provided its evaluations at its May 30, 2008 meeting, and Attachment 2 from that meeting (page 4 and 11) illustrates where the IPA fails to meet the size and spacing guidelines at the moderate-high level of protection. Not only is this issue undisclosed in the draft EIR, the omission leads to the misleading and false statements and impression that the IPA is in some way superior to any of the other alternatives.

L-2
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Executive Summary of Draft EIR

The misleading statements begin in the Executive Summary. On page ES-4 of the Executive Summary, there is no mention that each of the alternatives vary in the level of relative socioeconomic impact. This is a very significant issue to the local economies, anglers and sportfishing industry that will be directly affected by the establishment of these marine protected areas (MPAs). In addition, the statement on page ES-16 that all alternatives meet the size and spacing guidelines is false. As mentioned above, the Proposed Project fails to meet the SAT size and spacing criteria. Alternatives 2, 3 and 4 do meet the SAT criteria to greater degrees, and Alternative 2 is the only alternative that does meet the SAT guidelines at the moderate-high level of protection. The false statement that the Proposed Project meets the SAT guidelines is repeated *numerous times* throughout the Draft EIS.

L-3

L-4

In addition, the first paragraph on page ES-17 in the discussions of the amount of area in each of the alternatives that is included in each level of protection (LOP) is very biased. There is no discussion about the total conservation value of an entire network – simply the total area. This falsely implies that more area included in an MPA is scientifically better. While Alternative 2 does have the least amount of area in a “high” or “very high” level of protection, it achieves a higher overall level of conservation as determined by the SAT. Alternative 2 achieves *more* conservation with less area – as can finally be found on page 6-45 of the EIS: “Benefits 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 to benefit populations of marine species that depend on these habitat for some part of their life history and to prevent further degradation of marine habitats that are vital to marine ecosystems of the north central coast study region.” Alternative 2 is therefore more effective overall than any other alternative, including the Proposed Project.

L-5

Finally, the statement on page ES-18 that, “No significant unavoidable impacts have been identified for the Proposed Project or Alternatives 1, 2, and 3” is highly arguable. It has been determined that Alternative 2 has the least relative socio-economic impact of all the alternatives, including the Proposed Project – see Attachment 5 to the May 30, 2008 SAT meeting. The PSO would argue strenuously that socioeconomic impacts are both significant and avoidable.

L-6

Chapter 1: Introduction

The falsehood that the Proposed Project meets the SAT guidelines is repeated on page 1-5 with the statement, “The IPA represents a consensus recommendation for a single preferred alternative intended to meet scientific guidelines and achieve the goals of the MLPA, while also bridging some of the areas of divergence among the stakeholder proposals.” Once again, the IPA fails to meet all of the SAT guidelines by failing to meet the size and spacing guidelines. In addition, the PSO takes exception with the latter part of the statement. While the IPA may have

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bridged some areas of divergence, it also created even greater divergence among the various stakeholders who had already compromised to create the three RSG proposals. This is again an example of where the Draft EIR fails to tell the whole story.

L-7
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On page 1-10, it should be noted that fishery management within the Exclusive Economic Zone and the High Seas is the responsibility of the federal government under the Pacific Fishery Management Council (PFMC). In addition, given that the PFMC is the controlling authority over the majority of the fishery, in Section 1.2.5 it would be appropriate to state that the PFMC provides its recommendations to the U.S. Department of Commerce.

L-8

Chapter 2: Project Description

As part of the discussion on State Marine Conservation Areas (SMCAs) on page 2-6, the Draft EIR only mentions pelagic finfish as species that may be allowed to be taken from SMCAs. However, it is not clear that other species of interest can be taken from SMCAs, like abalone and clams. Therefore, the discussion and use of "finfish" is inappropriate and needs to be broadened and made generic. This use of "finfish" appears again in the first full paragraph of page 2-8, and again should be broadened.

L-9

In addition, on page 2-8 the document states, "SMCAs potentially have the most variable levels of protection and conservation of the three MPA designations because they allow any combination of commercial and recreational fishing (although this combination is more restrictive than the existing fishing regulations outside the SMCA), as well as other extractive activities (e.g., kelp harvest)." Having more restrictive fishing regulations inside an SCMA is not necessarily the case. Consider complete fishery closures like salmon for the past two years, in-season closures on rockfish when directed, or the complete abalone closure south of San Francisco. These are all examples of the most restrictive measures being imposed outside of MPAs, consequently the parenthetical statement should be removed.

L-10

Also on page 2-8, the document states that, "for recreational salmon fishing, the practice of "mooching" has a potentially higher by-catch rate than that of trolling." This statement is pure supposition and is not supported by fact – the SAT was split on this topic. It should therefore be removed. In addition, both of the definitions provided for the terms mooching and trolling are not in accordance with Department of Fish and Game definitions and *must* be corrected. This entire statement demonstrates the lack of knowledge on the part of the Draft EIR authors regarding recreational fishing and fishing techniques and impact - the very activity that is being regulated within the MPAs.

L-11

On page 2-9 the document states, "... fishing activities that received a high level of protection include hook-and-line fishing for pelagic finfish (including salmon) near the surface in deep-water (>50m depth), and pelagic seine fishing for coastal pelagic finfish in deep water (>50m depth) (CDFG 2008a)." In general, it is not credible to state that salmon trolling and seining for forage fish can have equivalent impacts on the surrounding marine environment, since forage fish provide the necessary fodder for the entire ecosystem, while salmon represent the top level predators.

L-12

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On page 2-43, first paragraph of Section 2.5.5, the document repeats the false assertion that the Proposed Project meets all the size and spacing guidelines. Also, the second paragraph again repeats the biased assumption that more area included in MPAs is better and less is worse. This ignores the effective conservation value achieved as a measure of quality rather than area. The effective conservation value of a proposal would be a much more credible measure. In addition, the SAT was quite specific that there is essentially no difference among the 3 RSG proposals relative to achieving the SATs individual science criteria, while the Proposed Project fails to meet the size and spacing guidelines.

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Also, this paragraph ignores the requirement of the MLPA to consider the socioeconomic impacts of designating marine protected areas (Section 2857(a)). This is supported by a July 18, 2008 letter from the Legislative Counsel of California. Therefore, all things being equal among the proposals that meet the SAT guidelines, it would be most efficient to choose the proposal that has the least relative socioeconomic impact.

Section 2.6.3 refers to the measureable goals and objectives for each MPA as required by the MLPA. These goals and objectives for the north central coast study region (NCC) were developed by the regional stakeholder group. The PSO strongly recommends that the goals and objectives associated with each NCC MPA be included in table 2-30. This would allow the general public to see and review each of the proposals and how they comply with the stated goals and objectives. As such, one would then see that the Proposed Project regulations in the Russian River SMCA do not comport to the goals and objectives for that MPA.

L-14

Chapter 3: Environmental Analysis

Under Section 3.2.1 (Aesthetics), the document fails to recognize how the deterioration of fishing harbors that result from the increased restrictions on fishing will affect the aesthetic appeal. Derelict and abandoned fishing boats will degrade the beauty and appeal of the study region's harbor areas.

L-15

Chapter 4: Consumptive Uses and Socioeconomic Considerations

In Section 4.1, the PSO finds the interpretation of CEQA Guidelines inadequate. Since the guidelines do not require "the determination or presentation of dollar amounts associated with the costs or benefits of a policy change or project implementation," the Draft EIR does not include associated costs. However, just because a cost determination is not required, does not mean it is also *prohibited*. Generally one can do more than is required by statute, and often anything not specifically prohibited is generally allowed. The PSO believes that the approach taken in the Draft EIR does not comport with sound public policy – particularly when such dollar impacts are quantified in several SAT documents, and in information entered into the public record and are readily available.

L-16

Page 4-10 includes a discussion on the abalone fishery in the NCC. It states that "during abalone season nearly every *accessible* cove in Sonoma and Mendocino counties, where effort is greatest, may experience harvesting (CDFG 2007a) (emphasis added)." However it neglects to state that most of these coves are not in fact accessible. Access is limited by either the topography of the land or the fact that the area is private and trespassing is not allowed. The recognition of the lack of access should be included. This type of language is repeated on page 7-37. The Draft EIR

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should be careful not to mischaracterize the lack of access to the abalone fishery in the NCC study region. L-17 cont'd

The first paragraph of section 4.2.2.2 discusses marine recreational data via the California Recreational Fisheries Survey (CRFS) and the federal government’s Marine Recreational Fisheries Statistical Survey (MRFSS). However, the paragraph is worded in such a way that the reader is led to believe that prior to 2004 there was no recreational sampling program. This is false, as the MRFSS was in place in California prior to 2004. The PSO recommends the paragraph be re-worded so that it is clear to the reader that there was a recreational sampling program prior to 2004 under MRFSS. L-18

The next paragraph discusses the fishing modes that are not covered under CRFS. While factually correct, it also creates the wrong impression that since CRFS does not sample abalone, they are therefore unregulated. In fact, the DFG has other monitoring programs for abalone that are more effective than CRFS. These monitoring programs should be included in the discussion as well. L-19

Table 4-1 illustrates the amount of angler effort based on mode of fishing. The PSO is concerned that the depicted number of angler days from man-made structures does not pass the “red face test” and is perhaps high. We recommend a re-evaluation of this data. L-20

The end of section 4.2.4 discusses the current means of fishery management via seasonal closures, among other measures, and the difference between season and year-round closures. The Draft EIR states, “While these seasonal closures provide benefits by helping to sustain individual fisheries, unlike year-round closures that would be in effect within SMRs, they do not allow populations of fished species to achieve maximum size and age structure (CDFG 2007a).” The document fails to include the important point that seasonal closures are in accordance with federal legislation (the Magnuson-Stevens Act) that requires the fishery be managed to obtain Maximum Sustainable Yield. This should be included in the EIR. L-21

Section 4.3.3.2 discusses recreational fisheries displacement and the work conducted by Ecotrust. Ecotrust broke up the NCC study area into three regions, and the document states that region three covered Point Reyes north to Alder Creek. This is false. There were no respondents north of Bodega Bay. Therefore to suggest that the Ecotrust recreational study goes all the way to the northern boundary at Alder Creek is false, and Bodega Bay is as far north as the study should be portrayed. L-22

Table 4-5 details the percentage area of recreational fishing grounds within the north central coast study region affected by the Proposed Project and the alternatives. However, the PSO notes the total absence of the consideration of abalone. Abalone is the premier recreational fishery in the northern portion of the study region and is completely ignored in the Ecotrust results - both spatially and by target fishery (abalone). This is a major omission that must be recognized in the EIR. L-23

Section 4.4 begins with the statement that Alternative 3 (RSG Proposal 4) would result in the greatest amount of displacement to commercial and recreational fisheries. It is misleading and L-24

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biased to make this statement without ranking the other alternatives based on their respective amount of displacement. As such, the report should continue to say that the Proposed Project would displace nearly the same amount of fishing effort as Alternative 3, followed by Alternative 1, and finally that Alternative 2 displaces the least amount of fishing effort.

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The Draft EIR continues with a discussion on the impact of displacement on fishing in the study region. The report states:

Fishing effort within the north central coast also could become lower as a result of individual fishermen's decisions to fish less often because of the effort involved, to relocate out of the state, or to leave the fishery because of increased business costs. This could have some detrimental effect on local economies (Pendleton and Rooke 2006), although such effects are anticipated to be limited and of short duration as fisheries recover.

L-25

The PSO is concerned with the latter half of this statement for two reasons. First, this wording leads the reader to believe that MPAs would be responsible for fishery recovery - something that is outright false. Fisheries throughout California are currently recovering on or ahead of schedule without benefit of MPAs. This recovery is mandated by Magnuson-Stevens Fishery Conservation and Management Act, along with the requirement to manage to maximum sustainable yield. California conforms to this in practice for near-shore fisheries that are managed by the PFMC. Second, there is no evidence to suggest that the detrimental effect on local economies will be limited or of short duration. Once coastal businesses and economies go under, it is incredibly hard to recover. Due to the high price of coastal real estate and stringent coastal development regulations, once marinas and landings, and the businesses associated with such infrastructure, are lost, regaining and rebuilding is nearly impossible. Without the evidence proving the statement made in the report, the very last phrase of that statement must be deleted.

Chapter 5: Physical Resources

On page 5-8, the report includes a discussion on potential change of emissions from recreational boaters due to the Proposed Project, or any of the alternatives. This change in emissions would be the result in the behavior of private boaters due to the placement of MPAs. The report thus concludes that it is impossible to determine the impact on emissions from recreational boaters due to the MPAs. However, the rationalization included in the report is again quite disingenuous towards the recreational boater and angler.

L-26

The report states, "...recreational fishermen will adjust their travel to destinations equally accessible versus electing to travel longer distances and travel times for a comparable fishing experience..." Given the limited number of access points in the NCC study area, it is nearly impossible for boaters to locate an access point that is "equally accessible." Either they can get to fishing grounds located near an access point, or they cannot. The geography of the study area does not allow for multiple access points clustered along the coast line. This section completely misstates the impacts associated with recreational boats having to travel greater distances to acceptable fishing grounds based on closures that are designated at or near a harbor or other access points. The same analysis as was done for the commercial fleet should also be applied to the recreational fleet.

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Page 5-25 includes a discussion on vessel abandonment as a result of designating MPAs. However, there is no discussion regarding abandoned marine infrastructure like piers, marinas, ice houses, fish process plants, etc. This is not “illegal,” as is vessel abandonment (although it is known to occur), but it would be reasonable to assume that the alternatives with the most impact to fishing (IPA and Alt 3) would be more likely to result in abandonment, and those with the least impact (Alt 2) would be less likely to result in abandonment. As to the level of significance, that is a subjective call. But it would most certainly reflect the socioeconomic impact on the local community, and all of the proposed plans should be ranked according to the likelihood of such impacts.

L-27

Chapter 6; Biological Resources

Section 6.1.1.4 discusses species likely to benefit from MPAs. While the third bullet on page 6-30 discusses the life history characteristics of species likely to benefit from MPAs, it omits a very important point. The ability of an MPA to increase species abundance and spawning biomass is totally dependent on the fishery management regulations outside the MPA. As indicated by several members of the SAT, fishery management regulations outside of the MPAs will have the biggest impact on the total species abundance and the spawning biomass. Since the federal and state managers of the fisheries are required by law to achieve Maximum Sustainable Yield, based on the total assessed biomass of the populations, any increase in biomass inside the MPA network will be offset by increased allowable take outside the network, to result in zero net gain.

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Page 6-31 discusses abalone management in the study region, which is governed by the Abalone Recovery and Management Plan. The Draft EIR states, “The Plan advises that new or expanded MPAs should be established to address the shortcomings of the current MPAs, including an insufficient range of habitats and scientific understanding of abalone population dynamics.” However, the scientific study that justifies the use of the term “insufficient” must be referenced if that term is to remain in the Draft EIR – otherwise, it must be removed, as it is not scientifically supported. More detail should be provided here to help determine the actual level of need for protecting abalone habitat.

L-29

The discussion of groundfish that continues on page 6-31 includes a notable contradiction. The report states, “Six of the seven overfished groundfish species occur within the north central coast study region for some or all of their life histories; however, many of these overfished groundfish species have their primary range outside of the north central coast study region.” Since the primary ranges of these overfished species are *outside* of the NCC study region, they would therefore be *unlikely* to benefit from MPA closures inside the NCC study region. This raises the question of why the SAT chose to include rockfish as a species likely to benefit?

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On page 6-32, the Draft EIR recognizes that overfished rockfish species are indeed recovering. It is important to add that the relatively long recovery period is due to the biology of the species. It is not due to fishing pressure. MPAs will not speed the recovery of the species. The PSO believes that both of these points should be added to the Draft EIR.

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The Nearshore Fishery Management Plan is discussed on page 6-32. It states that, “the Nearshore Fishery Management Plan identified MPAs as a management strategy appropriate for nearshore fish stocks, but deferred implementation of any new MPAs for meeting Nearshore Fishery Management Plan objectives to the MLPA process.” However, of the 19 species covered by the Nearshore Fishery Management Plan, none are considered overfished. While MPAs may be recognized as a potential strategy within the plan, there is no justification to impose MPAs on a fishery that is considered healthy. In addition, while many of these nearshore species have not undergone formal stock assessments, as noted in the Draft report, those that have been assessed indicate healthy fisheries that are at or near all-time highs, such as the Gopher rockfish.

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Section 6.1.3.2 states, “the key question regarding redirected fishing efforts is whether the expected increase in export of fish in all life stages from MPAs can compensate for the increased fishing pressure in areas outside MPAs. If export does outpace extraction, fishery yields should show a net increase or remain the same despite the displaced effort.” The PSO would argue strenuously, as did several of the SAT members that the key question is: what fishery management regulatory practices are in place outside of the MPAs? These will be the determining factors regarding allowable takes and any increase or decrease in yield. The remainder of this Draft EIS section about displaced fishing pressure needs to reference approved SAT scientific literature. Including mathematical formulations gives the impression of accepted SAT methodology, but unless it has actually been reviewed and accepted for use by the SAT it should not be included in the Draft EIR.

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In section 6.1.3.3, the report states, “...fishing efforts may be attracted to the edges of established MPAs to benefit from potential increases in catch or catch per unit effort.” It should be noted in the report, where appropriate, that this behavior (which is touted as a benefit of MPAs) will require enforcement resources beyond the ability of the state to provide such resources to ensure that these “edge” fishermen do not go over the line.

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In addition, the paragraph on page 6-40 that outlines a “comprehensive review of no-take reserve impacts” should be deleted in its entirety. It draws parallels to warm water environments far outside of the NCC study area (i.e. Saint Lucia, Kenya and Barbados) and gives no indication of how similar these protected areas are to the available habitat and specific locations of the MPAs within the study region. Also, Georges Bank is not a no-take reserve - to say that it is closed to fishing is not true, since some types of fishing are allowed inside the area (although its name indicates it is a reserve, its regulations indicate that by the MLPA definitions it is equivalent to a State Marine Conservation Area). Furthermore, if the Draft EIR is going to include a “comprehensive” review of the literature, such a review would also dictate the inclusion of the body of literature that demonstrates how MPAs do not necessarily provide their touted benefit.

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The Draft EIR continues on to say, “Therefore, the positive effects of reserves on abundance appear to counteract potential negative effects of displacement or concentration of fishing activity around reserves.” This is a blanket statement without a basis in fact that does not take into account a variety of factors, including whether suitable habitat exists outside of the MPA, whether or not the MPA covers all the available habitat, or that spillover of larval animals depends on currents and other factors (and whether or not there is suitable habitat in the direction of these currents). The PSO again urges the deletion of these types of blanket statements without

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a basis in fact. At the very least, the Draft EIR must include instances where MPAs were not successful in the meeting their stated goals.

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Another instance where a statement is in need of a qualifier is further on page 6-41: "As for the MPA boundary fishing question, the MPAs would likely improve the overall fishable biomass in the region...". The statement is pure speculation without a basis in fact. For example, the PSO contends that is only true if there is suitable habitat outside the MPA. The alternatives that include the highest percentage of marine reserves will inherently reduce the amount of fishable habitat in the study area. And given that the species most likely to benefit from marine reserves are species that do not travel far from their habitat, the overall fishable biomass could very well decrease in the study area, not increase.

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Page 6-43 begins an analysis of the charts provided by the SAT as part of its evaluation of the alternatives. Selected charts from the SAT evaluation of the alternatives are provided. However, the PSO believes that all SAT evaluation charts presented to the BRTF should be presented here. The biased selection of charts omits the chart that shows that the Proposed Project fails to meet the size and spacing guidelines upon which so much of the larval displacement and spillover argument is based.

L-38

Chapter 7: Social Resources

There are multiple instances throughout this chapter where generic economics studies are cited. For example, the use of Willen and Abbott 2006 on page 7-11, which found that the socioeconomic impact of MPAs is insignificant. The PSO finds this inappropriate in light of the Ecotrust work that is specific to the study region, was presented to and accepted by the SAT, and shows that economic impact is NOT insignificant. Continued citation of the work by Willen to the exclusion of the work by Ecotrust leads to the false assertions of "speculative impacts" when the Ecotrust work shows specific and significant impacts. These misleading and false assertions must be corrected throughout this chapter.

L-39

Additionally, the Draft EIR is silent regarding the Southwick report entered into the public record at the April 22, 2008 BRTF meeting. Using the best available data available through the Department of Fish and Game and National Marine Fisheries Service, the report disclosed very specific and significant relative negative economic impacts of MPAs in the NCC study area. As such information is required by the MLPA to be "incorporated" in the process, failure to include the Southwick study is a significant flaw in the Draft EIR.

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The statement on page 7-12 that Alternative 2 "potentially results in a slightly greater displacement of fishing effort" than the Proposed Project is simply false. Alternative 2 (2XA), and Alternative 1 (1-3) are about the same in impact - so the wording here should be as for Alternative 1. In addition, to say that Alternative 2 (2XA) and Alternative 3 have essentially the same impact on fishing is false, as is clearly demonstrated in the Ecotrust analysis and the Southwick report. This false statement is repeated again on page 7-51. The PSO respectfully demands an accurate representation of all of the proposals throughout this document.

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In addition, in Section 7.2.1.1, to confine the Draft EIR to just those coastal counties that physically touch the NCC study area is to ignore that the greatest number of users of the study area come from the population centers in Santa Clara, Alameda, and other East Bay counties. Recreational fishermen support businesses in these counties, yet the economic contribution to these counties is not being counted. Without this information, the EIR is incomplete, and grossly underestimates the economic impact of the various proposals. Further, the fishing closures and restrictions in the Proposed Project will negatively impact California-based manufacturers of fishing equipment, including boat manufacturers, as well as manufacturers located outside of California.

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Section 7.2.3.3 discusses the “Urban Decay Due to Decline of the Commercial Fishing Industry.” The statement in this section that “although the establishment of MPAs might discourage some commercial fisherman from continuing work, the business opportunities surrounding recreational boating, diving, and viewing activities may increase adjacent to and within MPA boundaries” is purely speculative and without any basis in fact. We strongly doubt that the listed eco-tours will offset the losses from abalone fishing closures in the Proposed Project. In addition, there is no mention of the loss of recreational abalone fishermen and the impact that the Proposed Project will have on the coastal communities. Mitigation will be needed to help offset the potential impacts resulting from the losses of the abalone fishery; ignoring this need is short-sighted and irresponsible. In addition, the statement that, “... the Proposed Project would not result in urban decay within the north central coast region, and the Proposed Project’s impact to the ocean economy and related industries would be less than significant” is wrong. The PSO contends that at a minimum, mitigation would be needed in the northern most portion of the study area to offset the potential impacts resulting from the abalone impacts should the Proposed Project be accepted. The need for such mitigation would be far less if alternative 2 (2XA) is adopted by the California Fish and Game Commission.

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Section 7.3.1.2 discusses the law enforcement assets available for implementation. It begins by stating that, “The CDFG’s *Master Plan for Marine Protected Areas* (CDFG 2008b) notes that a lack of law enforcement resources is one of the reasons existing MPAs fall short of their potential to protect resources.” *There are insufficient resources available to support the no-action alternative let alone any of the proposed expanded alternatives.*

L-44

In addition, we request more information on how many wardens are working the marine environment statewide. How many of those are currently working in the study area, and how many would be required to implement the Proposed Project or any of the alternatives? The Sheriffs subsection makes no mention of the private security guards at Sea Ranch. One of the advantages of Proposal 2XA is that the MPA off of Sea Ranch has the support of that community and they actively patrol their private property with intensity and fervor.

Section 7.3.2.1 clearly defers the decision regarding enforcement capabilities. According to testimony presented to the Fish and Game Commission on December 11, 2008 by DFG Deputy Director Nancy Foley, the success or failure of the MLPA objectives hinges on adequate enforcement. Enforcement plans for the proposed MPAs are required by the Draft Master Plan to be submitted along with the Proposed Regulation for consideration by the Fish and Game Commission.

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In Section 7.3.3.3 – to claim that the increased demand on law enforcement services from the Proposed Project is “less than significant” defies reason in light of the testimony given by the CDFG to the Fish and Game Commission noted above. In total, the tens of millions of dollars to enforce, monitor, and provide outreach to this vast network will require more than a 50% increase in the CDFG budget, hardly a “less than significant” figure. L-46

On page 7-32, to state that law enforcement requirements for Alternative 1 will be similar to that of the Proposed Project is incorrect. Alternative 1 has less of an impact on the abalone fishery than the Proposed Project; therefore it is more likely that the requirements for law enforcement would be less. L-47

Elsewhere in this document, but not in this section, it is said that Alternative 2 has less area of MPAs. Therefore the statement on page 7-32 that Alternative 2 has “a slightly larger MPA area” is both contradictory and incorrect. In addition, Alternative 2 has even fewer abalone impacts in the north than Alternative 1 and would require the least in terms of law enforcement resources. In addition, a key point that is not taken into account is that Alternative 2 has local support in every subregion, and local support means voluntary compliance. The Proposed Project is actively opposed in the north, which will lead to a greater demand of enforcement. L-48

The section on “Boating” beginning on page 7-40 completely misrepresents the actual use of the study region. Because of the rough cold waters and significant wind and weather patterns associated with this section of the coast, boating is almost exclusively associated with fishing, as can be seen in table 7-15. To suggest that boating is a significant activity that takes place in the absence of fishing, as in this section, is to misrepresent the use of the area. For sure, some sailboating and kayaking is not associated with fishing, but that represents only a tiny fraction of the “boating” in the study region. The section misleads the reader into thinking that “boating” for reasons other than fishing is significant, and that is simply not the case in the study region. L-49

Additionally there are many so-called “boat launch locations” listed in table 7-18, but many of these (particularly those in Mendocino, Sonoma, and Marin counties) are limited to kayaks, canoes, and very small car top type boats, and do not support the broader activity of “boating,” being portrayed in this section. In fact, within the study region there are no viable launch points for larger “trailer” boats north of Bodega Bay. L-50

On page 7-48 the last paragraph discussing the facilities in the area around Salt Point indicates that Gerstle Cove is an area of abalone harvest, when in fact it has long been closed to all take, including abalone. The paragraph goes on to include a statement that Fort Ross is “... just to the ... south” is patently false – it is many miles to the south. L-51

The PSO takes exception to the first paragraph on page 7-51. We are specifically concerned with the statement that, “While there may be some recreational fishing high use areas located within proposed no-take MPAs, on the whole, the Proposed Project avoids many desired locations identified in the CRFS (CDFG 2007a).” All the proposals take the very best areas in terms of habitat and close them off to fishing. Alternative 2 (Proposal 2XA) is the most sensitive to fishing impacts, while Alternative 3 and the Proposed Project are the least. This is especially true L-52

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in regards to the impact on abalone divers in the most northern part of the study region, which is not mentioned in the paragraph and most noticeably impacted by the Proposed Project and alternative 3.

L-52
 cont'd

Section 7.5.3.3 discusses the potential environmental impact of the Proposed Project and each of the alternatives. Missing from this entire section is a discussion of the adaptive management requirements of the MLPA and the impacts this requirement would have on research and monitoring needs, which clearly fall under "Effects of Scientific Research." The cost estimate for adaptive management research and monitoring is inherently huge - requiring nearly a 50% increase in the DFG annual budget (along with enforcement). Therefore, it is incorrect to describe the Proposed Projects or the alternatives as "No Impact."

L-53

Chapter 8: Other Considerations Required by NEPA

Section 8.4.5.1. states: "Socioeconomic effects are not required to be analyzed under CEQA." However, as stated earlier in this comment letter, they are required to be considered within the MLPA. Therefore, it is justified and necessary to present such an analysis within the confines of the Draft EIR. In addition, throughout this chapter, there are a number of instances where the needed enforcement, monitoring and education costs, as presented by the DFG to the Fish and Game Commission are ignored, including sections 8.4.5.8 (Public Service and Utilities) and 8.4.5.9 (Recreation and Research)

L-54

Section 8.4.5.4. refers to the Proposed Project assisting in the rebuilding and/or maintenance of some portions of stocks of the seven groundfish species initially considered to be overfished. As stated earlier, these fish stocks are already being rebuilt, without benefit of MPAs. While the Draft EIR states that the proposed project will have a beneficial effect on these populations, there is no basis in fact for such a statement. The statement should be altered to reflect that the benefit, if any, will be relatively minor due to the protections and rebuilding that are already in place.

L-55

In regards to Section 8.4.5.7, the region north of San Francisco, the Tourism and Recreation industry is comprised largely of fishing based recreation - and abalone at that. As such the Proposed Project will certainly have an impact, and this should not be discounted.

L-56

Chapter 9: Alternatives Analysis

This chapter begins by stating that, "alternative fishery management regulations (e.g., changes in fishing quotas, seasonal species take restrictions, no-trawl zones) would not meet the specific requirements of the MLPA and were not considered in this EIR." However, this position ignores the fact that the vast majority of the proposed MPA regulations deal exclusively with fishery management issues by the virtue of the fact that they restrict fishing activity. Therefore fishery management alternatives should be included in the discussion of alternative courses of actions. To say otherwise is again disingenuous and ignores the benefits of traditional fisheries management.

L-57

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In addition, because most of the fish habitat is outside of state controlled water, alternative fishery management techniques are often the controlling factor, and as such should have been considered. Additionally, MPAs basically impose only fishery restrictions and therefore do not provide any practical measure of habitat protection, as falsely claimed in the second bullet in section 9.2.

L-58

In addition, the PSO is confused by the statement that, "The CDFG presented the BRTF recommendation to the Commission for consideration as the *Commission-preferred* alternative (emphasis added)." This statement infers that the Commission has already cast a vote on which alternative they prefer. All four proposals are still before the Commission. This vote has yet to occur; therefore, this sentence should be reworded for clarity.

L-59

There are several omissions in regards to Section 9.4. First, it neglects to mention that in addition to having the least amount of fishing displacement, Alternative 2 would also have less of an economic impact – a very important factor that should not be ignored. In addition, the statement that Alternative 3 provides "a greater potential benefit to populations of marine species" via greater habitat representation is completely unsupported by SAT assessment. No factual analysis ever demonstrated that Alternative 3 would ultimately benefit fish populations. Finally, the SAT evaluation stated that there is no significant conservation difference between the RSG alternatives, but did cite the Proposed Project as failing to meet the SAT size and spacing guidelines. It is therefore less effective than any of the RSG alternatives. *We therefore strongly disagree with the designation of Alternative 3 as "the environmentally superior alternative under CEQA."*

L-60

It appears that the only factor considered in the discussion of the preferred alternative under Section 9.5 was sheer magnitude of coverage. Alternative 2 does more to efficiently achieve conservation with the areas that it does set aside, i.e., it can do more with less area. However, this important consideration was ignored. Though the Proposed Project may have larger MPAs and the most within the preferred size range, it still fails to meet the spacing requirement of the SAT, and is therefore clearly inferior to any of the RSG proposals. The final paragraph states that 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." However, again, the Proposed Project still fails to meet all of the SAT requirements, and therefore in no way does it "better meet" the scientific guidelines and goals of the MLPA.

L-61

Sincerely,



Patty Doerr, Director of Ocean Resource Policy
 American Sportfishing Association

cc: California Fish and Game Commission

2.14.1. Responses to Letter L

Response to Comment L-1: See Master Response 1.0 and 3.0. Issues of factual inconsistencies are addressed in individual comment responses below.

No changes to the DEIR are required.

Response to Comment L-2: The DEIR is not mechanism for peer review of the alternative designs against the SAT design guidelines, and in fact assumes that each of the alternatives identified by the Fish and Game Commission for consideration in the DEIR has been determined to fundamentally meet both the SAT guidelines and the MLPA goals and objectives. As the name implies, “guidelines” are not mandates and must necessarily allow flexibility to balance MLPA goals and objectives. See Section 2857(c).

The purpose of the DEIR is to provide an impartial assessment of the potential physical environmental effects that may result from implementation of the Proposed Project and Alternatives 1, 2, and 3. Therefore, relative comparisons between the Proposed Project and Alternatives 1, 2, and 3 presented in the DEIR impact analysis focus on physical environmental effects and not comparisons relative to the SAT guidelines. As a result, the primary physical environmental difference considered in the DEIR among the Proposed Project and the alternatives is the total amount of area conserved in combination with the level of protection.

No changes to the DEIR are required.

Response to Comment L-3: See Letter B, Response to Comment B-16.

No changes to the DEIR are required.

Response to Comment L-4: The SAT criteria are guidelines, not mandates. See Letter C, Response to Comment C-2.

No changes to the DEIR are required.

Response to Comment L-5: See Response to Comment L-2. The reference to Alternative 2 has having somewhat greater biological benefit than that of the Proposed Project is a drafting 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 L-6: Socioeconomic impacts are not CEQA impacts. See Letter B, Response to Comment B-16.

No changes to the DEIR are required.

Response to Comment L-7: See Responses to Comments L-2 and L-4.

No changes to the DEIR are required.

Response to Comment L-8: The Department appreciates this reference to additional information regarding the jurisdiction of the federal government. 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 L-9: Comment noted. Pelagic finfish are mentioned as an example, not an exhaustive list of species.

No changes to the DEIR are required.

Response to Comment L-10: Comment noted.

Revisions to the DEIR:

Text on page 2-8 of the DEIR has been modified as noted (refer to Chapter 3 of this Final EIR).

Response to Comment L-11: The commenter is referred to the Methods Used to Evaluate MPA Proposals in the North Central Coast Study Region (May 30, 2008) which states that the practice of “mooching” may have a higher potential for bycatch than that of trolling (Page 17). The Department definition of trolling has been included in the DEIR.

Revisions to the DEIR:

The footnote definition of trolling on page 2-8 of the DEIR has been corrected, as noted (refer to Chapter 3 of this Final EIR).

Response to Comment L-12: Comment noted. The cited text from page 2-9 of the DEIR was derived from the findings of the SAT in their Methods Used to Evaluate MPA Proposals in the North Central Coast Study Region (May 30, 2008 revised draft).

No changes to the DEIR are required.

Response to Comment L-13: See Responses to Comments L-2, L-4, and L-6. See also Master Response 3.0.

No changes to the DEIR are required.

Response to Comment L-14: The addition of goals and objectives to Table 2-30 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 L-15: The commenter does not provide evidence to support the conclusion that fishing harbors will deteriorate as a result of the Proposed Project.

No changes to the DEIR are required.

Response to Comment L-16: Socioeconomic impacts are not CEQA impacts. See Letter B, Response to Comment B-16.

No changes to the DEIR are required.

Response to Comment L-17: Comment noted. The referenced language from the DEIR is not intended to speak to the accessibility of individual sites.

No changes to the DEIR are required.

Response to Comment L-18: Comment noted.

Revisions to the DEIR:

Text in section 4.2.2.2 of the DEIR has been modified as noted (refer to Chapter 3 of this Final EIR).

Response to Comment L-19: The Department appreciates the reference to other abalone monitoring programs. However, because this additional information would 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 L-20: Reevaluation of the data supporting Table 4-1 of the DEIR would not fundamentally alter the impact analysis; therefore, no change to the DEIR is warranted.

No changes to the DEIR are required.

Response to Comment L-21: Comment noted.

No changes to the DEIR are required.

Response to Comment L-22: Comment noted. Ecotrust identified the following caveats with respect to the recreational data:

1. The data are not representative of the entire population of recreational fishermen due to the less than desirable (less than statistically significant) sample size.
2. The data should only be considered at the sub-region level, not at the entire study region level.
3. There was little or no data collected from recreational fishermen north of Bodega Bay.
4. The data represents interviewees' areas of value, not areas of effort.
5. The data represents interviewees' areas that are important to them over their entire recreational fishing experience, not necessarily the areas that are important to them currently.

No changes to the DEIR are required.

Response to Comment L-23: Comment noted. The results of an additional assessment for the abalone fishery completed by the Department have been incorporated into Chapter 4 of the DEIR.

Revisions to the DEIR:

Text and tables have been added to section 4.3.3.2 of the DEIR documenting the potential abalone fishery harvest reductions associated with the Proposed Project and Alternatives 1, 2, and 3 (refer to Chapter 3 of this Final EIR).

Response to Comment L-24: Comment noted. Additional clarification has been added to the DEIR.

Revisions to the DEIR:

Text on page 4-26 of the DEIR has been modified as noted (refer to Chapter 3 of this Final EIR).

Response to Comment L-25: The Department disagrees with the assertions made by the commenter. The DEIR makes no claim nor does it imply that MPAs would be solely responsible for fishery recovery. See Master Response 5.0. The commenter

does not provide evidence to support the implied conclusion that detrimental effects on local economies would be substantial or of a lengthy duration as a result of the Proposed Project.

No changes to the DEIR are required.

Response to Comment L-26: The DEIR states clearly why a quantitative analysis similar to that completed for the commercial fleet cannot be adequately completed for recreational fishing. Furthermore, the DEIR reasonably characterizes the potential responses of recreational fishermen to the Proposed Project. The commenter does not provide evidence to support a contrary position.

No changes to the DEIR are required.

Response to Comment L-27: Impact PH-2 of the DEIR, found on page 7-20, addresses the potential for abandonment of marine infrastructure.

No changes to the DEIR required.

Response to Comment L-28: The third bullet under Section 6.1.1.4 of the DEIR expressly refers to sedentary species. Fisheries management regulations outside an MPA would impact more mobile species.

No changes to the DEIR are required.

Response to Comment L-29: The Abalone Recovery and Management Plan, available at <http://www.dfg.ca.gov/marine/armmp/index.asp>, can be reviewed for additional detail regarding the need for protecting abalone habitat. Because this additional information would not fundamentally alter the impact analysis in the DEIR, no change to the DEIR is warranted. See Master Response 2.0.

No changes to the DEIR are required.

Response to Comment L-30: The Department disagrees. The range of a species is often geographically broad; however, specific populations may have a smaller range and individuals of the same species may exhibit limited adult movement. Thus, individuals and populations of species which exhibit limited adult movement and occur within the north central coast study region could benefit from MPAs in the region. Despite the primary range of species lying outside of an MPA, populations of the same species contained in an MPA certainly benefit from that MPA if they exhibit limited adult movement. Additionally, the species benefits from MPAs through the genetic contributions of populations at the margins of their range. See also Master Response 5.0.

No changes to the DEIR are required.

Response to Comment L-31: Comment noted. This information would not fundamentally alter the impact analysis; therefore, no change to the DEIR is warranted.

No changes to the DEIR are required.

Response to Comment L-32: Comment noted. See Master Response 5.0.

No changes to the DEIR are required.

Response to Comment L-33: See Master Response 5.0.

No changes to the DEIR are required.

Response to Comment L-34: Comment noted. Potential effects on law enforcement assets are discussed in section 7.3 of the DEIR. The Department has received additional funds and enforcement positions to assist with the implementation of MLPA. See also Master Response 1.0.

No changes to the DEIR are required.

Response to Comment L-35: The discussion of a fourfold increase in productivity under Impact BIO-1 on page 6-40 of the DEIR is based on published empirical data regarding reserves worldwide. The commenter is directed to the report titled *Channel Islands First Five Years of Monitoring: 2003-2008* available at http://www.dfg.ca.gov/marine/channel_islands/fiveyears.asp for additional information on the productivity of MPAs off the California Coast. The DEIR does not make any specific conclusions regarding the productivity of the MPAs that would be designated under the project because beneficial impacts are not proper subjects of a CEQA analysis. As discussed in the DEIR, existing empirical data suggest that enhanced production within reserves can more than compensate for the effects of displaced fishing effort even with up to 50 percent of the fishing area closed. No published data on existing MPAs have shown negative environmental impacts.

No changes to the DEIR are required.

Response to Comment L-36: See Response to Comment L-35.

No changes to the DEIR are required.

Response to Comment L-37: The Department disagrees. The statement is a reasonable conclusion of the previous assessment on page 6-40. See also Response to Comment L-35.

No changes to the DEIR are required.

Response to Comment L-38: The SAT evaluation charts included in the DEIR support the Impact BIO-2 discussion which is focused on habitat protection within proposed MPAs. See also Response to Comment L-2.

No changes to the DEIR are required.

Response to Comment L-39: While the work of Ecotrust identifies potential worst-case economic impacts on individual commercial fisheries resulting from the Proposed Project and Alternatives 1, 2, and 3, it does not conclude that substantial urban decay would result. Therefore, such impacts remain speculative as indicated in the DEIR.

Revisions to the DEIR:

All citations in the DEIR referencing Wilen and Abbott have been modified to include reference to the Ecotrust work as well (refer to Chapter 3 of this Final EIR).

Response to Comment L-40: See Master Response 3.0.

No changes to the DEIR are required.

Response to Comment L-41: Comment noted. Corrections have been made in the DEIR analysis where appropriate to more accurately reflect the relative differences of the alternatives.

Revisions to the DEIR:

Corrections in analysis statements comparing the alternatives to the Proposed Project have been made on pages 6-45 (Impact BIO-2), 7-12 (Impact CR-2), 7-21 (Impact PH-2), 7-32 (Impact PSU-1), and 7-51 (Impact Rec-2)(refer to Chapter 3 of this Final EIR).

Response to Comment L-42: The counties documented in section 7.2.1.1. are limited to the coastal counties immediately adjacent to the north central coast study region because the focus of the analysis in section 7.2 – Population and Housing is on the potential for urban decay or blight in communities immediately adjacent to the study region. The commenter does not provide evidence to support the assertion of negative economic effects on other California counties or communities outside of California.

No changes to the DEIR are required.

Response to Comment L-43: See Response to Comments L-6 and L-39.

No changes to the DEIR are required.

Response to Comment L-44: The DEIR adequately characterizes the Departments current law enforcement resources and needs. CEQA does not require an assessment of private security in support of private property.

No changes to the DEIR are required.

Response to Comment L-45: Comment noted.

No changes to the DEIR are required.

Response to Comment L-46: Project funding is not a topic that is appropriate for CEQA analysis. See also Master Response 1.0.

No changes to the DEIR are required.

Response to Comment L-47: The commenter does not provide sufficient evidence to support their assertion that Alternative 1 enforcement requirements would be less than that of the Proposed Project.

No changes to the DEIR are required.

Response to Comment L-48: The statement on Page 7-32 of the DEIR has been revised per Response to Comment L-41. The commenter does not provide sufficient evidence to support their assertion that Alternative 2 enforcement requirements would be less than that of Alternative 1 or the Proposed Project.

Revisions to the DEIR:

See changes identified in Response to Comment L-41 and Chapter 3 of this Final EIR.

Response to Comment L-49: Boating is not misrepresented in the DEIR. The DEIR clearly states that more boats in the region are used for commercial fishing than for recreational activities. This is further supported by Table 7-15.

No changes to the DEIR are required.

Response to Comment L-50: Comment noted.

No changes to the DEIR are required.

Response to Comment L-51: The DEIR does not identify Gerstle Cove as an area of abalone harvest. It does identify Salt Point State Beach and Stillwater Cove Regional Park as popular areas for abalone catch. The DEIR has been revised to correctly portray the relative location of Fort Ross.

Revisions to the DEIR:

Text corrections have been made on page 7-48 to accurately reflect the relative location of Fort Ross as noted (refer to Chapter 3 of this Final EIR).

Response to Comment L-52: Comment noted.

No changes to the DEIR are required.

Response to Comment L-53: Comment noted.

No changes to the DEIR are required.

Response to Comment L-54: See Response to Comment L-6.

No changes to the DEIR are required.

Response to Comment L-55: The commenter is directed to the report titled *Channel Islands First Five Years of Monitoring: 2003-2008* available at http://www.dfg.ca.gov/marine/channel_islands/fiveyears.asp for additional information on the benefits of MPAs on groundfish species. See also Master Response 5.0.

No changes to the DEIR are required.

Response to Comment L-56: Comment noted.

No changes to the DEIR are required.

Response to Comment L-57: The DEIR provides a complete and legally adequate analysis of alternatives consistent with the requirements of CEQA. Alternatives need to attain the basic objectives of the project, which in this case are defined by the project goals listed on page 9-2 of the DEIR. See also Master Response 5.0.

No changes to the DEIR are required.

Response to Comment L-58: Comment noted. The project occurs within state waters. See also Response to Comment L-57.

No changes to the DEIR are required.

Response to Comment L-59: See Letter B, Response to Comment B-2.

No changes to the DEIR are required.

Response to Comment L-60: The commenter does not provide factual evidence to support a contrary assertion that Alternative 3 would not benefit fish populations. See also Response to Comment L-2 and L-6.

No changes to the DEIR are required.

Response to Comment L-61: See Response to Comment L-2.

No changes to the DEIR are required.

2.15. Letter M, from Recreational Fishing Alliance

Letter M



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

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

Monday, May 4, 2009

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

MLPAComments@dfg.ca.gov

RE: North Central Coast MLPA CEQA comments

Dear Department of Fish & Game:

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

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

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

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

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

M-1

M-2

M-3

particularly Fort Ross. The EIR should take into consideration the ARMP, landing data and index site surveys to estimate the impact of the effort shift.

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

M-3
cont'd

M-4

M-5

The "Special Closures" category of the regulations underline the political bias against fishing.

M-6

Can the DFG explain how the proposed regulations will protect marine life, or protect the marine habitat, when the regulations only apply to fishing and not to water quality? How can the document speak of "habitat protection" when the regulations focus on fishing, but not anchoring vessels, including those vessels that will allegedly be replacing the economic value of fishing with other "recreational" uses such as bird watching, diving, and wildlife viewing? Can wave energy plants be placed in marine protected areas? No regulations prohibit this emerging technology.

M-7

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

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

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

M-8

"Vested interests of both parties can result in an assessment that addresses key environmental issues minimally," it says. "Review of ELAs by regulatory agencies themselves can suffer if political factors are pushing the outcome in a given direction and mandatory independent and external review by appropriately qualified scientists can improve the process." Another approach has been to establish marine protected areas. Globally, there are about 4,600 such areas, covering 1.4 per cent of the world's coastal shelf. However, the report dismisses most of these areas as "paper parks".

They are, it says, "legal creations, may have management staff, usually have detailed regulations governing their use, but there is little if any enforcement of regulations. As a consequence, the deterioration of the coastal environment goes on as rapidly inside most marine protected area boundaries as it does outside and the effort to establish and then to maintain protected sites is largely in vain."

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

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

M-9

Only in places where the effect on the livelihood of local populations can be shown to be positive, by improving fishing elsewhere or by replacing fishing with more profitable employment, is stakeholder support for MPAs likely (Agardy 2005).

[...]

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

<http://www.inweh.unu.edu/inweh/coastal/Coastal-Policy-Brief.pdf>

M-9
cont'd

We submitted CEQA comments for the south-central study region, and the same problems exist in the current document.

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

M-10

M-11

M-12

M-13

<p>5. We find discrepancies between the Department's goals & objectives for MPAs and the regulations proposed to achieve them. As one example, the goal of protecting sandy beaches is pursued by regulations to ban fishing. Another example is the "Special Closure" regulations that ban vessel traffic, ostensibly to protect birds and mammals, while not prohibiting shoreside traffic, by foot or by vehicle.</p>	<p>M-14</p>
<p>6. Chapter 2, page 9: Levels of Protection: how are these "levels" quantified? Why is anchoring a vessel allowed in a reserve, and dragging an anchor across the bottom structure, but not salmon trolling – and why is this considered "fully protected habitat"? Isn't it true that the regulations really don't protect any habitat at all, since all of the fishing gear types (trawling, etc) have been prohibited in state waters?</p>	<p>M-15</p>
<p>7. Abalone should be treated as a "Special Status Species" because of the passage of the Abalone Recovery and Management Act.</p>	<p>M-16</p>
<p>8. Abalone is listed as one of the species "most likely to benefit" from marine protected areas, but their biology is very different than most other species. The larval dispersal distance is very short, 10 meters or less, and there is no "spillover" effect since they are relatively immobile. Therefore the concentration of effort in the abalone fishery needs to be considered.</p>	<p>M-17</p>
<p>9. If reserves are more productive than fished areas, then why hasn't the abalone closure south of the Golden Gate Bridge resulted in reopening the fishery now, ten years after the moratorium on fishing in 1999?</p>	<p>M-18</p>
<p>10. Chapter 6, page 31: "Additionally, evidence of low abundance of juveniles at Bodega State Marine Reserve, Salt Point State Marine Conservation Area, and Fort Ross State Marine Conservation Area over the last 10 years suggests low recruitment in these areas (CDFG 2007a)." This fact contradicts the speculative statements about productivity in reserves.</p>	<p>M-19</p>
<p>11. Many species of rockfish are sporadically productive. How long will it be before positive results are seen for fisheries? Is there any evidence that there is a lack of larvae in the ocean?</p>	<p>M-20</p>
<p>12. "Within the north central coast study region in 2007, the depth-based recreational RCA and non-trawl commercial RCA overlap in parts and each covers approximately 31.5% of the north central coast study region with full-time closures focused primarily on the shelf." How were these area closures calculated into the overall regulations?</p>	<p>M-21</p>
<p>13. The proposed regulations for certain SCMAs, including one at Salt Point State Park, prohibit all take except recreational take of abalone and finfish. Given the extraordinary concern about assigning low levels of protection to conservation areas, and about bycatch, how is do the regulations address the taking barnacles along with the abalone?</p>	<p>M-22</p>
<p>14. No economic data was provided in the document about the value of the abalone fishery, even though this information is readily available. Indeed, in some areas of the region, it is the only viable fishery. There needs to be an assessment of the impact to the community of Point Arena.</p>	<p>M-23</p>
<p>15. In section 6.1.2.2, there needs to be a discussion of the provisions of the Abalone Recovery and Management Act.</p>	<p>M-24</p>

<p>16. In Section 6.1.3.2., reference CCR, Article 5, 15064.3(e) and 15065: shown above. Assume abalone diving effort will remain constant, and show how overcrowding of open areas will not result.</p>	<p>M-25</p>
<p>17. Same section, next page – a calculation is given for effort shift vs. increased production in reserves. However, in many cases (rockfish, abalone grounds) more than 40% of the accessible fishing grounds are closed. This requires that "spillover" reach its maximum potential, and is this likely in the case of abalone? How do the regulations attempt to prevent localized depletion of abalone at Fort Ross, for example?</p>	<p>M-26</p>
<p>18. 6.1.3.3.: If the increased pressure on the remaining open areas leads to a drop in abalone population densities below minimum viable population densities, wouldn't this be a significant negative impact? Can't you project where the effort would move, based on historical landings, and assess whether the fishery will be sustainable in local areas like Fort Ross?</p>	<p>M-27</p>
<p>19. Chapter 6, p. 40: There is a discussion of the spillover effect. It is stated that new Florida records were obtained adjacent to a reserve but weren't these new <i>line class records</i>, rather than record size fish?</p>	<p>M-28</p>
<p>20. How can we estimate cumulative impacts when the statewide network of MPAs is being implemented in a piecemeal fashion? This is particularly problematic when the abalone fishery primarily occurs in an area that straddles two "study regions." How can we analyze these impacts when we do not have the entire network and regulatory package in front of us at one time?</p>	<p>M-29</p>
<p>21. We strongly disagree with the DFG's finding of "less than significant impacts" to the abalone resource. The extent of the Department's analysis is a table with historical abalone landings in the region, but no attempt to analyze where the fishing effort will go.</p>	<p>M-30</p>
<p>22. Section 7, p. 31: Speculation on the availability of increased funds for enforcement is inappropriate. The fishing public does not support the regulations and will not be as cooperative as they have been in the past in ensuring public involvement with existing regulations. The Sonoma County Abalone Network has voted to suspend its operations and its cash reward for information leading to the arrest and conviction of abalone poachers should the preferred alternative become law. It is not tenable to assert that these regulations will have no negative impact on the ability of DFG enforcement to combat the commercialization of the abalone resource within and outside of reserves.</p>	<p>M-31</p>
<p>23. Specifically, conservation areas such as Sea Lion Cove will be very hard to enforce when they allow all kinds of fishing but bans abalone diving. Spearfishing is allowed, but if a sea urchin is taken it would be a violation. Toward what benefit?</p>	<p>M-32</p>
<p>24. Impact PSU-2: Sonoma County Sheriff's Department indicated that 2 XA was less likely to cause problems with public safety than other alternatives, in public comment. The preferred alternative would lead to significant safety problems as people seek out less accessible sites. In particular the closures at Fisk Mill Cove and Horseshoe Cove remove areas that are protected from prevailing north winds and waves, pushing divers into less safe areas.</p>	<p>M-33</p>

- 25. Impact REC-1: This is the most troublesome section. It begins with a discussion of non-consumptive uses but slides into a discussion of the effort shift in the abalone fishery. It talks about Fisk Mill Cove, which would be closed to fishing under the preferred alternative, and Fort Ross, which would not. *"Though it would require a slight shift in recreation within the MPA, many recreation areas are located on either side."* What sort of analysis is this? The question is this: how far away are these areas, and how many abalone divers are already using those areas, and can the local abalone populations sustain the increased effort? M-34
- 26. We have estimated a 30% effort shift in the abalone fishery in the region as a result of pushing divers out of these areas. This would be the equivalent of increasing the daily bag limit from 3 to 4 abalone per day, and taking them from a vastly smaller area. If the DFG believes that the abalone population can sustain that increased level of take, why haven't they already increased the bag limit? And if it is true that reserves will result in 400% increased productivity, will we get a 16 abalone daily bag limit? When? M-35
- 27. Regarding the deterioration of recreational facilities, there is a strong likelihood that the Point Arena Pier, which was federally-funded to increase economic activity in a community where 26% of the population lives under the poverty line, will cease to function as a cumulative effect of the proposed regulations and the federally mandated Rockfish Conservation Area. Show some analysis of the negative impacts to Point Arena specifically. M-36
- 28. Chapter 7, p. 51: Should Point Arena Pier be shut down, would DFG consider that a significant impact? The EIR states, "It is much more likely that recreational fishermen will adjust their transit to destinations equally easy to access versus electing to transit longer distances and travel times for a comparable fishing experience. Therefore, the impact to recreational fishing activities would be less than significant." Obviously the authors have never fished out of Point Arena and do not understand how the regulations create a tiny, four-mile square box in front of the harbor open to rockfishing –so the area will be fished out. This will require running ten miles to the north or south for a satisfying recreational rockfish trip. M-37
- 29. We averaged the annual landings for abalone in the region. We arrived at a projected effort shift by distributing the landings from new MPAs to the remaining sites, proportionate to their historical use. We suggest a similar table in the EIR to show the increased pressure on the open areas. M-38

Thanks for the opportunity to comment on the Environmental Impact Statement for the Marine Life Protection Act implementation.

Sincerely,



Jim Martin
 West Coast Regional Director
 The Recreational Fishing Alliance

2.15.1. Responses to Letter M

Response to Comment M-1: These comments are unsubstantiated by any facts or evidence.

No changes to the DEIR are required.

Response to Comment M-2: The commenter's presumption that quantifiable benefits to specific species abundance cannot be determined because of state and federal regulatory catch limits is incorrect. The commenter is directed to the report titled *Channel Islands First Five Years of Monitoring: 2003-2008* available at http://www.dfg.ca.gov/marine/channel_islands/fiveyears.asp. The commenter provides no evidence to support the assertion that economic blight will occur in the City of Point Arena. The impacts of other state and federal regulations outside of the MLPA are not the subject of the Proposed Project; therefore, they are not analyzed in the DEIR.

No changes to the DEIR are required.

Response to Comment M-3: See Letter B, Response to Comment B-5. See also Master Response 5.0.

No changes to the DEIR are required.

Response to Comment M-4: The comment restates CCR, Article 5, 15064.3(e).

No changes to the DEIR are required.

Response to Comment M-5: The commenter has misinterpreted the CEQA mandatory findings of significance. These findings are used to determine when to prepare an EIR for a project. An EIR has already been prepared for this project. Cumulative impacts are discussed in Chapter 8 of the DEIR. See also Master Response 5.0.

No changes to the DEIR are required.

Response to Comment M-6: Comment noted.

No changes to the DEIR are required.

Response to Comment M-7: Independent of existing water quality conditions, the restriction of fishing activities within MPAs provides for marine life and marine habitat protection. The benefits of MPAs are well documented. Water quality within state waters is regulated by the State Water Resources Control Board and its regional boards, not by the Department or the Commission. Effects of future projects, such as wave energy plants, on MPAs would be subject to independent review both under the

California Environmental Quality Act and by several regulatory agencies including the Fish and Game Commission and the California Coastal Commission.

No changes to the DEIR are required.

Response to Comment M-8: The DEIR provides a complete and legally adequate analysis of direct and indirect environmental impacts, mitigation measures, and alternatives. The DEIR makes no statement that establishment of MPAs will resolve existing water quality issues within the north central coast study region. No specific points are made by the commenter relative to the UN report quotations provided in the comment.

No changes to the DEIR are required.

Response to Comment M-9: Comment noted. Again, no specific points are made by the commenter relative to the UN report quotations provided in the comment.

No changes to the DEIR are required.

Response to Comment M-10: MLPA implementation activities following the designation of an MPA network for the north central coast study region are not the subject of the proposed project. Federal funding was not utilized in support of the planning phase for the north central coast study region; therefore, preparation of a National Environmental Policy Act (NEPA) environmental document is not necessary.

No changes to the DEIR are required.

Response to Comment M-11: The potential effects of shifts and concentration of fishing effort are addressed in Impact BIO-1 on page 6-40 of the DEIR.

No changes to the DEIR are required.

Response to Comment M-12: The existing environmental setting is established in the beginning of each resource section in the DEIR. The environmental setting information included in the DEIR is all that is necessary to provide a meaningful context for discussion of environmental impacts. A comprehensive baseline of fish stocks within proposed MPAs was determined to be above and beyond that which was necessary to discuss environmental impacts of the Proposed Project and Alternatives 1, 2, and 3.

No changes to the DEIR are required.

Response to Comment M-13: Potential impacts of the Proposed Project and Alternatives 1, 2, and 3 on law enforcement resources are discussed in Impact PSU-1 of the DEIR. See also Master Response 1.0.

No changes to the DEIR are required.

Response to Comment M-14: Comment noted.

No changes to the DEIR are required.

Response to Comment M-15: Comment noted.

No changes to the DEIR are required.

Response to Comment M-16: Comment noted. Special status species are defined in the DEIR as protected either under the Federal or State Endangered Species Acts.

No changes to the DEIR are required.

Response to Comment M-17: See Letter B, Response to Comment B-5.

No changes to the DEIR are required.

Response to Comment M-18: Comment noted.

No changes to the DEIR are required.

Response to Comment M-19: MPAs are designed to benefit ecosystems and increase productivity of populations contained within them. Populations with low recruitment in a particular geographic area may benefit from MPAs through larval transport from other MPAs or where local retention occurs. Protection of adults through a network of MPAs may benefit areas with low recruitment. Additionally, reduction in harvest of adults in MPAs in areas of low recruitment increases spawning biomass within that MPA.

No changes to the DEIR are required.

Response to Comment M-20: Comment noted.

No changes to the DEIR are required.

Response to Comment M-21: Comment noted.

No changes to the DEIR are required.

Response to Comment M-22: Comment noted.

No changes to the DEIR are required.

Response to Comment M-23: See Letter L, Response to Comment L-23 and Letter B, Response to Comment B-5. The restrictions of the application of socioeconomic factors to CEQA analysis is clearly stated in Section 4.1 of the DEIR.

No changes to the DEIR are required.

Response to Comment M-24: Comment noted.

Revisions to the DEIR:

Text regarding the Abalone Recovery and Management Act has been added to section 6.1.2.2. of the DEIR as noted (refer to Chapter 3 of this Final EIR).

Response to Comment M-25: Economic considerations in CEQA are addressed in Chapter 4 of the DEIR. See Response to Comment M-5 and Letter B, Response to Comment B-5.

No changes to the DEIR are required.

Response to Comment M-26: Comment noted.

No changes to the DEIR are required.

Response to Comment M-27: See Letter B, Responses to Comment B-5 and Comment B-10.

No changes to the DEIR are required.

Response to Comment M-28: Comment noted.

No changes to the DEIR are required.

Response to Comment M-29: See Letter K, Response to Comment K-9.

No changes to the DEIR are required.

Response to Comment M-30: See Letter B, Responses to Comment B-5 and Comment B-10.

No changes to the DEIR are required.

Response to Comment M-31: Comment noted. See Master Response 1.0.

No changes to the DEIR are required.

Response to Comment M-32: Comment noted.

No changes to the DEIR are required.

Response to Comment M-33: Comment noted.

No changes to the DEIR are required.

Response to Comment M-34: See Letter L, Response to Comment L-51 and Letter B, Responses to Comment B-5 and B-10.

No changes to the DEIR are required.

Response to Comment M-35: See Letter B, Response to Comment B-10.

No changes to the DEIR are required.

Response to Comment M-36: The commenter does not provide evidence to support the assertion that the Point Arena Pier facilities would be forced to close under the Proposed Project. Potential socioeconomic effects are framed in Chapter 4 of the DEIR. See also Letter L, Response to Comment L-39.

No changes to the DEIR are required.

Response to Comment M-37: Comment noted. The Department does not deny that the closure of Point Arena Pier would only be a significant socioeconomic impact to the local community; however, the commenter has provided no factual evidence to support the claim that this would be the result of implementing the Proposed Project.

No changes to the DEIR are required.

Response to Comment M-38: See Letter L, Response to Comment L-23.

No changes to the DEIR are required.

2.16. Letter N, from U.S. Department of the Interior, Mineral Management Services

	<div style="border: 1px solid black; display: inline-block; padding: 2px 10px;">Letter N</div>	
United States Department of the Interior		
MINERALS MANAGEMENT SERVICE Pacific OCS Region 770 Paseo Camarillo Camarillo, California 93010-6064		
May 4, 2009		
MLPA North Central Coast CEQA Department of Fish and Game Marine Region 20 Lower Ragsdale Drive, Suite 100 Monterey, California 93940		
RE: Review of Draft Environmental Impact Report: California Marine Life Protection Act Initiative North Central Coast Marine Protected Areas Project, State Clearinghouse # 2008062028		
Dear Mr. Koch and the MLPA North Central Coast CEQA,		
In response to the announcement from the California Marine Life Protection Act Initiative, March 2009, regarding the Draft Environmental Impact Report: California Marine Life Protection Act Initiative North Central Coast Marine Protected Areas Project, the U.S. Minerals Management Service offers the attached comments.		
Thank you for the opportunity to participate in the process. If you have any questions about our comments please call Dr. Ann Bull at 805/389-7820 or send written comments to 770 Paseo Camarillo, 2 nd Floor, Camarillo, CA 93010.		
Sincerely,		
		
Lynnette L. Vesco Regional Supervisor Office of Leasing and Environment		
Enclosures		
		

U.S. Minerals Management Service comments on March 2009 Draft Environmental Impact Report: California Marine Life Protection Act Initiative North Central Coast Marine Protected Areas Project.

Comments are listed with the page number first.

ES-17. Not all the concerns in “Areas of known controversy” are addressed in this document. Add pages where these topics were addressed, for instance, “Enforcement” is addressed on page 2-44. | N-1

1-15, Section 1.3.3.3. Wording, “It is not intended to recommend either approval or denial of a proposed project” seems contradictory to the intent of an EIR. A rationale for choosing the proposed project is provided on page 2-43. | N-2

2-1, Chapter 2. A goal of the MPA process is to provide a network of reserves. Include a discussion or reference as to how proposals were evaluated to meet this goal. | N-3

2-7 or 2-17, Table 2-7. Add a justification or reference for why special closures are 300 ft or 1000 ft. Explain what activities are precluded. Do the closures restrict all land access, kayaks, or motorized boats? | N-4

2-43, Section 2.6.1. Please address if there will be another environmental review process once the regional management plan is written. | N-5

3-3, Section 3.2.5. Suggest that this section be combined with Section 3.2.6 and retitled ‘Mineral and Energy Resources’. | N-6

3-3, Section 3.2.6. Update wording to reflect that there is not currently a federal moratorium on new Pacific Outer Continental Shelf oil and gas leasing activities off the California coast. Add a paragraph addressing renewable energy projects in state waters. See suggested wording below: | N-7

In 2008, the 1982 federal moratorium on new OCS oil and gas leasing activities off the California coast expired. Although oil and gas leasing is currently proposed in Minerals Management Service’s Draft Proposed Program (2010-2015) for the Point Arena Basin, the proposal will be revisited after comments are received in September 2009. A ban on issuing new state oil and gas leases in state tidelands has been in effect since 1989 by the State Lands Commission, which has jurisdiction over all state property. The ban on new leases is also a result of the California Sanctuary Act of 1994 (PRC 6240 et seq.), which prohibits leasing of any state tidelands, with three exceptions. Because oil and gas exploration and production in state tidelands are currently prohibited, the Proposed Project would have no impact on mineral resources.

Add a paragraph on renewable energy permits in state waters

4-1, Chapter 4. Address whether any de facto marine reserves exist in the study region. | N-8

4-4, Section 4.2.1.1. Define the term, "other" flatfish.	N-9
4-6. Add the name of the seaweed, <i>Postelsia palmaeformis</i> , and reference Kathy Ann Miller and John O'Brien 2003. California Fish and Game annual Status Report 2003 (http://www.dfg.ca.gov/marine/status/report2003/seapalm.pdf)	N-10
4-8. List which recreational fished species are likely to benefit from MPAs as done with commercially harvested species in Section 4.2.2, page 4-4.	N-11
5-17, Figure 5.2-1a, b. Seven discharges are cited but only six are easily identified on the Figure.	N-12
6-1, Section 6.1.1.1. There is a good amount of information presented in this chapter that falls under the category of physical resources; for example categories of rocky shore on page 6-4, or regional oceanographic patterns and temporal variability on page 6-17. Provide a clearer explanation of why this information is presented in the Biological Resources chapter instead of the Physical Resources chapter.	N-13
6-1, Section 6.1.1.1. List all the habitat types to be discussed later. Oceanographic Habitat is described as a habitat later (page 6-17) so it should be mentioned here and in Tables 6.1 and 6.4.	N-14
6-1, Section 6.1.1.1. Add a brief statement addressing how data presented in this section represent the best available science compiled from multiple sources. Describe any information on the known amount of error associated with the numbers presented in Tables 6.1 and 6.4.	N-15
6-1, Section 6.1.1.1. Some habitat subsections, such as Rocky Shores and Kelp Forest, mention their data sources but most others do not. Add this information consistently to all habitat types.	N-16
6-29, Section 6.1.1.4. Species likely to benefit from MPAs mentioned in this section do not include some of the commercially harvested species that "may receive direct benefit from MPAs" listed on page 4-4, section 4.2.1.1, such as Dungeness Crab. Add an explanation as to why abalone and groundfish are the only species discussed in this section.	N-17
8-6, 8.4.4. Climate change discussed at length but should also include a statement addressing how this project will benefit or adversely effect climate change.	N-18

2.16.1. Responses to Letter N

Response to Comment N-1: Not all of the concerns raised in the Areas of Known Controversy/Issues are addressed in the DEIR because not all of the concerns are relevant to CEQA analysis in the EIR.

No changes to the DEIR are required.

Response to Comment N-2: As stated on page 1-15 of the DEIR, an EIR is a public information document that assesses the environmental effects of a proposed project and identifies mitigation measures and alternatives that could reduce or avoid adverse environmental impacts. The EIR does not recommend approval or denial of a proposed project. It does, however, identify the environmentally superior alternative (See Chapter 9 of the DEIR).

No changes to the DEIR are required.

Response to Comment N-3: Proposals were evaluated thru a stakeholder and public input process under the direction of the BRTF with scientific review by the SAT. Additional information can be obtained at the MLPA Initiative website (<http://www.dfg.ca.gov/mlpa/index.asp>).

No changes to the DEIR are required.

Response to Comment N-4: Department feasibility guidelines allowed for 300 or 1,000 foot distances for Special Closures. Most people can estimate the length of a football field or three football fields. The size chosen was based on input from bird or mammal experts. The distances were designed to reduce flushing or disturbance. The closures restrict all marine access (boat, kayak, etc.) to outside the individually designated boundaries. Land access is not restricted through this process.

No changes to the DEIR are required.

Response to Comment N-5: The regional management plan is a Commission document, and additional environmental review is not required.

No changes to the DEIR are required.

Response to Comment N-6: The recommended revision 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 N-7: Comment noted. The suggested language will be replaced in the DEIR.

Revisions to the DEIR:

Text in section 3.2.6 has been reworded as noted (refer to Chapter 3 of this Final EIR).

Response to Comment N-8: The Department is not aware of any de facto marine reserves in the north central coast study region.

No changes to the DEIR are required.

Response to Comment N-9: "Other flatfish" is defined in federal regulations at 50 CFR Part 660 as butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

No changes to the DEIR are required.

Response to Comment N-10: The name of the seaweed has been added to the DEIR.

Revisions to the DEIR:

Text in section 4.2.1.1 on page 4-6 has been edited as noted (refer to Chapter 3 of this Final EIR).

Response to Comment N-11: Recreational fisheries likely to benefit from MPAs are identified in the second paragraph on page 4-12 of the DEIR.

No changes to the DEIR are required.

Response to Comment N-12: All seven discharges are identified in Figure 5.2-1a and b. The one that may not be as obvious upon first glance is at the Farallon Islands.

No changes to the DEIR are required.

Response to Comment N-13: The physical resource information identified by the commenter was included in the Biological Resources chapter of the DEIR, versus in the Physical Resources chapter, to remain consistent with the ecological setting presented in the Regional Profile for the North Central Coast Study Region. The location of this information does not fundamentally alter the impact analysis in the DEIR.

No changes to the DEIR are required.

Response to Comment N-14: The recommended revisions 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 N-15: Comment noted. Multiple data sources were used and are identified in the Regional Profile for the North Central Coast Study Region (CDFG 2007). These data include fine scale habitat mapping at a high resolution as well as coarser resolution data. The error associated with these depends on individual data sets.

Revisions to the DEIR:

Text in section 6.1.1.1 has been added identifying the use of best readily available science compiled from multiple sources (refer to Chapter 3 of this Final EIR).

Response to Comment N-16: Comment noted. A note will be added at the beginning of Chapter 6 indicating that, unless otherwise cited, all habitat descriptions are taken from the Regional Profile for the North Central Coast Study Region.

Revisions to the DEIR:

Additional text has been added to the introduction of Chapter 6 - Biological Resources as noted above (refer to Chapter 3 of this Final EIR).

Response to Comment N-17: Comment noted.

No changes to the DEIR are required.

Response to Comment N-18: Table 8-1 in the DEIR quantifies the projected greenhouse gas emissions associated with the Proposed Project and Alternatives 1, 2, and 3. A discussion of project effects follows on page 8-8 of the DEIR.

No changes to the DEIR are required.

2.17. Letter O, from U.S. Department of the Interior, National Park Service

Letter O



United States Department of the Interior

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

IN REPLY REFER TO

W3423

May 4, 2009

MLPA North Central Coast CEQA
 California Department of Fish & Game
 20 Lower Ragsdale Drive, Suite 100
 Monterey, CA 93940
mlpacomments@dfg.ca.gov

Re: National Park Service Comments on Draft Environmental Impact Report for North Central Coast Marine Protected Areas

Dear California Department of Fish and Game:

The National Park Service and Point Reyes National Seashore commend you on your work for the Marine Life Protection Act (MLPA), and we appreciate the opportunity to submit comments on the Draft Environmental Impact Report (DEIR) of the MLPA Initiative North Central Coast Marine Protected Areas Project.

We support the adoption of the California Fish and Game Commission (CFGC) Preferred Alternative (previously the Integrated Preferred Alternative) with the addition of the Double Point SMCA from CFGC Alternative 1 (previously Proposal 1-3). We stated this previously in our June 8, 2008 letter to the California Fish and Game Commission. O-1

In addition, we would like to submit the following comments on the Draft Environmental Impact Report (DEIR):

1. In section 5.2.2. (page 5-22), the Point Reyes Headlands Reserve and Extension Area of Special Biological Significance (ASBS) is incorrectly referred to as the Point Reyes Headland Reserve and Extension. O-2
2. In the portion on Drakes Estero in section 6.1.1.1. (page 6-12), it should be noted that Drakes Estero is known habitat to steelhead trout. It is also potential habitat for coho salmon. O-3
3. In the portion on Drakes Estero in section 6.1.1.1. (page 6-13), marbled murrelets are incorrectly listed as birds found in the estuary. These birds are found outside of Drakes Estero, in Drakes Bay, but not in the estuary itself. O-4

<p>4. In the portion on Drakes Estero in section 6.1.1.1. (page 6-13), it should be noted that the Drakes Estero harbor seal rookery is one of the largest in the State. In addition, because of the presence of marine mammals, Drakes Estero and Estero de Limantour are popular spots for wildlife viewing, not just bird watching.</p>	<p>O-5</p>
<p>5. In the portion on Estero de Limantour in section 6.1.1.1 (page 6-13), it should be noted that Estero de Limantour is an existing State marine reserve and also a Federal Marine Coastal Wilderness site.</p>	<p>O-6</p>
<p>6. In the section on California sea lions in section 6.1.1.3 (page 6-26), it should be noted that these animals also breed at Año Nuevo and on the Farallon Islands. In addition, they prey on Pacific whiting, not Pacific hake. California sea lions also haul out at the Sonoma County sites, Fish Rocks and Northwest Cape Rocks.</p>	<p>O-7</p>
<p>7. In the section on Steller sea lions in section 6.1.1.3 (page 6-27), Point Reyes is incorrectly referred to as a breeding colony. Point Reyes was a breeding colony for Steller sea lions up to the late 1970's but is not any longer. Steller sea lions are also endangered in Alaska. They also feed on hake. Also, on the first line, please capitalize S in Steller.</p>	<p>O-8</p>
<p>8. In the section on northern elephant seals in section 6.1.1.3 (page 6-27), it should be noted that elephant seals are present year round at colonies because each sex and age class molts at different times of the year. Elephant seals also haul out at Bodega Rock.</p>	<p>O-9</p>
<p>9. In the section on harbor seals in section 6.1.1.3 (page 6-27/28), it should read, "the highest concentrations occur at Point Reyes Headlands and at several other locations ..." since Tomales Bay, Tomales Point, Drakes Estero-Estero de Limantour, Double Point and Bolinas Lagoon are all part of Point Reyes National Seashore. These sites represent around 20% of the mainland population of harbor seals during the breeding and molt season. Harbor seals also use sites north of Point Reyes that are not included in this listing, such as Bodega Rocks, Stewart Point, Russian River, Black Point, Del Mar Point area, Gualala River, and the Point Arena area.</p>	<p>O-10</p>
<p>10. In the section on northern fur seals in section 6.1.1.3 (page 6-28), it should be noted that northern fur seals also feed on deep scattering layer fish, such as lantern fish.</p>	<p>O-11</p>
<p>11. In the section on cetaceans in section 6.1.1.3 (page 6-29), it should be noted that a small group of bottlenose dolphins occurs regularly off Baker Beach south of San Francisco Bay. Also, humpback whales and blue whales are seasonally seen in abundance during the summer and fall when sardines and anchovies are present.</p>	<p>O-12</p>
<p>12. In the U.S. Park Police section in 7.3.1.2 (page 7-26), the U.S. Park Police is incorrectly referred to as a distinct federal agency. They are part of the U.S. National Park Service, which is empowered to enforce all CDFG regulations.</p>	<p>O-13</p>
<p>13. In the National Park Service section in 7.3.1.2 (page 7-26), we have a few corrections: a. Redwood National and State Parks is incorrectly referred to as Redwood National Park.</p>	<p>O-14</p>

- b. Presidio of San Francisco and Muir Woods National Monument are also part of Golden Gate National Recreation Area. This should be corrected in other areas in the DEIR where this distinction is incorrectly made.
- c. In paragraph 2, line 3, it should read, "coastline spanning from Stinson Beach in Marin County down to San Mateo County..."
- d. On page 7-27, line 4, please add that the law enforcement rangers also utilize these boats to enforce CDFG regulations.

O-14
cont'd

In conclusion, we appreciate the opportunity to comment on the Draft Environmental Impact Report of the California Marine Life Protection Act Initiative North Central Coast Marine Protected Areas Project. We support the adoption of a robust network of MPAs that protect our State and nation's resources. We continue to support the Department of Fish and Game in its enforcement in waters surrounding National Park Service lands and will continue to use our Park Rangers to enforce DFG regulations in NPS waters. In addition, we will offer approximately \$180,000 in assistance to the California DFG in implementing their MPA monitoring protocol during FY 2009-2011. We look forward to working with the State of California on the MLPA and other shared priorities.

Sincerely,

signed original on file

Cicely Muldoon
Acting Superintendent

2.17.1. Responses to Letter O

Response to Comment O-1: Comment noted.

No changes to the DEIR are required.

Response to Comment O-2: Comment noted.

No changes to the DEIR are required.

Response to Comment O-3: Comment noted.

Revisions to the DEIR:

Text in section 6.1.1.1 on page 6-12 has been edited as noted (refer to Chapter 3 of this Final EIR).

Response to Comment O-4: Comment noted.

Revisions to the DEIR:

Text in section 6.1.1.1 on page 6-13 has been edited as noted (refer to Chapter 3 of this Final EIR).

Response to Comment O-5: Comment noted.

Revisions to the DEIR:

Text in section 6.1.1.1 on page 6-13 has been edited as noted (refer to Chapter 3 of this Final EIR).

Response to Comment O-6: Comment noted.

Revisions to the DEIR:

Text in section 6.1.1.1 on page 6-13 has been edited as noted (refer to Chapter 3 of this Final EIR).

Response to Comment O-7: Comment noted.

Revisions to the DEIR:

Text in section 6.1.1.3 on page 6-26 has been edited as noted (refer to Chapter 3 of this Final EIR).

Response to Comment O-8: Comment noted.*Revisions to the DEIR:*

Text in section 6.1.1.3 on page 6-27 has been edited as noted (refer to Chapter 3 of this Final EIR).

Response to Comment O-9: Comment noted.*Revisions to the DEIR:*

Text in section 6.1.1.3 on page 6-27 has been edited as noted (refer to Chapter 3 of this Final EIR).

Response to Comment O-10: Comment noted.*Revisions to the DEIR:*

Text in section 6.1.1.3 on pages 6-27 and 6-28 has been edited as noted (refer to Chapter 3 of this Final EIR).

Response to Comment O-11: Comment noted.*Revisions to the DEIR:*

Text in section 6.1.1.3 on page 6-28 has been edited as noted (refer to Chapter 3 of this Final EIR).

Response to Comment O-12: Comment noted.

No changes to the DEIR are required.

Response to Comment O-13: The DEIR language is based on a personal communication with Captain Rick Whiteman as cited.

No changes to the DEIR are required.

Response to Comment O-14: Comment noted.*Revisions to the DEIR:*

Text in section 7.3.1.2 on page 7-26 has been edited as noted (refer to Chapter 3 of this Final EIR).

