California Marine Life Protection Act Initiative

Summary of Input from North Coast Tribes and Tribal Communities Regarding the MLPA North Coast Project

Input submitted through August 25, 2010

Marine Life Protection Act (MLPA) Initiative and California Department of Fish and Game staff met with north coast tribes and tribal communities between May 20 and July 23, 2010 regarding Round 2 draft marine protected area (MPA) proposals developed for the MLPA North Coast Project; this document summarizes key themes that emerged from these meetings. The input from tribes and tribal communities was collected and synthesized from a series of outreach meetings with north coast tribes and tribal communities, public comments expressed at MLPA Initiative open houses, and submissions from tribes and tribal communities for the north coast regional profile, Appendix E. This document does not contain a comprehensive list of comments, but rather an overview of major ideas expressed. This summary is being provided to the MLPA North Coast Regional Stakeholder Group (NCRSG), MLPA Blue Ribbon Task Force (BRTF), and MLPA Master Plan Science Advisory Team (SAT) to help inform the development and evaluation of Round 3 MPA proposals.

Background

MLPA Initiative and California Department of Fish and Game staff engaged in meetings with north coast tribes and tribal communities to respond to questions about the MLPA Initiative and gather input on Round 2 draft MPA proposals, proposed allowed uses and proposed special closures in the MLPA North Coast Study Region.

The goals of meetings were to:

- Increase awareness of the MLPA Initiative among north coast tribes and tribal communities;
- Review Round 2 draft MPA proposals, proposed uses and special closures;
- Identify any proposed MPAs that overlap traditional tribal gathering areas and invite tribes and tribal communities to identify any proposed uses that they would like the NCRSG to consider for Round 3 MPA proposals; and
- Communicate opportunities for north coast tribes and tribal communities to provide input and become more engaged in the MLPA Initiative North Coast Project.

Key Themes

Below is a summary of key themes that emerged from meetings with north coast tribes and tribal communities. While the key themes are not tallied to represent the actual number of such responses received, each theme is representative of comments heard throughout the meetings. This document contains a few modifications based on additional input received since the original version was made available on July 29, 2010.

General Comments about the MLPA and MLPA Initiative. Regarding the MLPA, tribes and tribal communities were concerned about the lack of consultation that occurred when the law

was drafted and do not believe that the law should apply to them. Members of tribes and tribal communities noted that each tribe is a distinct, independent nation that merits consultation and representation within the MLPA planning process, and only having seven tribal representatives on the NCRSG is insufficient at representing the interests of all tribes in the north coast study region. In addition, some members of tribes and tribal communities believe that there should be tribal representation on all of the MLPA initiative planning groups, including not only the NCRSG, but also the SAT and BRTF. It was also expressed that the "western" standards under which the MLPA Initiative operates fail to address the needs of tribes and tribal communities in a culturally sensitive manner. Specific aspects of the planning process that tribes were concerned about include rigid timelines, initial disregard for including information about north coast tribes in the regional profile, and the invasive manner of data collection. Some tribes chose not to participate in the data collection process because they did not feel they needed to provide information to a law that should not apply to them. Tribes also chose not to share information because they were concerned with maintaining the confidentiality of their sacred sites and gathering methods, and they felt uncertain in how the data would be used in the future. Lastly, number of members of tribes and tribal communities expressed their concerns about the difficulty in managing large amounts of information produced by the MLPA Initiative, while simultaneously trying to handle other tribal business.

Sovereign Rights. Tribes and tribal communities consistently expressed that they never ceded to the State of California their sovereign and aboriginal rights to gather natural resources and therefore should not be subjected to California state laws and regulations. It was noted that tribal members and tribal governments are unique, distinct, political entities that have certain rights under federal law and, as a result, are under a unique legal classification that should have been exempted when the MLPA was drafted. Tribal members believe that the MLPA does not recognize the sovereign standing of federally recognized tribes in California and that aboriginal rights to gather are fundamental rights in which the California State Legislature has no authority to interfere.

Co-management, Enforcement, Monitoring and Education. There was significant interest from tribes and tribal communities in establishing co-management plans with the California Department of Fish and Game. As part of these co-management agreements, tribes and tribal communities expressed the desire to create their own management plans and be given the authority to regulate their own members. Since some members of tribes and tribal communities spend significant amounts of time on the coast, they believe that they can best participate in coastal management through direct monitoring and enforcement. There also was interest in establishing cross jurisdictional authority with tribal officers for monitoring the coast. In addition, members of tribes and tribal communities emphasized the importance of educating users about sustainable harvesting techniques and expressed the desire to conduct some of this education. One person expressed the idea of developing a mandatory education program on sustainable harvesting that would be given to users prior to any licensing or permitting.

Aspects of Traditional Tribal Gathering. It was clearly stated by a number of tribal members that "tribes will continue to gather as they have gathered since time immemorial." Tribes and tribal communities expressed that traditional tribal gathering generally occurs within or adjacent to current or historical tribal lands and specific areas are used by individual families or

family members so that an MPA placed in one location may unfairly displace members of one family or tribe but not others. Additionally it was noted that an individual tribal member may have unique knowledge of a gathering area that is not widely shared with other members of the same or other tribes. Further, within these gathering areas, tribes and tribal communities noted that they shift their effort from place to place to account for variation in the abundance and types of resources gathered each year, depending on what is available or how the ocean changes. Traditional tribal gathering was described as having minimal impact, with tribal members taking only what they need and gathering in a manner that is sustainable to the resource. Tribes also believe that their extensive historic use of marine natural resources makes them an essential part of the marine ecosystem within the north coast study region and helps to maintain the natural balance of that system. Members of tribes and tribal communities expressed that their long relationships with the coast and ocean give them a great wealth of knowledge about the local ecosystem and they believe that their input should be incorporated when trying to better manage the coast and ocean.

Significance of Cultural, Spiritual and Subsistence Gathering. It was expressed that implementation of no-take marine reserves poses a threat to the cultural and religious freedom, health, well-being, and the cultural identity of tribal members who require access to and use of coastal and marine areas to harvest and gather. Members of tribes and tribal communities noted that it is important for them to be able to access the coast to preserve and continue their traditional ways of life. Tribal members strongly emphasized the need to be distinguished as separate from recreational users, who are perceived to take resources for sport. Tribes and tribal communities indicated that they gather for subsistence and medicinal purposes, limiting their gathering to what is needed for their families and communities, e.g., gathering for widows, elderly, handicapped, and children. They expressed a concern that losing this opportunity will have an impact on their health and survival.

Concerns about Ecosystem Health. Members of tribes and tribal communities expressed concern about a number of other aspects of ocean health, including the unsustainable resource use by other users (particularly scraping algae off rocks so that it does not regenerate), water quality, climate change impacts, and oil drilling along the coast.