

March 26, 2012

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

Dear Horizon Water and Environment Consultants:

This letter contains a summary of key issues raised by Mendocino County constituents following their review of the 914-page Marine Life Protection Act, North Coast Study Region, Draft Environmental Impact Report (DEIR), dated and distributed in March 2012.

The *Draft Strategy for Public Participation in the MLPA North Coast Study Region* (DFG 2010) outlined a protocol for “joint fact-finding” to collaboratively develop a common knowledge base with constituents. However, formally structured encounters between academic and local experts never took place during the Marine Life Protection Act Initiative (MLPAI) process in the North Coast Study Region (NCSR), largely because the persons appointed as regional stakeholders represented a limited span of community expertise. This loss underlies much of what is missing from the EIR.

The DEIR is based primarily, if not exclusively, on written archival material and reports provided by the Department of Fish & Game (DFG), as evidenced in Chapter 10 (References). As such, it omits critical content contained in hundreds of hours of expert testimony provided verbally during MLPAI meetings in the North Coast Study Region (NCSR), most of which was never documented, and often never acknowledged or responded to within the meetings by decision-makers.

Residents of the NCSR are deeply and passionately connected to the ocean and coastal resources. The focus of the MLPA--an ecosystems-based approach to marine resource conservation--is praiseworthy. Yet from the perspective of many NCSR residents, the MLPA does not go far enough in protecting the ocean.

From the beginning of the MLPAI process, constituents have expressed their frustration at the lack of attention paid to potential impacts of anthropogenic activities potentially far more damaging to the region than fishing and other forms of harvesting. These include: water diversions, oil and gas drilling and transport, seabed/sand mining, military exercises (especially those involving hazardous materials), naval sonar and other forms of acoustic pollution, hydrokinetic power projects (e.g., wave energy), aquaculture projects (with accompanying pollution and escapement) or other forms of industrial development, and

non-point source pollution (e.g., from “recreational” users who spread non-biodegradable litter and from multiple legal and illegal forestry and agricultural operations).

Due to the pre-defined scope of topics outlined by the MLPAL, the DEIR continues a trend of narrowly defined environmental foci. This trend is at the heart of the contextual concerns expressed by Mendocino County constituents, scientists, and practitioners.

Within the topics allowed by the MLPAL, the DEIR acknowledges the potential for urchin barrens but does not effectively address their environmental impacts and food web repercussions when MPAs are closed to urchin harvesting in the absence of predators, or how to avoid their creation (Page 4-48); or the impact from “effort shift” in both commercial and recreational fishing, most especially for abalone. Mendocino County is one of the only regions in the world with sustained populations of abalone, yet these populations are potentially threatened by “effort shift” from the North Central Coast Study Region (NCCSR) to the southern portion of the NCSR due to recent closures and MPAs established in the NCCSR.

Scientifically, some of the most troubling omissions in the DEIR include:

- the analysis of potential “effort shift” described in Section 4.4 is based on a model which assumes stasis, homogeneity, and even distribution for key variables that in reality are dynamic, heterogeneous, and unevenly distributed. Implementation of the proposed MPAs will cause disproportionate and uneven “effort shift” across the NCSR, due to dynamic weather conditions, highly heterogeneous substrate, and the constantly changing distributions of marine species and vegetative (seaweed) habitat;
- the lack of a comprehensive analysis of the significant and unavoidable impact of limiting access to marine resources by tribes, tribal communities, and subsistence harvesters;
- an erroneous assumption that equal opportunities existed for involvement and MLPAL planning process;
- an erroneous assumption that no users of MPAs are capable of simultaneously enacting conservation, restoration, or population and ecosystem enhancement; and
- an erroneous assumption that the NCSR coastline contains “abundant areas [for] subsistence fishing and gathering” beyond the proposed marine protected areas (MPAs).

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

We applaud the inclusion of environmental justice in Section 6.6. Yet this section does not begin to address the environmental justice issues faced by constituents in the NCSR. What may appear to be an insignificant macroeconomic impact in a large-scale analysis translates to a significant microeconomic impact in a County with less than 90,000 residents. Small-scale family fisheries, which are a substantial portion of the currently viable and sustainable fisheries in Mendocino County, could suffer significant impacts due to displacement effort, as detailed in Section B.3.1 in this EIR.

As Section 5.3.2 notes, the entire North Coast is effectively a traditional cultural property<sup>1</sup> for one, or several of the tribes and tribal communities who have inhabited the region for millennia, yet there is no detailed analysis of this in the DEIR. Instead, we have an entire appendix devoted to 157 shipwrecks.

Lastly, providing only three printed copies of a 914-page document for the entire population of the northern Mendocino County coastline, copies that were only available at public libraries open a few days a week, or at a DFG office that closed at 5 pm daily, meant that the majority of Mendocino County constituents--many of whom suffer slow-speed internet access at best--were unable to adequately review and comment on the DEIR.

Sincerely yours,

John McCowen, Chair  
Mendocino County Board of Supervisors

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<sup>1</sup> Per Criteria (A) – (D) as stipulated in the National Park Service Bulletin 38, *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (revised 1998).