

# California Fisheries Coalition

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MLPA Scoping Comments  
Mr. John Ugoretz  
Nearshore Ecosystem Coordinator  
California Department of Fish and Game  
20 Lower Ragsdale Drive, Suite 100  
Monterey, CA 93940

Dear John:                   SUBJECT: Scoping the MLPA Environmental Impact Report

The California Fisheries Coalition is pleased to submit the following comments for use in determining the scope of the Environmental Impact Report required by the California Environmental Quality Act before establishing Marine Protected Areas (MPAs) along the central California coast.

The statewide goals and purpose of the Marine Life Protection Act are well known. It is significant that the legislature established these goals with a view to the ultimate statewide implementation of the Act: protect the abundance of marine species and the structure, function and integrity of ecosystems; help sustain, conserve and protect populations; improve recreational, educational and study opportunities consistent with protecting biodiversity; and protect marine natural heritage in California waters; ensure California's MPAs have clearly defined objectives, management, and enforcement; and ensure the State's MPAs are designed and managed as a network.

1. It goes without saying that in order to determine how the proposed project will impact the above goals and resources it will be necessary to carefully and comprehensively describe the proposed project in its entirety. Not only must the current project be accurately described, the project description and the related impact assessment, should also account for reasonably foreseeable future phases of the project.

It is clearly understood that the Legislature's intent and the intent of the Administration is to implement the MLPA statewide in the near future, indeed funds for the next round of MPA designations have already been appropriated and it is expected that additional funds will be made available as necessary to continue designating MPAs until the full project of establishing MPAs along the entire coast of California is completed. Likewise the Department of Fish and Game and the Fish and Game Commission have already initiated steps to determine which area of the State's coast will be included in the next phase and the time frame for adding this next phase to the overall project.

The environmental impact report should address the potential significant impacts that may occur statewide from central coast MPAs and all MPAs that will eventually be established within the State. Nearly all species affected by MPAs range well beyond the borders of MPAs and even well beyond the current central coast study region. Likewise persons participating in fishing activities, whether for commercial or recreational purposes, engage in multiple fisheries and fisheries that extend beyond their local area. Impacts resulting from the proposed first phase of the project will likely extend beyond the limited central coast range.

Marine species and fishing activities will be impacted by future phases of this project which could result in far greater environmental impacts, as described below, than may result just from Central coast MPAs. The environmental report must review all direct, indirect and cumulative impacts resulting from establishing MPAs statewide including any other reasonably foreseeable plans and programs that may modify or impact the current proposed action. This analysis should include the phases, staging and interaction of the proposed project with reference to direct and cumulative impacts.

2. A draft environmental assessment must include a description of the environment in the vicinity and region of the project, including a detailed description of existing resources affected and habitat in which the proposal will be implemented and the extent and condition of these resources and habitat throughout the state. In this case an accurate description of current population abundance and ecosystem structure, function and integrity is a necessity to give the public an ability to understand the full ramifications of the proposal. This must be done for each MPA site, and neighboring areas of similar habitat. How else would one know if MPAs benefit, or harm, the marine life and ecosystem they are supposed to protect?

It will be necessary to develop specific guidelines and models to define the current status of the ecosystem regarding such things as abundance, structure, and function. Using these models and models depicting the dynamics of marine populations the outcomes and impacts of the project and different alternatives should be quantified. Such an analysis can also serve to guide the development of mitigation measures by testing for efficient and effective mitigation.

3. The draft assessment must identify direct, indirect and cumulative significant impacts that may occur as a result of the project. In order to accurately do so it should also discuss the environmental specifics of the affected area; the resources involved; potential related health and safety problems; human uses of the area and public services and goods affected.

The proposed project will likely result in many direct and indirect impacts that will need to be evaluated. Closing vast areas to fishing will lead to shifting fishing effort from those closed areas to remaining open areas. With fish already concentrated into certain preferred areas of the ocean (e.g., rocky reefs) that have been and continue to be highly productive areas, closing any of these areas could significantly increase the concentration

of fishing effort. The extent of this concentration and its effect on these remaining areas must be determined. It should be noted that NONE of the areas proposed to become MPAs are considered to be overfished, and scientists from NOAA Fisheries have testified that new MPAs are not needed to rebuild the six remaining ground fish stocks that are considered to be in low abundance.

Stated differently, the project is likely to result in a redistribution of marine species throughout the ocean, e.g., increased populations within MPAs and a decrease in populations outside of MPAs. The effect of this phenomenon must be assessed to determine its impact on structure, function and integrity of marine ecosystems and long-term sustainability of resources. The only reliable way to scientifically determine these long-term effects would be development of rigorous analytical tools and models.

The consequences of the likely redistribution of marine species must be carefully evaluated. With the likely depletion of neighboring areas of habitat similar to the habitat in MPAs, there exists the distinct possibility that top-end predators will congregate within MPAs, because that is where the food is. This consequence will not only undermine the abundance and biodiversity goals of the MLPA (and National Marine Sanctuary Act), but for species like the threatened southern sea otter and protected species like harbor seals, California sea lions, and elephant seals, could lead to human actions changing their behavior away from their natural feeding distribution - potentially amounting to a "taking" of these animals. This would be a violation of federal law.

The potential imbalance in marine species populations is contrary to the ecosystem function goals of the MLPA, and also the Marine Life Management Act and the federal National Marine Sanctuary Act (for the portion of the study region within the MBNMS)

The effects of crowding more fishing vessels into smaller areas on the ocean need to be assessed. These could involve a concentration of air emissions, oil and fuel leaks and spills from normal vessel operations or an increase in vessel accidents.

If near harbor areas are included in MPAs, vessels may need to travel further to get to fishable areas resulting in increased fuel consumption and emissions and increased exposure to hazardous oceans creating heightened public safety concerns, including the risk of vessel strandings and sinkings causing potentially significant environmental harm.

A potential reduction in fishing activities and economic returns to individual fishermen, local business, and local economies could have significant indirect environmental effects. Reduced income will reduce the ability of vessel owners to maintain vessels and increase the public safety concerns and the environmental consequences of losing vessels at sea or even in harbors (e.g., oil and fuel spills in harbors or bays and other environmental effects of ship wrecks). Both the Cities of Monterey and Morro Bay have already documented an increase in derelict and or abandoned fishing vessels as a result of fishermen and fishing related businesses losing income. Small localized oil or fuel spills into the Monterey Bay National Marine Sanctuary or other important areas could expose

marine wildlife populations or human populations to potential harm.

The proposed project could reduce fishing activities and the economic activities associated with fishing. This economic effect reaches beyond the initial commercial sale of fish to include the processor, wholesaler, retailer and all of the supporting businesses, as well as all the various businesses that directly and indirectly support recreational fishing. Businesses will be affected and physical impacts could be generated by the demise of boat building and repair facilities, fuel and gear suppliers, restaurants and hotels, and other industries that support commercial and recreational fishing. When businesses go out of business buildings sit empty and local agencies are unable to maintain local infrastructure including water front areas, harbors and fishing wharfs. Such facilities experiencing physical deterioration easily become environmental and public safety problems. CEQA requires that these secondary and indirect environmental effects be assessed (*Citizens for Quality Growth v. City of Mount Shasta* (3<sup>rd</sup> Dist. 1988) 198 Cal.App.3d 433, 445-446 [243 Cal.Rptr. 727]).

If the proposed project results in higher costs to continue fishing operations and thereby disrupts competition and normal business operations, such impacts must be assessed. Indeed, according to CEQA guidelines, secondary and indirect economic and social consequences may be relevant in determining whether related environmental impacts are "significant" for CEQA purposes and therefore must be avoided or mitigated. (Guidelines Sec. 15131, subd.(b))

The potential for the project to lead to concentration of fishing effort, depletion of localized resources, social and economic consequences, dilapidated community infrastructure and resulting environmental problems all must be assessed in the draft environmental impact report.

While not all impacts are significant, the courts have held that a rigorous analysis and concrete substantial evidence is needed to declare a project impact (direct or indirect) insignificant. (*Kings County Farm Bureau et al. V. City of Hanford* (5<sup>th</sup> Dist. 1990) 221 Cal.App.3d 692 [270 Cal.Rptr. 6540]).

4. The environmental impact report must discuss how the project is consistent with other authorities of the project applicant and other state, federal and local laws, policies and programs that relate to the resources impacted. How will the proposed project be integrated with the guiding principle of the California Coastal Act that calls for orderly, balanced utilization of coastal resources taking into account the social and economic needs of the state and requires the economic, commercial, and recreational importance of fishing activities be recognized in carrying out the Act? (Sections 30001.5 and 30234.5, PRC)

Further the assessment should discuss and analyze the impacts of the project on local land use authorities and land use plans, historical and current local land use patterns,

and local infrastructure needs and upkeep. Many local coastal communities economies and public facilities depend on coastal access and recreational and commercial fishing activities.

The assessment should discuss the capacity of the Department to fully carry out the project over the long-term. What staff and funding resources is the Department assured of having to enable full management, monitoring and enforcement of MPAs once they are designated? If funds and staff are not adequately available what will be the consequences? If resources are redirected from other Department work what will be the environmental consequences as a result of inadequate resource management, monitoring, and law enforcement in other areas of the state?

5. The environmental impact report should make a clear delineation of all funding for carrying out, implementing, and managing this project and all ancillary projects or programs. Such a delineation should fully identify all state, federal, local and non-governmental funds reasonably anticipated in both the short and long-term. If a potential exists that federal moneys of any kind maybe used, the lead federal agency should be urged to immediately issue a Notice of Intent to prepare an Environmental Impact Statement pursuant to the National Environmental Policy Act.

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

Sincerely,

Trustees of the California Fisheries Coalition

**Bob Fletcher**  
Sportfishing Association of California

**Peter Halmay**  
California Sea Urchin Commission

**Jim Martin**  
Recreational Fishing Alliance

**Diane Pleschner-Steele**  
California Wetfish Producers Association

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