

## **Chapter 1. Introduction**

### **1.1. Introduction**

This chapter includes the background to the MPAs Project of the MLPA Initiative; an overview of the Proposed Project; the intent and scope of this draft EIR; the environmental impact review requirements that must be met before project approval, and the terminology and organization used in this document.

### **1.2. Background**

#### **1.2.1. Requirements of the Marine Life Protection Act**

In 1999, the legislature approved and the governor signed the MLPA (Stats. 1999, Chapter 1015). The MLPA requires the Department to prepare and present to the Commission a master plan that will guide the adoption and implementation of a Program, which includes an improved statewide network of MPAs.

The MLPA identifies a set of goals for the Program, including:

- to protect the natural diversity and abundance of marine life, and the structure, function, and integrity of marine ecosystems;
- to help sustain, conserve, and protect marine life populations, including those of economic value, and rebuild those that are depleted;
- to improve recreational, educational, and study opportunities provided by marine ecosystems that are subject to minimal human disturbance, and to manage these uses in a manner consistent with protecting biodiversity;
- to protect marine natural heritage, including protection of representative and unique marine life habitats in California waters for their intrinsic value;
- to ensure California's MPAs have clearly defined objectives, effective management measures, and adequate enforcement, and are based on sound scientific guidelines; and
- to ensure that the state's MPAs are designed and managed, to the extent possible, as a network.

The MLPA notes that a variety of levels of protection may be included in MPAs and that the Program shall include several elements:

- an improved marine life reserve<sup>1</sup> component consistent with the MLPA guidelines;
- specific identified objectives, and management and enforcement measures, for all MPAs in the system;
- provisions for monitoring, research, and evaluation at selected sites to facilitate adaptive management of MPAs and ensure that the system meets the goals stated in this chapter;
- provisions for educating the public about MPAs, and for administering and enforcing MPAs in a manner that encourages public participation; and
- a process to establish, modify, or abolish existing MPAs or new MPAs established pursuant to this program, that involves interested parties.

MLPA Initiative has divided the master plan into two principal parts: a section providing guidance on the application of the MLPA to the development of a statewide MPA network (the master plan framework), and a section describing the preferred alternatives for MPA proposals. The master plan framework was completed and adopted by the Commission in August of 2005. The framework envisions a sequential focus on portions of the state in a series of regional processes, beginning with the central coast (defined as the region from Pigeon Point, San Mateo County to Point Conception, Santa Barbara County). The Commission has identified a preferred alternative (the Proposed Project) and two other alternatives for MPA proposals for the central coast region. If adopted, this first region will fulfill the preliminary step necessary to convert the master plan framework into a master plan for the entire state. The requirement for a full master plan and implementing regulations will be met when the Commission adopts the final portion of the plan and all regions of the coast, including the San Francisco Bay estuarine complex, have been completed.

The master plan provides guidance on conducting regional science-based and stakeholder-driven planning processes to develop alternative packages of MPAs. To efficiently and effectively complete these processes, a regional approach is recommended, with the specific regions and timelines defined in the master plan. Within each region of the state, the Department will submit a preferred alternative to the Commission along with other alternative MPA packages developed by stakeholders, including those modified by the MLPA Blue Ribbon Task Force (BRTF). According to the MLPA, the preferred alternative must include recommended no-take areas (state marine reserves [SMRs]) that encompass representative habitat types and communities

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<sup>1</sup> The MPA defines *marine life reserve* as a no-take reserve. The current classification for a no-take area would be a state marine reserve.

across a range of depths and conditions, and must avoid activities that upset the natural ecological functions within reserves. Collectively, the regional alternatives must include replicates of similar types of habitats in each broader biogeographical region to the extent possible.

The MLPA also lists several specific components for the master plan, including recommendations for the extent and types of habitat that should be represented within MPAs; recommendations on the minimum size of SMRs to accomplish the MLPA goals; an analysis of the existing state MPAs; a preferred alternative; and other alternatives. The Department will submit a draft master plan to the Commission that incorporates the recommendations for specific central coast MPAs and the other components required by the MLPA, including a timeline for completion of the other regions of the state. This master plan will expand on the master plan framework. As described previously, the requirement for a full master plan and implementing regulations will be met when the Commission adopts the final portion of the plan and all regions of the coast have been completed.

### **1.2.2. MLPA Initiative Process**

To meet the above requirements, the Department and California Resources Agency entered into a memorandum of understanding (MOU) with the Resources Legacy Fund Foundation (RLFF) to develop a process that would ensure the timely implementation of the MLPA. The MLPA Initiative was launched to conduct this process and set out to achieve four key objectives by December 2006:

- development of a draft master plan framework (adopted by the Commission in August 2005);
- development of alternative proposals for an MPA network component in the central coast study region (transmitted to the Department from the BRTF in April 2006);
- recommendations on funding sources for MPA implementation and management (transmitted to the Resources Agency Secretary in December 2005); and
- recommendations to increase the coordination between state and federal agencies with authority to manage ocean resources (to be completed).

These products were intended to provide a strong foundation for completing the planning and implementation of a statewide network of MPAs by 2011. The MLPA Initiative included the following groups and organizations involved in the planning process:

- MLPA Initiative staff (contracted);
- Department staff;
- four volunteer bodies:
  - the BRTF (an oversight body);
  - the Science Advisory Team (SAT) (an expansion of the former Master Plan Team with additional expertise), including an SAT subteam for the central coast region;
  - the MLPA Statewide Interests Group (SIG) for providing advice on the initiative process; and
  - regional stakeholder group for the central coast region (CCRSG);
- the Commission.

A comprehensive stakeholder and public process was initiated in October 2004 to identify a range of alternative MPA packages for the central coast study region to submit to the Department for consideration in development of a Department-recommended preferred alternative. Over a 2-year period, a substantial number of meetings took place, including three public workshops, seven meetings of the CCRSG, 12 meetings of SIG, 15 meetings of the SAT, 14 meetings of the BRTF, and seven special meetings of the Commission.

In April 2006, the BRTF formally transmitted three alternative central coast MPA packages (Packages 1, 2R, and 3R) to the Department for its consideration. The BRTF recommended that Package 3R be considered the preferred alternative. The Department used this recommendation as the basis for the development of a Department-preferred alternative (Package P). The Commission in turn used components of both Packages 3R and P in developing the Commission-preferred alternative (the Proposed Project).

### **1.2.3. Location and General Characteristics of the Study Region**

The Proposed Project is located in state waters along the central California coast, from Pigeon Point to Point Conception (Figure 1-1). The straight-line distance between these two points is approximately 210 nautical miles (nm), about 300 nm when measured along the irregular coastline. In general, state waters extend from the high-

tide line to 3 nm seaward. However, in Monterey Bay, state waters extend 3 nm seaward of a line intersecting Point Santa Cruz (Santa Cruz County) and Point Pinos (Monterey County), which includes locations greater than 12 nm from shore. The study region addressed by the Proposed Project is approximately 866 square nautical miles ( $\text{nm}^2$ ) and includes waters and seafloor from the shoreline (mean high tide) to a maximum water depth of approximately 1,475 meters (m) (Monterey Submarine Canyon). The study region has been divided into seven subregions (Figure 1-2). These include Pigeon Point to Capitola, Capitola to Monterey breakwater, Monterey breakwater to Point Sur, Point Sur to San Martin, San Martin to Point Estero, Point Estero to Santa Maria River, and Santa Maria River to Point Conception.

Monterey Bay dominates the northern portion of the region, while the smaller Morro Bay is a prominent feature in the south. Morro Bay and Elkhorn Slough are the most significant estuarine systems along the central coast study region and are included in the Proposed Project along with other minor estuaries.

The seafloor of the study region extends from the intertidal zone seaward to the continental shelf and slope, and includes submarine canyons that cut into the continental margin. The seaward edge of the continental shelf is the shelf-slope break where the seafloor declines sharply and becomes the continental slope. Like most other coastal areas in the world, the shelf break occurs at about a depth of 200 m. The continental shelf varies in width along the study region from 0.8 nm at its narrowest to 24 nm at its widest (where it extends beyond state waters). State waters within the study region are dominated by shelf habitat ( $771 \text{ nm}^2$ ), with a lesser amount of slope habitat ( $88 \text{ nm}^2$ ).

Approximately 91% of the seafloor habitat in this area is soft (sand or mud), but there are also rocky habitats: intertidal and subtidal rocks, reefs, pinnacles, and outcrops. These rocky areas support characteristic assemblages that contribute significantly to biodiversity. The assemblages on rocky areas vary with the type of rock. There are granitic outcrops that occur only from the Monterey Peninsula to Point Sur.

Another prominent feature of the seafloor is large submarine canyons. These drowned river gorges incise the continental shelf, extending from the slope environment to the nearshore. These nearshore canyon heads occur in the Monterey Bay area and farther south along the Big Sur coast, but not in the southern portion of the region. The submarine canyons along the central coast study region are geologically active, and the high pressure under the seafloor may force fluids and gases through the seabed, creating cold seeps that are home to highly productive communities of specialized bacteria, clams, and worms. The canyon areas are bathymetrically<sup>2</sup> complex and support highly diverse biological communities. South of the Monterey Peninsula, the Big Sur coast is world renowned for its steep cliffs and rocky headlands. The continental shelf off Big Sur is narrow and highly dissected. Farther south, from Morro Bay to Point

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<sup>2</sup> *Bathymetrically* refers to the measured depths of large water bodies.

Conception, the continental shelf is broader and characterized by extensive soft-bottom habitats.

The central coast is part of the larger California Current marine ecosystem. The California Current is significant on a global scale because of its high productivity and the large number of species it supports (WWF 2000). The California Current begins near the Queen Charlotte Islands in British Columbia, where the west wind drift splits and flows southward along the west coast. The California Current is one of the most productive of the Eastern Boundary Currents and one of only four temperate upwelling zones in the world. The California Current is characterized by seasonal surface winds that blow water away from the coast, causing cold, nutrient-rich water from deep in the ocean to upwell to the surface, periodic El Niño–Southern Oscillation (El Niño) climatic events, and decadal<sup>3</sup> climatic shifts (US GLOBEC 1994).

The nutrients in the California Current fuel highly productive and diverse ecosystems, including the globally significant giant kelp forests. The kelp forests support large numbers of invertebrates, fish, seabirds, and marine mammals that depend on this productivity. The central coast has some of the most extensive giant-kelp forests in California. At the southern end of the study region, the large upwelling center and convergence of currents at Point Conception mark an important biogeographic boundary along the west coast.

The study region receives freshwater flows from several large rivers (Salinas, Santa Maria, and Santa Ynez) and numerous small coastal streams. Monterey Bay, which is 23 nm across, is the largest embayment in the study region. Estuaries are relatively rare; Morro Bay and Elkhorn Slough are the largest estuaries in the study region. Elkhorn Slough supports a diverse and abundant biota, with more than 70 species of fish and at least 265 bird species, as well as many invertebrates, southern sea otters, California sea lions, and harbor porpoises (CDFG 2005a). Morro Bay is located on the Pacific Flyway and supports numerous migrating bird species. Its shallow-water eelgrass beds and wetlands in large and small estuaries are nursery grounds for many invertebrates and fish.

The study region abuts five coastal California counties: San Mateo, Santa Cruz, Monterey, San Luis Obispo, and Santa Barbara. The marine resources of the study region support commercial and recreational fisheries and many nonconsumptive economic activities such as coastal tourism and recreation. Monterey Bay is renowned as a dive destination, and people come from all over the world to visit the Monterey Bay Aquarium. There are more than 40 institutions that conduct marine research or education in the study region.

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<sup>3</sup> *Decadal* means occurring every 10 years.

#### **1.2.4. Jurisdictions of Coastal and Open Waters**

The waters of the California coast include local, state, federal, and international jurisdictions, including the State Tidelands and Submerged Lands (State Tidelands), Outer Continental Shelf (OCS), territorial sea, contiguous zone, Exclusive Economic Zone (EEZ), and high seas. These jurisdictions are used to describe areas of offshore ownership and sovereignty, as well as various forms of mineral, fishery, national security, or regulatory controls. The State Tidelands are owned, managed, and regulated by California. The federal government has authority in the waters beyond the State Tidelands, but this authority can be limited by international regimes.

The Proposed Project is located within waters that are under the jurisdiction of the State of California as granted in the Submerged Lands Act of 1953 (43 United States Code [USC] 1301–1315). The Department, part of Resources, is the state agency responsible for managing living marine resources. The Commission has the authority to designate, delete, or modify state marine recreational management areas (SMRMAs) (established by the Commission for hunting purposes), SMRs, and state marine conservation areas (SMCAs), as delineated in Public Resources Code (PRC) Section 36725(a).

##### **1.2.4.1. State Tidelands and Submerged Lands (Mean High-Tide Line to 3 Nautical Miles Offshore)**

The Federal Submerged Lands Act of 1953 generally confirmed ownership of land and marine resources within 3 nm of the mean high-tide line to coastal states such as California. This authority provides for state control and regulation of the development of resources such as oil, gas, and fisheries within this area.

##### **1.2.4.2. Outer Continental Shelf (Seaward of 3 Nautical Miles from Shore)**

The Outer Continental Shelf Lands Act of 1953, passed in coordination with the Submerged Lands Act, confirmed federal jurisdiction over the resources beyond 3 nm from shore and created a legal process for developing those resources.

##### **1.2.4.3. Territorial Sea (Shoreline to 12 Nautical Miles Offshore)**

Pursuant to a 1988 presidential proclamation, the United States now asserts sovereign rights over the lands and waters out to 12 nm from shore. The previous territorial sea designation was coextensive with the State Tidelands in California. This proclamation does not disturb the rights of states in the waters out to 3 nm established under the Submerged Lands Act.

##### **1.2.4.4. Contiguous Zone (12 to 24 Nautical Miles Offshore)**

Within 12 to 24 nm offshore, the United States can exercise control over customs, fiscal, immigration, and sanitary matters.

#### **1.2.4.5. Exclusive Economic Zone (3 to 200 Nautical Miles Offshore)**

Pursuant to the 1983 presidential proclamation, the United States asserts jurisdiction over the living and nonliving resources within the EEZ. Although coastal states have primary jurisdiction and control over the first 3 nm of the EEZ, the federal government has primary jurisdiction over and controls the remaining 197 miles. The Coastal Zone Management Act (CZMA), however, provides coastal states with substantial authority to influence federal actions beyond 3 nm.

#### **1.2.4.6. High Seas (Beyond 12 Nautical Miles from Shore)**

This designation includes all portions of the sea not included in the territorial sea of any nation. High seas are partially coextensive with the contiguous zone (not formally adopted in the United States) and EEZ. The primary characteristic of the high seas is a nation's right to freely navigate its vessels (including war vessels) within this area.

### **1.2.5. Resource-Based Agencies and Commissions**

There are a number of state and federal agencies and commissions that have jurisdictional and regulatory responsibility over California coastal marine and ocean resources. Ocean resource management in California falls under the authority of two executive branch agencies, Resources (which includes the Department) and the California Environmental Protection Agency (Cal-EPA). Although the authority to direct most ocean management issues rests with Resources, Cal-EPA oversees development of ocean water quality standards and regulation of waste discharges to the marine environment. Federal jurisdiction over ocean resources is divided among seven large departments, including the U.S. Departments of Agriculture, Commerce, Defense, the Interior, and Transportation; the Food and Drug Administration; and the U.S. Environmental Protection Agency (EPA). Many of these federal entities have some jurisdiction or responsibilities within the study region.

#### **1.2.5.1. State Agencies, Commissions, and Programs**

##### **California Department of Fish and Game**

The Department is a public trustee for fish and wildlife resources, and has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants and habitat necessary for biologically sustainable populations of those species.

##### **California Coastal Commission**

The Commission is responsible for administering the California Coastal Act (CCA) and the federally approved California Coastal Management Program pursuant to the Coastal Zone Management Act. CCA policies implemented by the Commission address issues such as public access and recreation, natural resource protection, agricultural operation, coastal development projects, port activities, and energy

production. Jurisdiction is within the 1,100-mile-long coastal zone, which encompasses 1.5 million acres of land including all state waters and up to 5 nm inland from the mean high-tide line. This jurisdiction also extends into the ocean to the federal waters limit through the Commission's federal consistency authority under the Coastal Zone Management Act.

### **State Lands Commission**

The California State Lands Commission (SLC) has jurisdiction over all of California's tide and submerged lands, beds of naturally navigable rivers and lakes (each of which are sovereign lands), swamp and overflow lands, and school lands (proprietary lands). Management responsibilities of the SLC extend to activities within submerged land and those within state waters. Pursuant to SLC administrative actions and recent legislative leasing restrictions, the SLC currently has no program for offshore oil and gas leasing in state tidelands. However, the SLC carefully monitors existing offshore oil and gas activities to ensure revenue accountability, efficient resource recovery, and protection of the environment.

### **State Park and Recreation Commission**

The State Park and Recreation Commission has authority to designate, delete, or modify SMRs, state marine parks (SMPs), and SMCAs. However, the State Park and Recreation Commission may not take these actions without the concurrence of the California Fish and Game Commission on any proposed restrictions on, or change in, the use of living marine resources.

### **State Water Resources Control Board**

The State Water Resources Control Board (State Water Board) and the nine Regional Water Quality Control Boards (RWQCBs) establish California's water quality standards pursuant to the requirements of the state's Porter-Cologne Water Quality Control Act (Porter-Cologne Act) and the federal Clean Water Act (CWA). The State Water Board has developed a series of statewide water quality control plans to set water quality standards for California. These include the Enclosed Bays and Estuaries Plan, Thermal Water Quality Control Plan, and California Ocean Plan (Ocean Plan). The Ocean Plan presents water quality objectives and establishes the basis for the regulation of waste discharges under the National Pollutant Discharge Elimination System (NPDES) program and permitting process. The State Water Board is responsible for adopting the Ocean Plan, and the RWQCBs are responsible for interpretation and implementation of the Ocean Plan through issuance of NPDES permits and follow-up enforcement activity. The State Water Board has authority to designate, delete, or modify state water quality protection areas (including areas of special biological significance [ASBSs]).

The Ocean Plan identifies beneficial uses of marine waters that can be maintained through water quality control and establishes a set of narrative and

numerical water quality objectives to protect these uses. Examples of such uses include marine life habitat, fish migration, fish spawning, shellfish harvesting, rare and endangered species habitat, recreation, industrial water supply, commercial and sport fishing, mariculture, aesthetics, and navigation.

### **1.2.5.2. Federal Agencies, Commissions and Programs**

#### **National Oceanic and Atmospheric Administration (U.S. Department of Commerce)**

The National Oceanic and Atmospheric Administration's (NOAA) ocean-related responsibilities include conducting a comprehensive and integrated program of marine policy, ocean, atmosphere, and earth data collection and resource management, as well as providing grants for research, education, and advisory services. The five divisions within NOAA are the National Environmental Satellite, Data, and Information Service; National Marine Fisheries Service (NOAA Fisheries); National Ocean Service; National Weather Service; and Office of Oceanic and Atmospheric Research.

#### **National Marine Sanctuaries Program**

Within NOAA is the National Marine Sanctuaries Program (NMSP). This program designates and manages activities in marine sanctuaries. The NMSP is responsible for administering four national marine sanctuaries offshore of California: Monterey Bay, the Gulf of the Farallones, the Channel Islands, and the Cordell Bank Sanctuaries. These sites were selected because they possess conservational, recreational, ecological, historical, research, educational, archaeological, cultural, or aesthetic qualities that give them special national, or sometimes international, significance.

The Proposed Project is partially within the boundaries of the Monterey Bay National Marine Sanctuary. The primary purpose of the sanctuary program is resource protection (16 USC 1431[b]). The sanctuary conducts and facilitates resource management and protection, coordinates and participates in oceanographic and marine biological research, and promotes education and public outreach.

#### **NOAA Fisheries**

Also within NOAA is NOAA Fisheries, which manages certain living resources between 3 and 200 miles seaward of the U.S. coast. NOAA Fisheries has lead management responsibility for all marine mammals except sea otters, walrus, manatees/dugongs, and polar bears, all of which come under the authority of the U.S. Fish and Wildlife Service (USFWS). Sea turtles (at sea) are under the federal Endangered Species Act (ESA) authority of NMFS, while seabirds are within the purview of the USFWS.

## **Pacific Fishery Management Council**

The Pacific Fishery Management Council (PFMC) and seven other regional councils were created by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) in 1976 with the primary role of developing, monitoring and revising management plans for fisheries conducted within 3 to 200 nm (the EEZ) of the U.S. coast. The PFMC develops plans for ocean fisheries off California, Oregon, and Washington in need of regional management. The PFMC is not a federal agency, but a regional body funded through the U.S. Department of Commerce. To date, the PFMC has adopted and implemented a Pacific Coast Groundfish Fishery Management Plan, Pacific Coast Salmon Fishery Management Plan, Coastal Pelagic Species Fishery Management Plan, and West Coast Highly Migratory Species Fishery Management Plan.

## **U.S. Fish and Wildlife Service**

The USFWS is responsible for protecting and conserving freshwater and anadromous fisheries, wildlife (birds and most mammals), and their habitats for the benefit of the public. The USFWS monitors and implements programs for managing migratory birds and fish, national wildlife refuges and national fish hatcheries; restoration programs; and listing, protection, and development of recovery programs under the federal ESA for candidate species. The agency also comments on federal proposals and federally permitted projects, and provides research and support for international negotiation regarding fisheries, migratory wildlife, and protected species.

The USFWS has jurisdiction over freshwater and estuarine fishes and a regulatory role concerning federal activities with potential impact on certain marine mammals (southern sea otter, manatee/dugong, polar bear, walrus), migratory birds, sea turtles on shore, freshwater fishes, and endangered species onshore or within national wildlife refuges. NMFS holds jurisdiction over most threatened and endangered marine mammals (whales, seals, and sea lions), and anadromous (salmon) and marine fisheries. The USFWS has jurisdiction over inland and freshwater species, and seabirds.

## **U.S. Environmental Protection Agency**

The EPA was established to perform two primary functions: research and development; and abatement and control of pollution through a combination of research, monitoring, standard-setting, and enforcement activities. Although the EPA has no direct ocean resource management responsibilities, it administers and enforces various environmental protection statutes of general application. One of those statutes is the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), under which it registers and regulates the use of pesticides or approves state plans for that purpose. The products regulated under FIFRA include tributyltin, a component of ship-bottom anti-fouling paints, which has an adverse effect on marine life.

## **U.S. Bureau of Land Management**

The U.S. Bureau of Land Management (BLM) administers 262 million surface acres of America's public lands, located primarily in 12 western states. The BLM was established to sustain the health, diversity, and productivity of public lands under its jurisdiction for the use and enjoyment of present and future generations. Among other holdings, the BLM manages lands within the National Landscape Conservation System through development and implementation of resource management plans. Although most of its lands are not located along the coast, the BLM does manage several onshore coastal properties and the California Coastal National Monument (CCNM), which encompasses more than 20,000 offshore rocks and small islands above mean high tide within 12 nm of the coast. To effectively manage these lands, the BLM has entered into numerous partnerships with federal, state and local entities, including the Department and the California Department of Parks and Recreation (DPR). The BLM's management goals for the CCNM emphasize protection of the biological, geological, aesthetic, and cultural resources of the rocks and islands.

## **U.S. Air Force**

The U.S. Air Force (USAF) has responsibility in the Pacific Ocean waters off the coast of the Vandenberg Air Force Base (AFB), which extends from Point Sal to east of Point Conception, adjacent to Santa Barbara County. Vandenberg AFB is headquarters to USAF's 30th Space Wing, which manages U.S. Department of Defense space and missile testing and satellite launch from the west coast. The base is one of several major range and test facility bases in the U.S. Department of Defense (USAF 2006).

The USAF has the authority to restrict public access along the coastline at Vandenberg AFB. Certain areas are available for full civilian (public) access (with restrictions on allowable activities), while others are restricted to USAF personnel; some areas are available to limited civilian access for certain activities (e.g., fishing) but require obtaining a USAF-issued pass (CCC 2000).

## **U.S. Army Corps of Engineers**

The U.S. Army Corps of Engineers (Corps) plans, designs, constructs, operates, and maintains a wide variety of water resources infrastructure to support U.S. national economic interests (navigation structures, channels, shore protection, and restoration projects). Access to the water off the coast of Vandenberg AFB is restricted by the Corps. The Corps designates "danger zones" and "restricted areas" along the coast to protect civilians from hazards related to launch and testing activities. A danger zone has been delineated along the Vandenberg AFB coast and extending 3 nm from the shoreline. It is divided into nine zones that may become closed during dangerous USAF operations, as noticed to the public by the Corps. When these areas are not closed for safety purposes, the waters are open to certain types of fishing and general navigation (33 Code of Federal Regulations [CFR] 334.1130[b]).

## **Department of Homeland Security U.S. Coast Guard**

The Department of Homeland Security U.S. Coast Guard is the primary maritime law enforcement agency.

### **1.3. Purpose of EIR**

#### **1.3.1. Intent and Scope of the EIR**

##### **1.3.1.1. Intent**

This draft EIR has been prepared in accordance with the CEQA, which requires all state and local government agencies to consider the environmental consequences of projects over which they have discretionary authority before taking action on those projects (PRC 21000 et seq.). As described in State CEQA Guidelines Section 15121(a), an EIR is a public information document that assesses potential environmental effects of a proposed project and identifies mitigation measures and alternatives to the project that could reduce or avoid adverse environmental impacts (14 California Code of Regulations [CCR] 15121[a]). The Commission's selection of a central coast MPAs alternative constitutes a "project" under CEQA.

The EIR is an informational document used in the planning and decision-making process. It is not intended to recommend either approval or denial of a project. Consistent with CEQA requirements, the purpose of this document is to:

- identify potential direct and indirect environmental impacts associated with the Proposed Project;
- identify its potential contributions to cumulative regional impacts in the study region;
- evaluate the potential for growth inducement due to the Proposed Project;
- describe mitigation measures that would avoid any potentially significant impacts or reduce them to a less-than-significant level; and
- discuss potential alternatives that would avoid or reduce one or more of the identified significant impacts for the Proposed Project.

This draft EIR is also intended to supply the information necessary to support related permit applications and review processes. As described below, the draft EIR will be made available for public review and comment.

### 1.3.1.2. Scope

This draft EIR evaluates the potential impacts of the Proposed Project in relation to the following areas:

- aesthetics,
- agriculture,
- air quality,
- consumptive uses,
- cultural resources,
- ecosystems and habitats,
- geology and soils,
- hazards and hazardous materials,
- land use,
- mineral resources,
- noise,
- oceanography,
- population and housing,
- public services and utilities,
- recreation and research,
- species of interest,
- vessel traffic, and
- water quality.

This draft EIR also analyzes:

- significant and unavoidable impacts;

- significant irreversible changes in the environment;
- growth inducement;
- cumulative impacts; and
- alternatives to the Proposed Project.

### **1.3.2. Environmental Review Process**

#### **1.3.2.1. Public Involvement and Scoping**

One of the purposes of CEQA is to establish opportunities for the public to review and comment on projects that may affect the environment. CEQA provides public participation through:

- publication of the NOP;
- project scoping;
- public review of the draft EIR; and
- public hearings.

#### **1.3.2.2. Notice of Preparation**

The purpose of the NOP is to solicit participation from responsible and coordinating federal, state, and local agencies and from the public in determining the scope of an EIR. The scoping process was formally initiated for this EIR on July 11, 2006, with the submittal of the NOP to the State Clearinghouse in compliance with CEQA. A copy of the NOP is included as Appendix B. A number of agencies, organizations, and members of the public provided comments on the NOP. Comments are available in the MLPA Central Coast MPA Project Scoping Report (Appendix C).

#### **1.3.2.3. Project Scoping**

Scoping refers to the process used to determine the focus and content of an EIR. Scoping solicits input on the potential topics to be addressed in an EIR, range of project alternatives to be considered, possible mitigation measures, and agencies with regulatory authority over the project. Scoping is also helpful in establishing methods of assessment and in selecting the environmental effects to be considered in detail. The tools used in scoping this EIR included extensive stakeholder and interagency consultation before NOP circulation, publication of the NOP, and two public scoping meetings.

The first public scoping meeting was held on August 10, 2006 from 2:00 to 4:00 p.m. at the Morro Bay Veterans Memorial Building in Morro Bay, California. The second meeting was held on August 11, 2006 from 6:30 to 8:30 p.m. at the Monterey Beach Resort in Monterey, California. A notice of the meeting was sent and posted on the internet to resource agencies and members of the public to help ensure participation. Approximately 53 people attended the meetings, including several regulatory representatives. The scoping meetings provided opportunities for attendees to comment on environmental issues of concern and alternatives that should be discussed in the EIR. Participants also provided written comments during and after the scoping meeting. Written comments are available in the scoping report (Appendix C).

#### **1.3.2.4. Public Review of the Draft EIR**

This draft EIR is being circulated to local, state, and federal agencies, as well as to interested organizations and individuals who may wish to review and comment on the report. Its publication marks the beginning of a 45-day public review period. Submittal of written comments via email (Microsoft Word format) would be greatly appreciated. Written comments or questions concerning this draft EIR should be directed to the name and address listed below.

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Monterey, CA 93940  
Phone: 831/649-2893  
Fax: 831/649-2917  
Email: [mlpacomments@dfg.ca.gov](mailto:mlpacomments@dfg.ca.gov)

All documents mentioned herein or related to the Proposed Project can be reviewed any Department business day between 8 a.m. and 4 p.m. at the Department office identified above, as well as other Department Marine Region offices and various public libraries (call the number above for a full list of locations).

#### **1.3.2.5. Final EIR and EIR Certification**

Written and oral comments received in response to the draft EIR will be addressed in a responses to comments addendum document that, together with the draft EIR, will constitute the final EIR. The responses to comments will include written responses to substantive issues raised in comments received during the review period. After review of the Proposed Project and final EIR, Department staff will recommend to the Commission whether to approve or deny the Proposed Project. The Commission will then review the Proposed Project, EIR, Department recommendations, and public and agency comments, and decide whether to certify the EIR and whether to authorize the Proposed Project.

If significant impacts are identified by the EIR that cannot be mitigated and the Proposed Project is approved, a statement of overriding considerations must be included in the record of the project approval and mentioned in the notice of determination (14 CCR 15093[c]).

### 1.3.2.6. Mitigation Monitoring and Reporting

CEQA requires lead agencies to “adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment” (PRC 21002). Throughout the EIR, mitigation measures, where appropriate, have been clearly identified and presented in language that would facilitate establishment of a mitigation monitoring and reporting program (MMRP). Any mitigation measures adopted by the Commission as conditions for approval of the Proposed Project would be included in an MMRP. A draft of the MMRP for the Proposed Project will be included with the final EIR.

### 1.3.3. Terminology Used in this EIR

This EIR uses the following terminology to describe environmental effects of the Proposed Project.

- **Significance Criteria:** Significance criteria are used by the lead agency to determine at what level, or “threshold,” an impact would be considered significant. Significance criteria used in this EIR are based on criteria set forth in the State CEQA Guidelines (or can be discerned from the CEQA Guidelines); based on factual or scientific information; and based on regulatory standards of local, state, and federal agencies.
- **CEQA Baseline:** The existing environment at the time an action is commenced can be used as the baseline (environmental setting) (*Fat v. County of Sacramento* [2002] 97 Cal.App.4th 1270).
- **Beneficial Impact:** A project impact is considered beneficial if it would result in the improvement of an existing physical condition in the environment (no mitigation required).
- **No Impact:** “No impact” is declared if, based on the current environmental setting, the stated impact would not occur in the context of the Proposed Project.
- **Less-than-Significant Impact:** A project impact is considered less than significant when it does not reach the standard of significance and would therefore cause no substantial change in the environmental (no mitigation required). A project impact may also be considered less than significant if the adoption of mitigation measures would avoid the impact or reduce it below a level of significance (mitigation required).

- **Potentially Significant Impact:** A potentially significant impact is an environmental effect that may cause a substantial adverse change in the environment; however, additional information is needed regarding the extent of the impact to make the determination of significance. For CEQA purposes, a potentially significant impact is treated as if it were a significant impact.
- **Significant Impact:** A project impact is considered significant if it results in a substantial adverse change in the physical conditions of the environment. Significant impacts are identified by the evaluation of project effects in the context of specified significance criteria. Mitigation measures or alternatives are identified to reduce these effects on the environment.
- **Significant and Unavoidable Impact:** A project impact is considered significant and unavoidable if it would result in a substantial adverse change in the environment that cannot be avoided or mitigated to a less-than-significant level if the project is implemented.
- **Cumulative Significant Impact:** A cumulative impact results from the collective impacts of related past, present, or reasonably foreseeable future projects. Significant cumulative impacts may result even where individual impacts are minor. The EIR will analyze whether the Proposed Project would make a considerable contribution to any significant cumulative impacts.

The EIR also identifies particular mitigation measures that are intended to lessen project impacts. (The MLPA [California Fish and Game Code (FGC) 2862] also requires mitigation of impacts inconsistent with the MLPA goals and guidelines.) The State CEQA Guidelines (14 CCR 15370) define mitigation as:

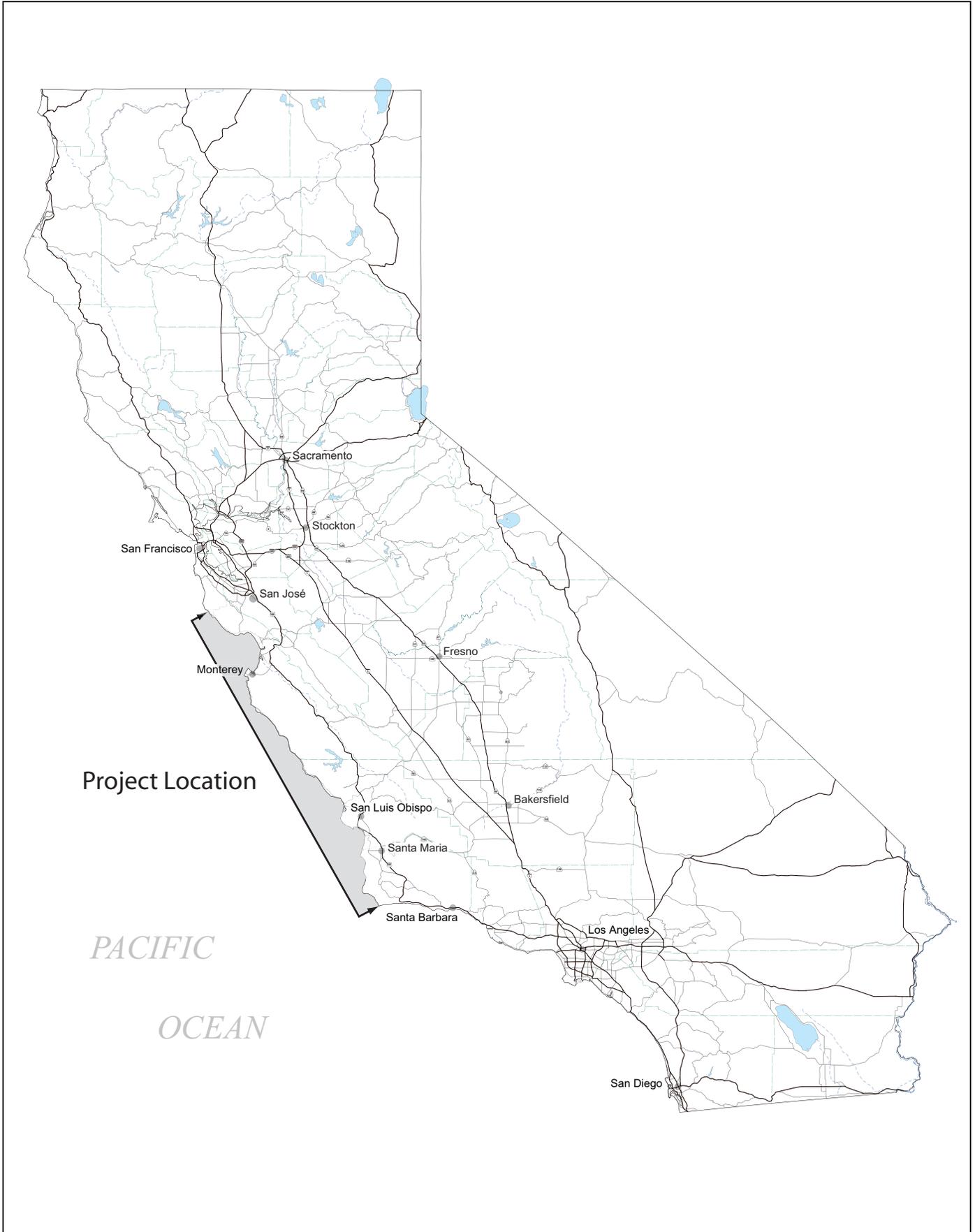
- (a) Avoiding the impact altogether by not taking a certain action or parts of an action;
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment;
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and
- (e) Compensating for the impact by replacing or providing substitute resources or environments.

#### 1.3.4. EIR Organization

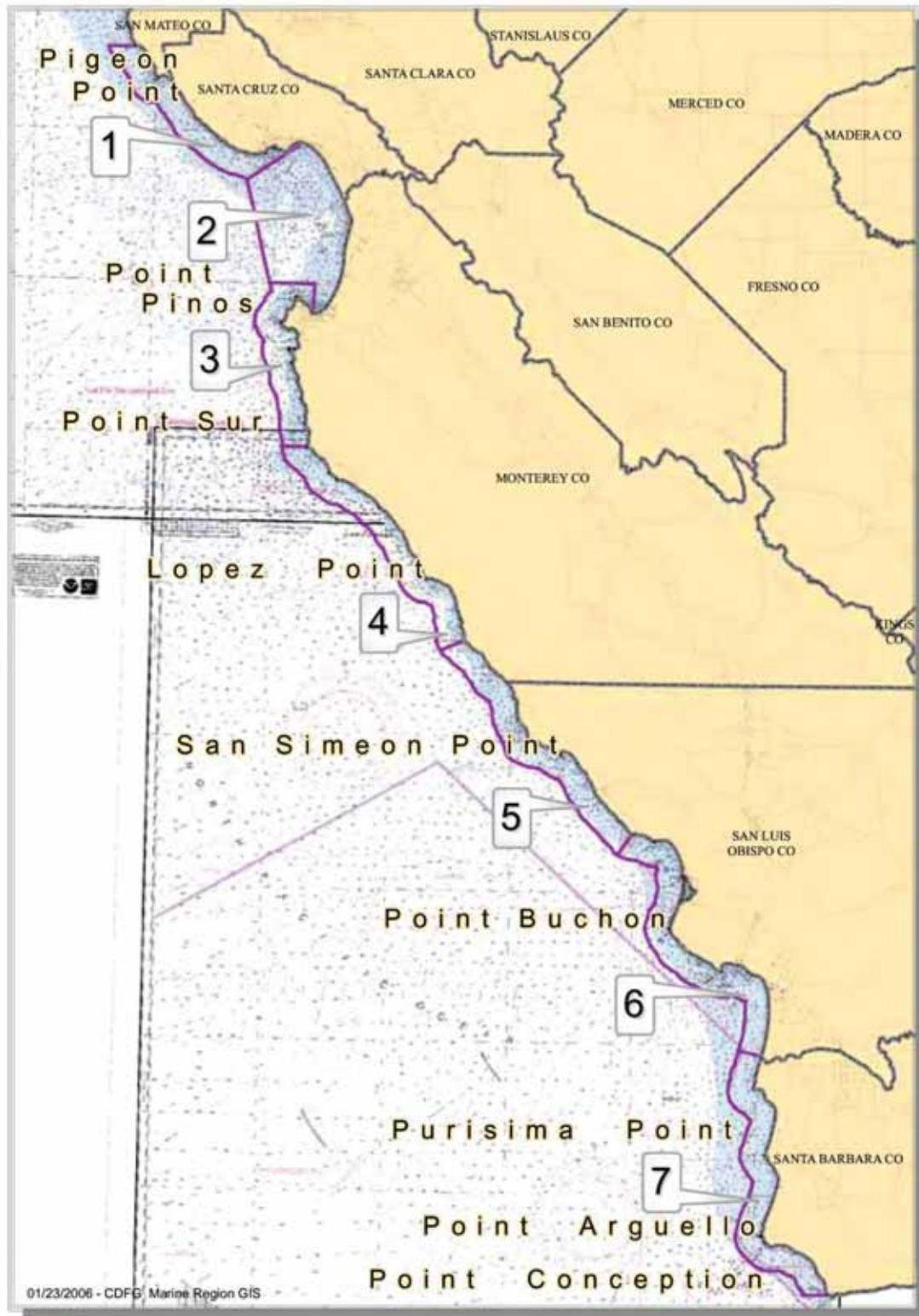
As described below, this draft EIR consists of an executive summary, 12 chapters, and appendices:

- **Executive Summary:** The executive summary includes a brief project description, a description of issues of concern and alternatives, and a summary of environmental impacts.
- **Chapter 1, “Introduction”:** This chapter describes the project background; purpose and organization of the EIR; and the EIR preparation, review, and certification process.
- **Chapter 2, “Project Description”:** This chapter outlines the project objectives and summarizes the Proposed Project, Alternatives 1 and 2, and the No-Project Alternative. It also describes subsequent approvals for which the EIR may be used.
- **Chapter 3, “Environmental Analysis”:** This chapter introduces and frames the analysis of environmental impacts, and describes environmental issues dismissed from further detailed analysis in the EIR.
- **Chapter 4, “Consumptive Uses and Socioeconomics”:** This chapter describes the existing environmental setting as it relates to consumptive uses, provides an overview of the potential economic and social effects of the Proposed Project, and identifies environmental impacts resulting from these economic and social implications.
- **Chapter 5, “Physical Resources”:** This chapter and the subsequent two chapters each analyze a subset of environmental issue areas. Each subset these chapters describes the existing environmental setting as it relates to that topic, discusses environmental impacts associated with project implementation that relate to that topic, and identifies mitigation measures for each significant (or potentially significant) impact. The physical resource issues include air quality and water quality.
- **Chapter 6, “Biological Resources”:** The biological resource issues include ecosystems and habitats and species of interest.
- **Chapter 7, “Social Resources”:** The social resource issues include cultural resources, population and housing, public services, recreation, research, and vessel traffic.
- **Chapter 8, “Other Statutory Considerations”:** This chapter discusses cumulative impacts, significant irreversible changes, significant unavoidable impacts, and the potential for the Proposed Project to induce urban growth and development.
- **Chapter 9, “Alternatives”:** This chapter describes alternatives to the Proposed Project.

- **Chapter 10, “Public and Agency Involvement”:** This chapter describes the process implemented throughout the project to involve agencies and the public in project development and EIR content.
- **Chapter 11, “References Cited”:** This chapter provides a list of printed references and persons consulted during the preparation of this EIR.
- **Chapter 12, “Report Preparation”:** This chapter provides the names of the EIR authors and consultants
- **Appendices:** The appendices include the text of the MLPA, the NOP, the scoping summary report, and side-by-side comparison maps of the Proposed Project and Alternatives 1 and 2 by subregion.



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- |                                     |  |
|-------------------------------------|--|
| 1. Pigeon Point to Capitola         | 5. San Martin to Point Estero            |
| 2. Capitola to Monterey Breakwater  | 6. Point Estero to Santa Maria River     |
| 3. Monterey Breakwater to Point Sur | 7. Santa Maria River to Point Conception |
| 4. Point Sur to San Martin          |  |

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Source: CDFG, 2006