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Tuesday, July 8, 2008

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

[MLPAComments@dfg.ca.gov](mailto:MLPAComments@dfg.ca.gov)

**RE: North Central Coast MLPA CEQA scoping comments**

Dear Department of Fish & Game:

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

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

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

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

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

- *"TAC Adjustments in the Event of Site Closures: The interim management plan allows for site closure in the event of localized population declines (Section 7.1.2.4 Site Closure). In the event of a site closure, the TAC will be reduced to address the potential shift in effort to other areas. With discrete area codes from the report cards, an estimate of specific site productivity can be determined and the TAC can be adjusted. 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.*

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

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

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

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

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

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

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

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

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

[...]

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

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

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

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

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

Sincerely,

A handwritten signature in black ink that reads "Jim Martin". The signature is written in a cursive, flowing style.

Jim Martin  
West Coast Regional Director  
The Recreational Fishing Alliance