

Appendix Q. Memorandums of Understanding for the MLPA Initiative

MEMORANDUM OF UNDERSTANDING

among

THE CALIFORNIA RESOURCES AGENCY,

THE CALIFORNIA DEPARTMENT OF FISH AND GAME,

and

THE RESOURCES LEGACY FUND FOUNDATION

for

THE CALIFORNIA MARINE LIFE PROTECTION ACT INITIATIVE

This Memorandum of Understanding (this “MOU”) is made and entered into by the California Resources Agency (“Agency”), the California Department of Fish and Game (“Department”), and the Resources Legacy Fund Foundation (“Foundation”). Each of the Agency, Department and Foundation is sometimes referred to individually as a “Party,” and collectively as the “Parties.”

RECITALS

- A. Through its California Ocean Resources Management Program, the Agency seeks to ensure comprehensive and coordinated management, conservation and enhancement of California’s ocean resources for their intrinsic value and for the benefit of current and future generations, and to achieve its goals through a mix of government, private sector, and public-private partnership arrangements.
- B. The Department is the trustee for fish and wildlife resources in the State of California, and has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants and habitat necessary for biologically sustainable populations of those species.
- C. The Foundation is an independent 501(c)(3) non-profit organization that supports and performs essential services to promote land and marine conservation. Consistent with its mission, the Foundation has developed and administered many strategic programs, including one which is designed to achieve significant advances in coastal and marine conservation in California.
- D. The Marine Life Protection Act (“MLPA”)(Fish and Game Code Sections 2850 et seq.)¹ declares the need to reexamine and redesign California’s Marine Protected Area (“MPA”) system to increase its coherence and its effectiveness at protecting the State’s marine life, habitat, and ecosystem and, to that end, requires, among other things, that the Fish & Game Commission (“Commission”) adopt a Marine Life Protection Program (“Program”) to improve the design and management of the system for establishing MPAs as well as accomplishing other goals.
- E. In order to fulfill its obligations under the MLPA, the Commission must adopt a master plan (the “Master Plan”) that guides the adoption and implementation of the Program as well as decisions regarding the siting of new MPAs and major modifications to existing MPAs. More specifically, the Master Plan must include a number of detailed elements related to the siting, management, enforcement, monitoring and funding of MPAs.
- F. To assist the Commission in accomplishing these objectives, the MLPA provides that the Department shall (among other things) prepare, or by contract cause to be prepared, the Master Plan and a Program based on the Master Plan. The MLPA further provides that in order to prepare the Master Plan, the Department must: (i) convene a master plan team (“Master Plan Team”) to advise and assist in the preparation of the master plan or hire a contractor to assist in convening such a team (Section 2855(b)); (ii) submit a draft of the Master Plan to the Commission (Section 2859(a)); and (iii) after public review, submit a

¹ All further statutory references are to the Fish and Game Code, unless specified otherwise.

proposed final Master Plan to the Commission (Section 2859(b)). The Department may engage experts to assist in the completion of the Master Plan (Section 2855(b)(5)).

- G. Based on its prior and ongoing efforts to prepare a draft Master Plan, the Department has determined that it will be most effective to prepare the Master Plan in phases. Specifically, the Department intends as part of the first phase to prepare a Master Plan Framework that will then be used to develop networks of MPAs within individual regions. As used herein, “Master Plan Framework” means a document that addresses certain of the matters set forth in Sections 2853(c) and 2856(a)(2), as determined by the Task Force defined in Section II(A), below, at a programmatic level for the purpose of providing a framework for developing succeeding phases of the Master Plan. The Master Plan Framework will also include a timeline to design and implement MPAs in phases by region, beginning with the development of alternative networks of MPAs for one specific region, namely, an area along the central coast, as part of the first phase.
- H. Given the mutual interest of the Parties in conserving fish and wildlife resources in California’s ocean, the Parties desire to enter into a public-private partnership to fund and implement an initiative to achieve the objectives of the MLPA.
- I. The Department seeks to obtain the assistance of the Agency and Foundation in preparing the Master Plan Framework, and to develop alternative networks of MPAs in an area along the central coast, according to the MLPA. The Agency and Foundation seek to assist the Department in this process. The Parties also seek to enhance the State’s capacity to complete the Master Plan and manage its networks of MPAs by improving coordination with key federal agencies and identifying new sources of long-term funding.
- J. Through this MOU, the Parties intend to memorialize their agreement to pursue the objectives as specified herein. The Parties have from time to time referred to these objectives as the California Marine Life Protection Act Initiative (“Initiative”). A conceptual overview of the Initiative (“Conceptual Overview”) describes the Parties’ mutual objectives and is attached as **Exhibit A**.
- K. In addition to acknowledging the objectives described in the Conceptual Overview, and the commitments to pursue the objectives as set forth in this MOU, the Parties acknowledge that the preparation of the draft Master Plan Framework and proposed alternative networks of MPAs in an area along the central coast is only the first phase of work under the MLPA and that, in the future, the Parties may reach agreement regarding future phases of work to further implement the MLPA.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, the Parties hereby agree as follows.

I. Objectives

In this MOU, the Parties agree to use their best efforts to achieve the following objectives:

- A. Submit the Department's draft Master Plan Framework to the Commission by May 2005;
- B. Prepare a comprehensive strategy for long-term funding of planning, management and enforcement of marine protected areas by December 2005;
- C. Submit the Department's draft proposal for alternative networks of MPAs for a select area within the central coast to the Commission by March 2006;
- D. Develop recommendations for coordinating the management of marine protected areas with the federal government by November 2006; and
- E. Secure agreement and commitment among State agencies with marine protected area responsibilities by November 2006 to complete statewide implementation of the Master Plan by 2011.

II. Organizational Structure

The Parties agree that the objectives of this MOU shall be accomplished by creating and staffing the organizational structure graphically depicted by **Exhibit B**, including but not limited to the following participants:

- A. The Secretary for the Agency ("Secretary") will appoint unpaid advisors to a California MLPA Blue Ribbon Task Force (the "Task Force"), as further described in **Exhibit A**, to oversee the preparation of the draft Master Plan Framework and the proposal for alternative networks of MPAs in an area along the central coast for the Department pursuant to the MLPA and this MOU. The Secretary will also charge the Task Force with: (i) preparing a comprehensive strategy for long-term funding of planning, management and enforcement of MPAs; (ii) developing a recommendation for improved coordination of the management of MPAs with federal agencies involved in ocean management; and (iii) selecting one of its members to serve as the liaison to the Central Coast Stakeholder Group, described below in Section III(B)(v).
- B. The Task Force will be directly assisted by a staff that includes the following key personnel: (i) an Executive Director, (ii) an Operations and Communications Manager, (iii) a Senior MLPA Project Manager, and (iv) a Central Coast MLPA Project Manager (all of whom will be retained by the Foundation upon the advice and concurrence of the chair of the Task Force).
- C. The Department will assign the following key personnel to assist in achieving the objectives of this MOU: (i) a Policy Advisor, (ii) a Statewide Technical Advisor, and (iii) a Regional Coordinator (all of whom will be employees of the Department). The Department may assign additional specialists to assist in achieving the objectives of this MOU.
- D. The Task Force staff and the Department personnel identified in Sections II(B) and II(C) respectively, referred to as the Steering Committee in the organizational structure attached as **Exhibit B**, will be responsible for coordinating the work necessary to achieve the objectives identified in Section I.

- E. The Director of Fish and Game (“Director”) will expand the membership of the Master Plan Team, as described in Section 2855(b)(3), by up to eight additional scientists and re-establish it as the Master Plan Science Advisory Team (“Science Team”). The Science Team will advise and assist the Task Force and its staff in the preparation of the draft Master Plan Framework and proposed alternative networks of MPAs in an area along the central coast, pursuant to Section 2855(b), by providing scientific and technical support.
- F. The Foundation, upon the request of the Task Force and with its recommendation and concurrence, may contract with third party consultants and experts to report to and assist the Task Force in accomplishing the objectives of this MOU.

III. Agreements of the Parties

A. Agreements of the Agency

The Agency agrees to do the following:

- i. The Secretary will appoint seven to ten members of the Task Force, including the chair of the Task Force, with the qualifications described in **Exhibit A**, who shall serve at the pleasure of the Secretary for a term no longer than the period from September 1, 2004 through December 31, 2006.
- ii. The Secretary will convene the Task Force and charge its members with undertaking the responsibilities set forth in Section II(A) above, to accomplish the objectives of this MOU as provided in Section I and as further described in **Exhibit A**.
- iii. The Agency will dedicate a qualified 0.25 full-time equivalent (“FTE”) senior policy-level staff person to provide advice to the Task Force and its Executive Director, serve as liaison between the Agency and the Task Force, and assist the Agency in fulfilling its commitments under this MOU.
- iv. The Agency will provide office space, telecommunications equipment and support, and general clerical support necessary to fulfill the Agency’s commitments under this MOU.
- v. The Agency will provide state leadership to seek adequate current and future funding for the commitments that the Agency and Department have made in this MOU, including but not limited to:
 - (a) Funding for the Department personnel identified in **Exhibit C** as soon as feasible.
 - (b) Funding necessary to complete future phases of the MLPA.

B. Agreements of the Department

The Department agrees to do the following:

- i. The Department will use best efforts to recruit, hire, dedicate and fund qualified staff for 5.0 FTE managerial, scientific, technical and legal

personnel for the Department's Marine Region. These persons will be employees of the Department. Among their other duties, these personnel will assist the Task Force in preparing the draft Master Plan Framework and proposed alternative networks of MPAs in an area along the central coast, as well as providing policy, technical and legal review of the draft Master Plan Framework and all related planning and environmental documents. These personnel will serve as liaison between the Director of the Department and the Task Force and will also present a draft Master Plan Framework and proposed alternative networks of MPAs in an area along the central coast to the Commission consistent with the MLPA. These staff persons will report to the Department, and the Department will be responsible for management and oversight of their work.

- ii. The Department will receive from the Task Force the draft Master Plan Framework and proposal for alternative networks of MPAs in an area along the central coast. Consistent with the MLPA, the Department will independently review and make any amendments or modifications to the draft documents that it determines appropriate. After review and revision of the draft documents, the Department will submit to the Commission for its review and consideration the revised drafts as the Department's draft Master Plan Framework and proposal for alternative networks of MPAs in an area along the central coast.
- iii. The Department will establish a process for external peer review of the scientific basis for the Master Plan prepared pursuant to Section 2855.
- iv. The Director of the Department will appoint members to the Science Team described in Section II(E) above. The Science Team members will serve at the pleasure of the Director from September 1, 2004 through December 31, 2006. The Director will charge the Science Team with fulfilling certain of the obligations of the Master Plan Team under the MLPA by advising and assisting the Task Force and its staff in the preparation of the draft Master Plan Framework and the proposed alternative networks of MPAs in an area along the central coast. The Science Team will select three to five of its members to serve as the Central Coast Science Advisory Sub-Team.
- v. The Director of the Department and the Task Force liaison to the Central Coast Stakeholder Group, described in Section II(A) above, will select members for a Central Coast MLPA Stakeholder Group to assist in developing the proposal for alternative networks of MPAs in an area along the central coast.
- vi. The Department will make reasonable efforts to make available to the Task Force and Science Team any public data and other technical resources within the possession of the Department that is relevant to marine conservation and necessary to complete the objectives of this MOU.
- vii. The Department will provide office space, telecommunications equipment and support, and general clerical support necessary to fulfill its commitments under this MOU.

- viii. The Department will use best efforts to obtain adequate funding for the commitments to human and technical resources made by the Department in this MOU, through December 31, 2006, and will work with the Agency to seek funding for the Department personnel identified in **Exhibit C** as soon as feasible.

C. Agreements of the Foundation

The Foundation agrees to do the following:

- i. The Foundation will use its best efforts to obtain, coordinate and administer philanthropic investments to fulfill the objectives of this MOU through December 31, 2006.
 - (a) On October 15, 2004, the Foundation will provide to the Agency, the Department, the Task Force and the Executive Director a description of funds the Foundation will contribute to fulfill the objectives of this MOU ("Funding Description"). The Parties acknowledge that the Foundation's financial contribution is limited to the available funds identified in the Funding Description.
 - (b) The Foundation will periodically revise the Funding Description according to changes in available funds.
- ii. Subject to the Funding Description, the Foundation will provide funding for staff and consultants for the Task Force through December 31, 2006.
 - (a) Upon recommendation and concurrence of the chair of the Task Force, the Foundation will contract with qualified personnel to fill the four staff positions described in Section III(B)(i), namely: the Executive Director; the Operations and Communications Manager; the Senior MLPA Project Manager; and the Central Coast MLPA Project Manager.
 - (b) Upon the request of the Task Force, and with its recommendation and concurrence, the Foundation will contract with qualified consultants and experts as reasonably necessary to carry out the research, writing and other technical tasks required to achieve the objectives of this MOU.
- iii. Subject to the Funding Description, the Foundation will provide funding for the reasonable expenses of the Task Force and Science Team, including travel and meeting costs, through December 31, 2006.
- iv. Subject to the Funding Description, the Foundation will provide funding of up to \$750,000 through December 31, 2006, for the salaries, benefits, direct expenses and indirect costs for Department staff listed in **Exhibit C**, as reasonably necessary to achieve the objectives of this MOU. Funding for this purpose is contingent upon the annual demonstration by the Agency and the Department, as further described in Section V(D), of best efforts to assume these costs as soon as feasible.

//

IV. Transparency

The Parties agree and intend that the process used to achieve the objectives of this MOU will be transparent to the public. As used herein, “transparent” means that (i) the Task Force will convene in publicly-noticed and open meetings whenever a majority of the members is scheduled to be present (ii) the Science Team will convene in publicly-noticed and open meetings whenever a majority of the members is scheduled to be present, (iii) the Task Force and Science Team will provide regular opportunities for stakeholder and public input, and (iv) final work products developed pursuant to this MOU by the Task Force and the Science Team, and the Funding Description provided by the Foundation, will be made available to the public.

V. Accountability and Reporting

- A. The Parties acknowledge that the funds provided by the Foundation are predicated upon the Parties’ mutual commitment to achieving the objectives of this MOU, and that the availability of the funds listed in the Funding Description is contingent upon the Parties fulfilling the agreements made in this MOU.
- B. In September and March of each year, the Department, with concurrence from the Agency, will provide written semi-annual reports to the Foundation concisely describing the key milestones and challenges of meeting the objectives of this MOU.
- C. In March of each year, the signatories to the MOU will meet to review the most recent Funding Description, as well as the Agency’s progress in obtaining public funding for implementing the MLPA, including but not limited to funding the Department personnel identified in **Exhibit C**.
- D. The signatories to this MOU may meet periodically to review the progress of meeting the objectives of this MOU, and may adjust the objectives and agreements by mutual consent through a written amendment to this MOU in accordance with Section VI(B).
- E. Each Party will promptly notify in writing all other Parties if a Party determines that any of the commitments made in this MOU are not likely to be met, accompanied by a written proposal to address the delay or shortfall.
- F. With respect to the subject matter of this MOU, the Parties acknowledge that none of the Parties have committed themselves to any tasks beyond the scope of this MOU.

VI. Miscellaneous Agreements

A. Good Faith

The Parties agree in good faith to work to fulfill the objectives of the Initiative. Nothing in this MOU shall be construed as obligating Agency or the Department to expend funds, or for the future payment of money, in excess of appropriations authorized by law.

//
//

B. Amendment

Neither this MOU nor any provision hereof may be waived, modified, amended, or discharged except by an instrument in writing signed by the Parties.

C. Entire Agreement

This MOU constitutes the entire understanding among the Parties with respect to the matters set forth herein and supersedes all prior or contemporaneous understandings or agreements among the Parties with respect to the subject matter hereof, whether oral or written.

D. Severability

If a court of competent jurisdiction determines that a provision included in this MOU is legally invalid, illegal or unenforceable, and such decision becomes final, such provision shall be deemed to be severed and deleted from this MOU and the balance of this MOU shall be reasonably interpreted to achieve the intent of the Parties. The Parties further agree to replace such void or unenforceable provision of this Agreement with a valid and enforceable provision that will achieve, to the extent possible, the purposes of the void or unenforceable provision.

E. Counterparts

This Agreement and any amendment thereto may be executed in two or more counterparts, and by each Party on a separate counterpart, each of which, when executed and delivered, shall be an original and all of which together shall constitute one instrument, with the same force and effect as though all signatures appeared on a single document.

F. Assignment

None of the Parties may assign any rights granted by this MOU without prior written approval of the other Parties, which approval may be granted or withheld in any Party's reasonable discretion.

G. Effective Date and Term

This MOU shall become effective upon the last date of any Party to execute this MOU, and shall be in effect from that date through December 31, 2006, unless it is terminated pursuant to Section VI(H) or extended through an amendment pursuant to Section VI(B).

H. Termination and Exclusive Remedy

Any Party may withdraw from this MOU, but only after thirty (30) days written notice to the other Parties and after a good faith attempt to resolve the issue prompting the withdrawal. Upon the withdrawal of any Party, this MOU shall terminate. The only remedy to any Party for a breach of this MOU shall be termination of this MOU pursuant to this Section H.

I. No Partnership or Fiduciary Relationship

Nothing in this MOU shall be deemed to create a partnership or any other trust relationship between the Parties, it being expressly understood and agreed that the Parties' obligations hereunder are not fiduciary in nature.

J. Authorization

Each signatory below attests that he or she is duly authorized to execute this MOU on behalf of the Party he or she represents.

IN WITNESS WHEREOF, the Parties have caused this MOU to be executed by their respectively duly authorized representatives.

RESOURCES AGENCY

ORIGINAL SIGNED BY August 27, 2004

Mike Chrisman Date
Secretary
California Resources Agency

DEPARTMENT OF FISH & GAME

ORIGINAL SIGNED BY August 27, 2004

L. Ryan Broddrick Date
Director
California Department of Fish and Game

RESOURCES LEGACY FUND FOUNDATION

ORIGINAL SIGNED BY August 27, 2004

W. John Schmidt Date
Executive Director
Resources Legacy Fund Foundation

EXHIBIT A

California Marine Life Protection Act Initiative: Conceptual Overview

California's extraordinary marine biological diversity is a vital asset to the state and nation. The productivity, wildness and beauty of our coasts and oceans are central to California's identity, heritage, and economy. At the same time, however, the impacts from coastal development, water pollution, certain modern fishing practices, and other human activities are altering and degrading our coastal and marine environment.

In the late 1990s, the California Legislature responded to declines in the state's marine environment with legislation intended to reduce these threats and protect our ocean. Among others, the 1999 Marine Life Protection Act ("MLPA" or "the Act") aims to protect California's marine natural heritage through the establishment of a network of marine protected areas, to be designed, created, and managed according to sound science in order to protect the diversity and abundance of marine life and the integrity of marine ecosystems. The Act recognizes that a combination of marine reserves, marine conservation areas and marine parks can help protect habitat and ecosystems, conserve biological diversity, provide a sanctuary for marine life, enhance recreational and educational opportunities, and provide scientific reference points to assist resource management decisions.

To date, the MLPA has not been implemented as quickly as intended. A realistic approach focuses on strategically prioritizing those program components that can be effectively implemented now, and completing the remaining components in later phases. Acknowledging the importance of protecting the state's ocean heritage, California aims to achieve the goals of the Act by pursuing the California Marine Life Protection Act Initiative ("Initiative"), a cooperative effort funded by a public-private partnership, and enhanced by the advice of scientists, resource managers, experts, stakeholders and interested members of the public.

The objectives of the Initiative are as follows:

- **Submit the Department's draft Master Plan Framework to the Fish and Game Commission by May 2005 for proposed adoption by the Commission in August 2005.** As provided in the Act, several components of the Master Plan will provide a statewide framework for the design and implementation of marine protected areas. To that end, a Master Plan Framework based on sound science will be prepared to specify programmatic goals and recommendations for the future design, implementation and management of networks of marine protected areas, including necessary monitoring, adaptive management, enforcement, and funding. The Master Plan Framework will build upon work already accomplished by the state under the Act, and will include a prioritized timeline and action plan to design and implement marine protected areas in phases by region between the years 2006 and 2011.
- **Prepare a comprehensive strategy for long-term funding of planning, management and enforcement of marine protected areas by December 2005** by presenting a package of legislative and other recommendations to the Secretary for Resources to identify new sources

of revenue and ensure adequate resources for quality state oversight of the network of marine protected areas.

- **Design and submit the Department’s draft proposal for alternative networks of marine protected areas in an area along the central coast to the Fish and Game Commission by March 2006 for proposed adoption by the Commission by November 2006.** The Central Coast Marine Life Protection Act Project will produce a suite of alternative networks for an area along the central coast according to the Master Plan Framework, in a regional project that incorporates sound science, stakeholder input and general public participation. The adopted alternative will be implemented by the Department of Fish and Game.
- **Develop recommendations for coordinating the management of marine protected areas with the federal government by November 2006.** The recommendations will draw from the recent reports of the United States Commission on Ocean Policy and the Pew Oceans Commission.
- **Secure agreement and commitment among state agencies with marine protected area responsibilities by November 2006 to complete statewide implementation of the Master Plan by 2011.** By November 2006, the Resources Agency will negotiate a commitment among key public agencies and other interested parties to ensure that marine protected areas are designed and proposed for adoption by the Fish and Game Commission and implemented by the Department of Fish and Game in the remaining regions between 2006 and 2011 in accordance with the Master Plan Framework, and to dedicate funding for the ongoing management of the marine protected areas.

This Initiative will require:

- **Leadership** - The Resources Agency and the Department of Fish and Game will provide direction and leadership for this Initiative, and will be responsible for presenting proposals and recommendations to the Fish and Game Commission that are based on sound public policy and science.
- **Policy Advisors** - The Secretary for Resources will appoint a California MLPA Blue Ribbon Task Force (“Task Force”), with members known for their intellect, integrity, experience in public policy and concern for the common good, to propose policies for marine protected area design and implementation; to oversee the preparation of the draft Master Plan Framework; to advise on the initial marine protected area project within the central coast; to provide recommendations for long-term funding of marine protected areas; and to provide recommendations for coordinating management of marine protected areas with federal agencies.
- **Stakeholder Input** – As part of the overall scientific research strategy for both the development of the draft Master Plan Framework and a proposal for alternative networks of marine protected areas in an area along the central coast, data and other information will be

actively solicited from resource users and other stakeholders who possess first-hand knowledge about marine resources and socioeconomic factors.

- **General Public Participation** – Participation from the general public will be solicited through periodic statewide and regional meetings and workshops, review and comment on key concepts, and other opportunities for timely and meaningful participation, in addition to hearings before the Fish and Game Commission.
- **Science** – The best readily available biological and socioeconomic science will be used in drafting the Master Plan Framework, and in the design, implementation and adaptive management of the proposed alternative networks of marine protected areas. The Director of the Department of Fish and Game, in consultation with the Secretary for Resources, the Chair of the Fish and Game Commission, and the Chair of the Task Force, will appoint a Master Plan Science Advisory Team to provide research strategies and scientific analysis to the Task Force. The Director will also establish an external peer review process to evaluate the scientific basis of the Master Plan Framework and regional proposals for alternative networks of marine protected areas. Scientific data and information will also be solicited from stakeholders, and other researchers and experts.
- **Resource Management and Technical Expertise** – State managers and biologists will work with qualified experts, including federal fisheries managers, university scientists, other researchers, and commercial and recreational fishermen, to collect and provide the best available information and technical knowledge.
- **Interagency Coordination** – To encourage complementary planning and coordinated reviews and decisions, this process will leverage existing interagency coordinating teams such as the State Interagency Coordinating Committee for Marine Managed Areas, and will create new opportunities among relevant state and federal agencies.
- **Public-Private Partnership** – Due to the limited staffing and funding resources of the Resources Agency and Department of Fish and Game, this proposal is dependent upon supplementing public funding with private resources to enhance the state’s capacity to accomplish the science, analysis, planning, and coordination necessary to achieve the objectives on time. While private funding will support much of the costs of the Initiative, the work will be open and transparent.
- **Phased Design and Implementation** – The Task Force will select an area along the central coast where it will oversee the development of a proposal for alternative networks of marine protected areas. The Task Force will present the proposal to the Department of Fish and Game, which will independently review and make any amendments or modifications to the draft documents that it determines appropriate. After exercising its independent judgment, the Department will submit a proposal for alternative networks of MPAs to the Commission. By focusing first within a select area, the Initiative will enable Department of Fish and Game personnel and the Master Plan Science Advisory Team to focus limited resources more

productively. Other regional efforts to develop proposals for marine protected areas that are not funded by this Initiative and that proceed ahead of the phased schedule provided by the Master Plan Framework may be presented to the State Interagency Coordinating Committee following the adoption of the Master Plan Framework. However, due to the need to concentrate available public and private resources and meet the objectives and timeline of the MLPA Initiative, the Department of Fish and Game will not be able to provide technical assistance in developing regional network proposals in advance of the phased timeline recommended by the adopted Master Plan Framework.

EXHIBIT C

**California Marine Life Protection Act Initiative:
Department of Fish and Game Staff
Supported by Resources Legacy Fund Foundation
from September 1, 2004 through December 31, 2006¹**

Position/Purpose	FTE	Rate²	Purpose	Comments
Senior Biologist Specialist	1.0	\$5,860/mo per 1.0 FTE	Salary	Statewide Advisor for the MLPA dedicated 100% to MLPA
		≈\$11,000/year	Operating expenses: travel, per diem, computer, supplies	
Senior Biologist Supervisor	0.5	\$5,864/mo per 1.0 FTE	Salary	Regional Coordinator for the MLPA dedicated 50% to the Central Coast MLPA Project
		≈\$4,000/year	Operating expenses: travel, per diem, supplies	
Assistant Analyst	0.25	\$4,363/mo per 1.0 FTE	Salary	To increase existing analyst's hours from 0.75 FTE to 1.0 FTE and dedicated 100% to MLPA
Research Analyst I GIS Technician	1.0	\$4,363/mo per 1.0 FTE	Salary	To fill vacancy in DFG dedicated 100% to MLPA
Public Information Officer I Specialist	1.0	\$4,997/mo per 1.0 FTE	Salary	To fill vacancy in DFG dedicated 100% to MLPA
Benefits ³	-	25.29%	Withholdings and benefits	Mandatory for public employees
Indirect Costs ⁴	-	21.2%	Administrative personnel costs	State-imposed fee on reimbursable contracts

¹ Resources Legacy Fund Foundation will support these costs up to a total of \$750,000 through December 31, 2006, contingent upon the annual demonstration by the Agency and the Department of best efforts to assume these costs as soon as feasible.

² This reflects the FY2004-2005 rate, and may be adjusted in subsequent fiscal years.

³ This rate is applied only to the salary.

⁴ This rate is applied to salary, operating expenses and benefits.

MEMORANDUM OF UNDERSTANDING

among

THE CALIFORNIA RESOURCES AGENCY

THE CALIFORNIA DEPARTMENT OF FISH AND GAME

and

THE RESOURCES LEGACY FUND FOUNDATION

for

**THE CALIFORNIA MARINE LIFE PROTECTION ACT INITIATIVE
SECOND PHASE**

This Memorandum of Understanding (MOU), effective January 1, 2007, is made and entered into by the California Resources Agency (Agency) the California Department of Fish and Game (Department) and the Resources Legacy Fund Foundation (Foundation). Each of the Agency, Department and Foundation may be referred to individually as a Party or collectively as Parties.

I. OBJECTIVES

By this MOU the Parties seek to accomplish the following objectives:

- 1.1 To memorialize their agreement to fund and implement a process (referred to in this MOU as the second phase of the MLPA Initiative) to achieve the objectives of the Marine Life Protection Act (MLPA; California Fish and Game Code section 2850 et seq.) for the second phase of developing a statewide network of marine protected areas (MPAs);
- 1.2 To set out a publicly transparent, science-based process for the development of siting recommendations for the second phase of the MLPA process;
- 1.3 To set out within this process opportunities for timely and meaningful participation by the general public and stakeholders through regional and statewide meetings and workshops;
- 1.4 To incorporate within the process certain elements of the previous MLPA Initiative process on the Central Coast (Pigeon Point to Point Conception), including the Blue Ribbon Task Force (Task Force), the Science Advisory Team and Regional Stakeholders Group;

- 1.5 To clearly set out the roles and responsibilities of the parties to make the process transparent to the public, to maximize efficiencies, to enhance opportunities for cooperation and to avoid conflict or confusion;
- 1.6 To articulate a mutually agreeable process by which the Parties intend to secure the delivery of the Task Force recommendation for alternative MPA proposals and a proposed preferred alternative for the second phase of the MLPA process to the Fish and Game Commission by March 15, 2008, to secure the delivery of the Department's analysis and comments on those alternatives and Task Force recommendation to the Commission by April 15, 2008, and to complete the CEQA and rulemaking process for MPA proposals for this next phase of the MLPA process by January 15, 2009;
- 1.7 To develop information during the process that will assist the state in coordinating the management of MPAs and MLPA Program with the federal government;
- 1.8 To effectively support the role and decision making of the Fish and Game Commission by keeping the Commissioners, and the Commission staff informed and engaged throughout the process.
- 1.9 To refine the MLPA Initiative process to benefit from and be responsive to the lessons learned in the first phase of the MLPA process for the Central Coast (Pigeon Point to Point Conception);
- 1.10 To provide productive opportunities for participation in and integration into the process by the Department of Fish and Game based on its expertise and statutory jurisdiction;
- 1.11 To reflect the commitment of the parties to timely and effective implementation of the Fish and Game Commission's decision on a MPA network for the first phase of the MLPA process on the Central Coast (Pigeon Point to Point Conception).

II. RECITALS

- 2.1 Through its California Ocean Resources Management Program, the Agency seeks to ensure comprehensive and coordinated management, conservation and enhancement of California's ocean resources for their intrinsic value and for the benefit of current and future generations.
- 2.2 The Department is the trustee for fish and wildlife resources in the State of California, and has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants and habitat necessary for biologically sustainable populations of those species.

- 2.3 The Foundation is an independent non-profit organization that supports and performs essential services to promote land and marine conservation. Consistent with its mission, the Foundation has developed and administered many strategic charitable programs, including one which is designed to achieve significant advances in coastal and marine conservation in California.
- 2.4 The MLPA declares the need to reexamine and redesign California's MPAs to increase their coherence and effectiveness at protecting the state's marine life, habitat, and ecosystems and, to that end requires, among other things, that the Fish and Game Commission adopt a Marine Life Protection Program to improve the design and management of the state's array of MPAs as well as accomplishing other goals.
- 2.5 In order to fulfill its obligations under the MLPA, the Commission has adopted a draft master plan to guide the adoption and implementation of the program.
- 2.6 Consistent with the master plan, the Commission has identified a preferred alternative and is circulating an environmental impact report for alternative networks of MPAs for the first phase of the program along the Central Coast (Pigeon Point to Point Conception).
- 2.7 The parties desire to achieve the objectives of this MOU through a robust, publicly transparent, science-based process that takes into account the existing limitations on state funding. Given their mutual interests, the Parties are willing to make the commitments set forth below to fund and implement such a process to achieve the objectives of the MLPA for the second phase of the MLPA Initiative process.
- 2.8 The Department seeks to obtain the assistance of the Agency and Foundation in preparing the alternative MPA proposals for the next phase of the MLPA process in recognition of the state's existing budgetary constraints and the Agency and Foundation seek to assist the Department in this process. The Parties also seek to enhance the State's capacity to complete and implement the master plan and to manage its networks of MPAs by improving coordination with key federal agencies and identifying new sources of long-term funding for the state's implementation of the master plan and related activities under the MLPA.
- 2.9 The Parties previously entered into a MOU dated August 27, 2004 to complete the first phase of the MLPA process, the preparation of the master plan framework and the development of alternative MPA proposals in an area along the Central Coast (Pigeon Point to Point Conception). That MOU has expired and the Parties wish to continue their relationship in the form set forth in this MOU.

III. COMMITMENTS OF THE PARTIES

A. ORGANIZATIONAL STRUCTURE, ROLES AND RESPONSIBILITIES

Resources Agency

- 3.1 The Resources Agency will provide state policy leadership and direction, including coordination with state agencies in furtherance of the state commitments made in this MOU.
- 3.2 The Resources Secretary will appoint the members of the Blue Ribbon Task Force to guide the development of alternative MPA proposals and to recommend a preferred alternative to the Fish and Game Commission for the second phase of the MLPA process. The members of the Blue Ribbon Task Force, consisting of people known for their integrity, intellect, experience in public policy and concern for the common good, will serve at the pleasure of the Secretary for Resources for a term no longer than the period from January 1, 2007 through December 31, 2008. The Secretary will appoint a Chair for the Task Force, will convene the Task Force to accomplish the objectives of this MOU and will provide the Task Force a charge. The charge shall contain a clear statement of the scope of the Task Force's authority and the duties to be performed including:
- a) prepare and make publicly available information and recommendations for coordinating management of MPAs with federal agencies;
 - b) guide the development of alternative MPA proposals, modify proposals presented to the Task Force by the Regional Stakeholders Group as the Task Force deems appropriate and craft alternative MPA proposals for presentation to the Fish and Game Commission;
 - c) recommend to the Fish and Game Commission a range of alternative proposals and a preferred MPA alternative proposal for the next phase of the MLPA Initiative process;
 - d) approve work plans for achieving its responsibilities within the timeframe set forth in Exhibit A;
 - e) direct key personnel, including the Executive Director of the MLPA Initiative, who will be retained as independent consultants by the Foundation upon the advice and concurrence of the chair of the Blue Ribbon Task Force.
 - f) approve a budget for the consultants to the Task Force to accomplish the objectives of this MOU.

- 3.3 The Agency will identify a qualified senior policy Agency staff person to provide advice to the Task Force and the Executive Director of the MLPA Initiative, to serve as liaison between the Agency and the Task Force, to assist the Agency in fulfilling its commitments under this MOU, and to participate in the work of the steering committee that guides the work of the Task Force in furtherance of the objectives of this MOU.
- 3.4 The Resources Agency will provide state leadership to make state budget requests for adequate current and future funding for the commitments made in this MOU including requests for funding for necessary Department personnel, funding needed to implement the first phase of the MLPA process on the Central Coast (Pigeon Point to Point Conception) and funding as necessary to complete future phases of the MLPA.
- 3.5 The Agency will provide, as necessary and available, office space, telecommunications equipment and support, and general clerical support for its staff and selected consultants to the MLPA Initiative.
- 3.6 The Agency will support, in light of available resources and consistent with applicable law, timely and efficient implementation of the Fish and Game Commission's MPA decisions reached in the first phase of the MLPA process.

Department of Fish and Game

- 3.7 The Director of the Department and Chair of the Blue Ribbon Task Force will jointly appoint the Regional Stakeholders Group, with a desired membership of no more than 20 members. The Department will appoint the Science Advisory Team, with a desired membership of no more than 15 members. The Director, on concurrence of the Resources Secretary, will provide to the Regional Stakeholders Group and the Science Advisory Team a charge or charter setting forth the scope of authority of the bodies and ground rules for the conduct of business by the groups and their individual members. The Science Advisory Team members and the members of the Regional Stakeholders Group will serve at the pleasure of the Director from January 1, 2007 through December 31, 2008. The Science Advisory Team members will select the Team's chair or co-chairs.
- 3.8 The Department will participate fully in the deliberations of the Blue Ribbon Task Force, Science Advisory Team and Regional Stakeholders Group to afford those bodies access to the Department's expertise and perspective in the development of alternative MPA proposals. The Department will provide to the Task Force, Science Advisory Team and Regional Stakeholders Group specific information on the Department's analysis and concerns regarding alternative MPA proposals during the second phase of the MLPA process.

- 3.9 The Department will assign key personnel required to assist in achieving the objectives of this MOU and may assign additional specialists or other personnel to assist in achieving the MOU objectives as the process goes forward.
- 3.10 The Department will by March 1, 2007 provide to the Blue Ribbon Task Force, Science Advisory Team and Regional Stakeholder Group a statement of the feasibility criteria that the Department will use in analyzing siting alternatives for the second phase of the MLPA process.
- 3.11 The Department, along with the Agency and staff of the Fish and Game Commission will participate as a member of the steering committee to guide the flow of work required to achieve the objectives and commitments of this MOU. The Department will provide staff support for the Science Advisory Team and the Regional Stakeholders Group.
- 3.12 The Department, along with the Executive Director of the MLPA Initiative, will participate in the briefings and discussions provided to the Ocean Protection Council, if any, and at least every two months beginning February 2007, to the Fish and Game Commission on the nature and progress of the MPA design process and alternatives under consideration.
- 3.13 The Department, in the exercise of its statutory jurisdiction, and in addition to participation in the development of alternative MPA proposals, may provide information, analysis and comments as appropriate to the Fish and Game Commission on the alternative MPA proposals and on the recommendation for a preferred MPA alternative proposal made to the Commission by the Blue Ribbon Task Force for the second phase of the MLPA process. The purpose of such information, analysis and comments is to provide advice to the Commission on feasibility of aspects of the MPA proposals and on the prospects of the MPA proposals to achieve the goals of the MLPA.
- 3.14 The Department will make available to the Task Force and Science Advisory Team any public data and other technical resources within the possession of the Department that are relevant to marine conservation and that are useful to help complete the objectives of this MOU.
- 3.15 The Department will provide office space, telecommunications equipment and support and general clerical support as necessary to fulfill its commitments under this MOU.

Resources Legacy Fund Foundation

- 3.16 The Foundation will use its best efforts to obtain, coordinate and administer philanthropic investments to fulfill the objectives of this MOU through December 31, 2008.

- 3.17 On July 1, 2007 the Foundation will provide to the Agency, the Department and the Task Force a description of funds the Foundation will contribute to fulfill the objectives of this MOU (the "Funding Description"). Between January 1, 2007 and July 1, 2007, the Foundation will pay reasonable expenses to fund the activities contemplated in this MOU. The Funding Description will reflect the Foundation's expenses for the period January 1, 2007 and July 1, 2007. The Parties acknowledge that the Foundation's financial contribution is limited to the available funds identified in the Funding Description. The Foundation may periodically revise the Funding Description according to changes in available funds.
- 3.18 Subject to the Funding Description, and subject to consultation with and general oversight of the Department, the Foundation will provide funding for consultants for staffing support for the Task Force through December 31, 2008. Upon recommendation and concurrence of the Chair of the Task Force, the Foundation will contract with qualified personnel or will renew the contracts of existing personnel as appropriate, to fill the key positions.
- 3.19 Upon the request of the Task Force, and with its recommendation and concurrence, the Foundation will contract with qualified consultants and experts as reasonably necessary to carry out the discrete research, writing and other technical tasks required to achieve the objectives of this MOU.
- 3.20 The Foundation, subject to the Funding Description and based in part on general oversight by the Agency and Department, will provide funding for the reasonable expenses of the Task Force, Regional Stakeholders Group and Science Advisory Team, including equipment, travel and meeting costs through December 31, 2008.
- 3.21 The Foundation recognizes and the Parties agree that the funding and services provided by the Foundation are solely in support of the process contemplated in this MOU and are not in any way contingent on the content of the recommendations made by the Blue Ribbon Task Force nor on the MPA alternative that is ultimately selected by the Fish and Game Commission.

B. GENERAL PROVISIONS

- 3.22 The Task Force will convene in public and open meetings whenever a majority of the members is scheduled to be present.
- 3.23 The Science Team and Regional Stakeholders Group will convene in public and open meetings whenever a majority of the members is scheduled to be present.
- 3.24 The Task Force and Science Team will provide regular opportunities for stakeholder and public input.

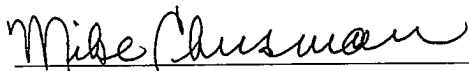
- 3.25 Final work products developed pursuant to this MOU by the Task Force and the Science Team and the Funding Description provided by the Foundation will be made available to the public.
- 3.26 The parties agree to the development of certain products to accomplish the objectives of this MOU including:
- a) alternative MPA proposals for the second phase of the MLPA Initiative process that satisfy the goals and requirements of the MLPA;
 - b) a recommendation by the Task Force to the Fish and Game Commission for a preferred MPA alternative for consideration and action by the Commission.
- 3.27 The Parties acknowledge that the funds provided by the Foundation are predicated upon the mutual commitment of the Parties to the objectives of this MOU, and that the availability of the funds as set forth in the Funding Description is contingent upon the Parties fulfilling their commitments made in this MOU and in turn the commitments of the Agency and Department are contingent on the availability of funds as reflected in the Funding Description. If the Funding Description is revised to reduce the amount of funds available, the Agency may revise its charge to the Blue Ribbon Task Force, as set forth in paragraph 3.2 of this MOU and the Parties may make other changes to the process contemplated in this MOU as may be necessary to reflect available funding.
- 3.28 In March and September of each year the Department, with concurrence of the Agency, will provide written reports to the Foundation concisely describing the key milestones, accomplishments and challenges in meeting the objectives of this MOU.
- 3.29 The Parties recognize and the Department acknowledges that the Department has a statutory obligation to implement and enforce the MPA network when approved by the Fish and Game Commission for the second phase of the MLPA process.
- 3.30 At least once every quarter, the Parties, Executive Director of the MLPA Initiative, Executive Policy Officer of the Ocean Protection Council, Executive Director of the Fish and Game Commission and other of their personnel as the Parties think appropriate will meet to discuss progress toward and any challenges in achieving milestones leading to accomplishment of the objectives of this MOU (milestones meetings). The Parties will be represented at milestones meetings by senior staff knowledgeable of the MLPA Initiative and its work. The milestones meetings will be chaired by the Resources Secretary.

C. STANDARD PROVISIONS

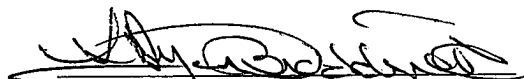
- 3.31 The parties agree in good faith to work to fulfill the objectives of this MOU. Nothing in this MOU shall be construed as obligating the Agency or the Department to expend funds, or for the future payment of money, in excess of appropriations authorized by law.
- 3.32 Neither this MOU nor any provision hereof may be waived, modified, amended or discharged except by an instrument in writing signed by the Parties.
- 3.33 This MOU constitutes the entire agreement of the Parties with respect to the matters set forth herein and it supersedes all prior or contemporaneous understandings or agreements among the Parties with respect to the subject matter of the MOU.
- 3.34 If a court of competent jurisdiction determines that a provision included in this MOU is legally invalid, illegal or unenforceable, and such decision becomes final, such provision shall be deemed to be severed and deleted from this MOU and the balance of the MOU shall be reasonably interpreted to achieve the intent of the Parties. The Parties further agree to replace such void or unenforceable provision of this MOU with a valid and enforceable provision that will achieve, to the extent possible, the purposes of the void or unenforceable provision.
- 3.35 This MOU and any amendment may be executed in two or more counterparts, and by each Party on a separate counterpart, each of which, when executed and delivered, shall be an original and all of which together shall constitute one instrument, with the same force and effect as though all signatures appeared on a single document.
- 3.36 None of the Parties may assign any rights granted by this MOU without prior written approval of the other Parties. Approval of assignment may be granted or withheld in any Party's reasonable discretion.
- 3.37 This MOU shall become effective on January 1, 2007 and shall be in effect from that date through December 31, 2008, unless it is terminated by withdrawal of one or more of the Parties or extended through an amendment.
- 3.38 If any Party is dissatisfied for any reason with performance of the commitments of this MOU, the Party may give written notice to the other Parties informing them of the facts giving rise to the dissatisfaction and giving the Parties an opportunity to remedy the situation. The Parties shall meet and confer at least once at a mutually agreeable time no more than 30 days from the date of the notice to resolve the issues presented in the notice and to discuss related concerns of other Parties. During the 30-day period, the Foundation will continue to pay obligations incurred prior to the date of the notice but may decline to encumber additional funds during the 30-day period.

- 3.39 At any time following a meeting pursuant to paragraph 3.38, any Party shall be entitled to withdraw from this MOU by providing a 10-day notice to the other Parties. Unless the Party withdraws the notice within the 10-day period, this MOU will automatically terminate at the end of the 10-day period. Following any notice of termination, the Foundation may withhold all unencumbered funds from further commitment; however, the Foundation will pay all obligations outstanding as of the date of the notice of termination whether invoices are presented to the Foundation before or after the date of termination.
- 3.40 The only remedy of any Party for a breach of this MOU is termination of the MOU as set forth herein. Under no circumstances shall any Party be liable to any other Party in connection with this MOU for any direct, indirect, incidental or consequential damages or be entitled to any legal or equitable relief other than termination of this MOU.
- 3.41 Nothing in this MOU shall be deemed to create a partnership or any other trust relationship between the Parties, it being expressly understood and agreed that the Parties obligations to each other under this MOU are not fiduciary in nature.
- 3.42 Each signatory below attests that he or she is duly authorized to execute this MOU on behalf of the Party he or she represents.


IN WITNESS WHEREOF, the Parties have caused this MOU to be executed by their duly authorized representatives.


Mike Chrisman
Secretary
California Resources Agency

12/20/06
Date


L. Ryan Broddrick
Director
California Department of Fish and Game

19 DEC 06
Date


W. John Schmidt
Executive Director
Resources Legacy Fund Foundation

12/19/06
Date

EXHIBIT A—SIGNIFICANT MILESTONES

1. December 31, 2006—Announce selection of next study region and agreement to new MOU.
2. January 15, 2007—Membership in Blue Ribbon Task Force announced
3. January 30, 2007—First meeting of Blue Ribbon Task Force
4. February 15, 2007—Membership in Science Advisory Team (SAT) announced
5. February 2007—First presentation to Fish and Game Commission on program (every two months thereafter)
6. April 2007—Fish and Game Commission to consider changes to draft Master Plan
7. September 2007—Fish and Game Commission policy review of draft MPA proposals and guidance to Blue Ribbon Task Force on proposals
8. March 15, 2008—Presentation of Blue Ribbon Task Force proposed siting alternatives and recommendation for preferred alternative to the Fish and Game Commission
9. April 15, 2008—Presentation of Department's analysis and comments, if any, on the Task Force packages and recommendation to the Fish and Game Commission
10. May 15, 2008--Commission consideration of alternative MPA proposals and selection of its preferred alternative for CEQA analysis
11. November 21, 2008--Completion of "lessons learned" analysis for the second phase of the MLPA Initiative process
12. January 15, 2009—Completion of the CEQA and rulemaking processes