

**Marine Life Protection Act Initiative  
Public Comments Submitted  
through May 26, 2010**



## Support Marine Protection on California's North Coast

To Whom It May Concern

Dear

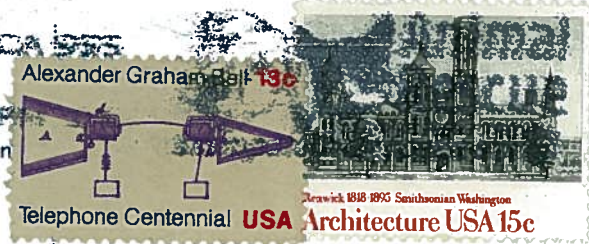
The coast and ocean are a critically important part of what makes the North Coast of California such a great place to live and visit. The Marine Life Protection Act provides us with a unique opportunity to map a vision for our coast that will benefit all Californians. A well-informed network of marine protected areas from Point Arena to the Oregon border will ensure a rich legacy of ocean resources, enduring respect for indigenous cultures, and a vibrant fishery for generations to come.

I urge you to support the protection of the North Coast's diverse marine resources and way of life as implementation of the Marine Life Protection Act proceeds in the region.

Sincerely,

*LITZY VENTURA, Arcata*

*MADELEINE VENTURA*  
 (Name and City) **ARCATA**



MLPA INITIATIVE BLUE RIBBON  
 Task Force

170 California Natural  
 Resources Agency  
 1416 NINTH ST., Suite 1311  
 Sacramento, CA  
 95814

RECEIVED BY  
 Office of the Secretary  
 MAY 20 2010  
 RESOURCES AGENCY OF CALIFORNIA



To Whom It May Concern

Dear

EUREKA, CA 95501

Drafting the Articles of Confederation

W.C. FIELDS



The coast and ocean are a critically important part of what makes the North Coast of California such a great place to live and visit. The Marine Life Protection Act provides us with a unique opportunity to map a vision for our coast that will benefit all Californians. A well-informed network of marine protected areas from Point Arena to the Oregon border will ensure a rich legacy of ocean resources, enduring respect for indigenous cultures, and a vibrant fishery for generations to come.

I urge you to support the protection of the North Coast's diverse marine resources and way of life as implementation of the Marine Life Protection Act proceeds in the region.

Sincerely,

Lizy Ventura, Arcata

*[Signature]* ARCATATA  
(Name and City)  
MADELEINE VENTURA

MLPA INITIATIVE Science  
Advisory Team  
C/O California Natural  
Resources Agency  
1416 Ninth St. Suite 1311  
Sacramento, CA  
95814



Support Marine Protection on  
California's North Coast

**From:** Peter Baye

**Sent:** Wednesday, May 26, 2010 11:16 AM

**To:** Adrianna Shea; fgc@fgc.ca.gov

**Cc:** Stewarts Point Rancheria; 'Tony Cohen'; letters@mendonoma.com; advocatenews@mcn.com; MLPAComments; paul@kzyx.org

**Subject:** Stewarts Point MLPA compliance with Native American Heritage Statute

To Adrianna Shea, Deputy Executive Director, External Affairs and Special Advisor, and John K. Fisher, Deputy Executive Director, California Fish and Game Commission:

Please find attached (.pdf) my letter regarding MLPA compliance with the Native American Heritage Statute (California Public Resources Code 5097.9) in context of the Stewarts Point MPA and Native American (Kashia Pomo) religious ceremonial harvest of marine life at Stewarts Point.

Thank you for your attention.

Peter Baye,  
Annapolis, Sonoma County, CA



**Peter R. Baye, Ph.D.**  
*Coastal Ecologist, Botanist*  
P.O. Box 65  
Annapolis, California 95412



(415) 310-5109

[baye@earthlink.net](mailto:baye@earthlink.net)

California Fish and Game Commission  
attn: Adrianna Shea and  
John K. Fischer,  
Deputy Executive Directors  
1416 Ninth Street  
P.O. Box 944209  
Sacramento, CA 94244-2090  
[ashea@fgc.ca.gov](mailto:ashea@fgc.ca.gov)  
[fgc@fgc.ca.gov](mailto:fgc@fgc.ca.gov)

May 26, 2010

Via e-mail

**SUBJECT:** Marine Life Protection Act (MLPA) regulatory compliance with Native American Heritage Statute (California Public Resource Code § 5097.9) – Stewarts Point, Sonoma County and Kashia Pomo traditional seafood harvest

To the California Fish and Game Commission:

I request that the Commission review the compliance of Marine Life Protection Act (MLPA) regulations, currently in effect, with the Native American Heritage Statute, PRC § 5097.9 and its application to traditional (religious) Kashia Pomo harvest of intertidal marine life on private lands at Stewarts Point, Sonoma County, California.

The regulations governing the Stewarts Point MPA prohibit all take of marine life below Mean High Water, and provide no explicit limited exemptions for Native American religious uses. In contrast, other MPAs, such as Sea Lion Cove State Conservation Area, prohibit only recreational and commercial take of marine plants and invertebrates. Other MPAs also provide limited exceptions or exemptions to prohibitions.

The Native American Heritage Statute (NAHS; California Public Resources Code §5097.9; Interference with Native American religion or damage to cemeteries or places of worship, etc., prohibited...) prohibits any public agency from interfering with the free expression of Native American religion:

Peter R. Baye Ph.D.  
Coastal Plant Ecologist  
[baye@earthlink.net](mailto:baye@earthlink.net)  
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**No public agency, and no private party using or occupying public property, or operating on public property, under a public license, permit, grant, lease, or contract made on or after July 1, 1977, shall in any manner whatsoever interfere with the free expression or exercise of Native American religion** as provided in the United States Constitution and the California Constitution...  
[emphasis added in bold]

This section of the NAHS provides only a limited exemption for state-owned or county-owned lands under 100 acres. There is no exemption state agency regulation of private lands.

The Commission's Draft Environmental Impact Report (EIR) for the MLPA referred to the NAHS, citing PRC §5097.9, and explained its meaning on page 7-8 of the DEIR. Thus, there is no question that the Commission is aware and responsible for its obligations under the NAHS.

Elders of the Kashia, and council representatives of the Kashia and other Pomo people, have declared publicly that ceremonial harvest of marine life at traditional (sacred) locations is essential to their religious practice. There should be no question that their claims are valid and directly relevant to the Commission's (MLPA) compliance with the NAHS.

I further recommend that the Commission take the following actions to remedy the apparent conflict between the current MLPA regulations now in effect, and compliance with the NAHS:

1. Direct Commission staff to consult with the state Native American Heritage Commission, consisting of nine members appointed by the Governor with the advice and consent of the Senate, if staff have not done so already.
2. Develop and implement a memorandum of understanding with the Native American Heritage Commission and affected tribal councils to suspend enforcement of MLPA take prohibitions specifically for tribal ceremonial uses.
3. Amend MLPA regulations to provide explicit limited exemptions of marine life take prohibitions for Native American ceremonial (religious) uses.

I believe that limited exemptions for tribal ceremonial seafood gathering on private or public lands in the Stewarts Point MPA would have minimal impacts, and would be compatible with the biological objectives of the MPA. I also believe this would be a reasonable and practical (as well as legally and ethically necessary) precedent for north coast MPAs.

Please contact me if you have any questions. Thank you for your attention to this important matter.

Respectfully submitted,



Peter R. Baye

cc:

Eric Wilder, Stewarts Point Rancheria  
Violette Chappelle, Stewarts Point Rancheria  
Vivian and Jack Wilder, Stewarts Point Rancheria  
Anthony Cohen, Attorney, Santa Rosa  
Independent Coast Observer  
Fort Bragg Advocate News  
MLPA Initiative

Finigan 5/27/08 Nancy Meacham

**RESOLUTION NO. 2008-035**

**A RESOLUTION OF THE DEL NORTE COUNTY BOARD OF SUPERVISORS  
DECLARING THE AREA OF STATE WATERS FROM THE MOUTH OF THE KLAMATH  
RIVER TO THE MOUTH OF SMITH RIVER AN OCEANOGRAPHIC AREA OF  
UNIQUE ECONOMIC IMPORTANCE TO DEL NORTE COUNTY**

WHEREAS, The fishing community of Del Norte County is a historic and important present day contributor to our economic base. Along with dollars generated directly from fishing, our harbor and its fishermen create a destination for sport fishermen and seafood lovers, increasing our counties revenue; and

WHEREAS, Since the reduction in our off shore fleet through federal actions, most of our fishery dollars are now generated from our near shore state waters. Because of our local weather patters, ocean fishermen who work and play in our county must fish close to our port or risk injury; and

WHEREAS, This makes the state waters from the mouth of the Klamath River to the mouth of Smith River of the highest economic importance to our county's fishing community. At this time there are no species of near shore finfish listed as over-fished by the federal or state government. In 1998, the federal government decreased the overall fishing effort, creating conditions that have the area currently rebuilding all near shore species through historically high protection levels; and

WHEREAS, This high level of protection has already cost our county through fishery reductions, and has brought our fishing infrastructure close to the point of collapse. Thus, any farther reductions may collapse our fishing community; and

WHEREAS, Any closures of this area will be fought with the highest degree of effort available to our county. We also ask that any regulatory managers of these waters take our counties reliance of above-mentioned area and maintain our fishermen's access to it. We do this because we understand the importance of our fisheries to our county's economic base; and

NOW, THEREFORE, BE IT RESOLVED, that the Del Norte County Board of Supervisors, hereby declares the area of state waters from the mouth of the Klamath River to the mouth of Smith River an oceanographic area of unique economic importance to Del Norte County.

**PASSED AND ADOPTED** this 27<sup>th</sup> day of May, 2008.

Ayes: Supervisors Hemmingsen, Sullivan, McClure, McNamer, Finigan  
Noes: None

  
\_\_\_\_\_  
David Finigan, Chair  
Del Norte County Board of Supervisors





## CITY OF FORT BRAGG

*Incorporated August 5, 1889*  
416 N. Franklin St.  
Fort Bragg, CA 95437  
Phone: (707) 961-2823  
Fax: (707) 961-2802  
<http://city.fortbragg.com>

May 10, 2010

Honorable Cindy Gustafson, Chair  
MLPA Blue Ribbon Task Force  
California Resources Agency  
1416 Ninth Street, Suite 1311  
Sacramento, CA 95814

**SUBJECT: Increasing the effectiveness of the North Coast Regional Stakeholder Group (NCRSG)**

Dear Ms. Gustafson and BRTF Members:

The North Coast Regional Stakeholder Group (NCRSG) has met three times thus far (February – Eureka; March – Crescent City; April – Fort Bragg), and we understand there will be three more meetings prior to the end of the MLPA process in this Study Region.

According to the *Charge and Draft Ground Rules* (prepared January 2010) for the NCRSG, the group is to strive for broad-based and cross-interest of support of proposals, and to achieve a high level of agreement in developing and advancing alternative proposals for marine protected areas.

As you are aware, prior to the formation of the NCRSG, a broad-based, cross-interest group of representatives met as a Tri-County Working Group (now known as the North Coast Local Interest Group) achieved considerable consensus regarding potential MPA arrays for this region. To our dismay, we hear from a number of RSG members and constituents that the consensus achieved in these meetings is being jeopardized by the newly adopted NCRSG format.

Instead of building on what went on before (e.g., the hundreds of meeting hours in the Tri-County Working Group, the Mendocino Ocean Community Alliance, and individual and group

consultations), in the words of one seasoned meeting attendee and NCRSG member, "it seemed like the working groups went backward." NCRSG members also reported how hard it was to spend additional time trying to "catch up" on what happened in the separate working group sessions, especially when neither session was recorded or reported on comprehensively. The group's division also makes it difficult for the concerns of tribes and tribal communities in the North Coast and North Central Coast Study Regions to be adequately addressed.

NCRSG members, local experts, tribes and tribal community representatives, and the general public are finding it very hard to follow and participate in the process when the NCRSG is divided into two separate groups meeting in separate rooms during the work sessions. Simultaneous observers in both rooms witnessed time being wasted when the same issues were discussed in separate groups without having the relevant experts present (e.g., only 1 seaweed harvester, only 1 geologist, only 1 sea urchin processor, only 1 tribal representative from the southern part of the study region, only 1 game warden, or only 1 State parks representative present in the discussion); which then required the groups to revisit the issues when the experts were present.

We request the MLPA I-Team revisit the NCRSG meeting strategy, to enable a single-group meeting format which is more conducive to building consensus. Temporary break-out groups can assemble, at the request of NCRSG members, if certain issues require fleshing out with a subset of RSG members who then bring the sub-group's consensus to the larger group.

We wish to speak to one other issue mentioned in the *Charge and Draft Ground Rules*: that of information gathering and sharing. The document states that: "MLPA Initiative, DFG, and State Parks staff intend to create multiple opportunities for data sharing and joint fact-finding within the NCRSG. Joint fact-finding refers to a process where: stakeholders are able to provide their knowledge and identify information sources, needs, and questions for analysis; deliberations of scientific advisors are transparent; data are pooled to support better informed recommendations; and a serious effort is made of identify and narrow sources of scientific disagreement."

One of the most deep-seated issues that has been repeatedly been addressed by our constituents, and has yet to be effectively addressed by the MLPA process, involves the disconnect between the formally-recognized (and largely externally-based) Science Advisory Team and the experiential knowledge base held by coastal residents, especially our more senior experts. The most active MOCA members have logged hundreds, thousands, or even tens-of-thousands of person-hours in State waters and along our coastlines. These experts include conservationists and educators who have been actively involved in resource and species conservation issues for decades; multi-generational commercial and recreational fishermen who possess intimate knowledge of our coastline, seaweed harvesters who cooperatively developed sustainable practices (e.g., the Seaweed Stewardship Alliance), and tribal and tribal community representatives whose ancestral ties stretch back for millennia.

Currently the near shore (0-30 m) data – especially for rocky and kelp habitat - used in Marine Map is based on proxies and extrapolations. A number of our NCRSG members have

expressed concern about the continued discrediting of local knowledge as "anecdotal" (versus the prominence given to academic/scientific data) and the lack of effort put into ground-truthing shallow habitats where we have missing data along the coastline. NCRSG members have repeatedly offered their expertise, time, and equipment to collect critical habitat data, and did so again during the most recent meeting.

We request that the SAT work directly with NCRSG members and local constituents to develop a rapid response plan to address key data deficiencies in the North Coast Study Region, and for that data to be made available prior to the completion of Round Two of the MLPA process.

We welcome the opportunity to speak further with you about these issues. We thank you for your consideration of these requests.

Sincerely,

Doug Hammerstrom  
Mayor

Dave Turner  
Vice Mayor

Meg Courtney  
Councilmember

Dan Gjerde  
Councilmember

Jere Melo  
Councilmember

Cc: League of California Cities  
Ukiah Field Rep Kathy Kelley  
Governor Schwarzenegger  
Senator Pat Wiggins  
Assembly Member Wes Chesbro

Skip 5/20/10 NCRSG meeting

Proposed wording to accompany candidate array(s) of North Coast MPAs:

"State Waters of the North Coast Study Region shall not be occupied by seafloor pipelines and/or sub-seabed slant holes to transport hydrocarbon products from offshore sedimentary basins."

Rationale:

Recognizing that:

1) significant hydrocarbon resources might be located in the Point Arena Sedimentary Basin on the continental shelf west of the North Coast's southern bioregion, and

2) the San Andreas Fault transects the shelf between the basin and State Waters, and

3) the repetition period of a 1906-style earthquake, where the fault broke instantaneously 15 to 20 feet over a span from Shelter Cove to San Mateo County, is as short as 140 years;

consideration of long-term protection of marine life precludes the installation across or underlying State Waters of sea-floor pipelines and/or sub-seabed slanted wells that would bring oil and gas on-shore, given that seismic truncation of pipelines and slant holes would cause discharge of hydrocarbon products instantaneously or ultimately directly into State Waters.

(Submitted for consideration of NCRSG, May 19, 2010 by Skip Wollenberg)