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APR 11 2012

**Statement of Daniel Rockey, Sr.**  
**Vice Chairperson**  
**InterTribal Sinkyone Wilderness Council**

COMMISSION MEETING  
AGENDA ITEM 2 A

**Fish and Game Commission Meeting**

**April 11, 2012**

**Eureka, California**

Mr. President and Members of the Commission.

My name is Daniel Rockey, Sr. I am Vice Chairperson of the InterTribal Sinkyone Wilderness Council and Vice Chairperson of the Sherwood Valley Rancheria of Pomo Indians. I am representing the Sinkyone Council and Sherwood Valley Rancheria here today.

The Council has been involved from the beginning in working to find a way to ensure that the MLPA goal of sustainable marine ecosystems can be achieved, while at the same time allowing Tribal traditional non-commercial gathering, harvesting and fishing to continue. We believe the proposed regulation strikes the right balance between these goals, and for that reason, we fully support it.

As we near the adoption of the regulation, we believe it is useful to reflect on the process that got us to this point. This is a story of what went right. From the Council's perspective, the proposed regulation is the result of an extraordinary collaboration among the MLPA Initiative, the Regional Stakeholder Group, the

T-1

Blue Ribbon Task Force, the Science Advisory Team, the Department of Fish and Game, and this Commission. We deeply appreciate the hard work that has been devoted to finding a solution that the Tribes can accept and support.

The proposed regulation signals a new chapter in the developing relationship between North Coast Indian Tribes and the State. California's policy toward Tribes has ranged from extermination to self-determination. The proposed regulation is consistent with the more recent and enlightened Indian policies of the State so far.

T-1

An important key to the success of this effort was that the MLPA Initiative reached out to the Tribes more than two years ago and genuinely listened to Tribal concerns. It was not always an easy process. There were difficult and contentious issues that had to be resolved. Many months of good-faith efforts on both sides produced common ground. The Council has no doubt that the relationships formed during this process will provide many opportunities in the future for cooperative and collaborative efforts between the Tribes, the Department and the Commission.

We look forward to working with you to build on this historic milestone to ensure that North Coast marine resources are protected and that Tribal gathering, harvesting and fishing remain as vitally important to Tribal culture for future generations as it has been for our people since the beginning of time.

## Comment Letter T – Rockey, Daniel

### Response to Comment T-1

Comment noted. The DEIR including a description of the proposed regulations was circulated to solicit public comments regarding the sufficiency of the related environmental analysis. Comments expressing a policy preference are noted and will be considered by the Commission as they contemplate final action.

No changes to the DEIR are necessary.

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COMMISSION MEETING  
AGENDA ITEM 2A**Statement Regarding Proposed Regulation****Hawk Rosales, Executive Director****InterTribal Sinkyone Wilderness Council****Fish and Game Commission Meeting****April 11, 2012****Eureka, California**

Mr. President and Members of the Commission:

My name is Hawk Rosales. I am Executive Director of the InterTribal Sinkyone Wilderness Council, a consortium of ten federally-recognized Tribes in Mendocino and Lake Counties. I am representing the Sinkyone Council here today.

The Sinkyone Council fully supports the proposed regulation, consistent with all elements of the Regional Stakeholder Group's MPA Proposal. From our perspective, the proposed regulation, as it pertains to the Tribes of the southern bioregion, accurately expresses the Tribal take provisions the Tribes, the Department of Fish and Game and the other parties in this process worked together to develop. In our view, no changes to the North Coast's southern bioregion MPAs are necessary before the Tribal take provisions can be adopted. We thank the Commission and the Department for working so closely and diligently with the Tribes to achieve this outstanding result.

The Sinkyone Council and federally recognized Tribes in the southern bioregion (Mattole River to Alder Creek) support Tribal Use Option 1 as outlined in the proposed

U-1

regulation. We thank the Commission and the Department for reaching out to and working with the Tribes. In doing so, you have demonstrated a spirit of genuine collaboration, and in our view a mutually-acceptable outcome has been the result.

By enabling continuation of Tribal gathering, harvesting and fishing in the new SMCA locations, the regulation ensures that the connection between subsistence uses and the vitality of Tribal culture will remain strong. And, by requiring a Tribal identification card when Tribal members exercise rights under the regulation, the sovereign right of the Tribes to determine their own membership is affirmed. Thus, the proposed regulation confirms two of the most important goals of North Coast Tribes: protection of Tribal culture, and Tribal sovereignty. We deeply appreciate that you have worked with us to achieve these important goals.

U-1

We believe that together, the Tribes, the Department and the Commission have come a long way from those first meetings more than two years ago. Our relationship has significantly improved, and we look forward to working with you in implementing the Tribal use regulation. We are committed to the goal of ensuring that the MPA network and Tribal uses will result in sustainable marine resources for generations to come.

We look forward to June 6 when the Commission is scheduled to vote on the proposed regulation. We thank you for your continued commitment to protect the marine environment and Tribal traditional take in the North Coast's new SMCAs.

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COMMISSION MEETING  
AGENDA ITEM 2A

**Statement Regarding Draft EIR**  
**Hawk Rosales, Executive Director**  
**InterTribal Sinkyone Wilderness Council**

**Fish and Game Commission Meeting**

**April 11, 2012**

**Eureka, California**

Mr. President and Members of the Commission:

My name is Hawk Rosales. I am Executive Director of the InterTribal Sinkyone Wilderness Council, a consortium of ten federally-recognized Tribes in Mendocino and Lake Counties. I am representing the Council here today.

We participated in the scoping process for the Draft EIR. The Department and its consultants have discussed with us and responded to our concerns. We have carefully reviewed the Draft EIR document and believe it meets the goal of CEQA to provide the Commission with the information it needs to consider the consequences to the environment of adopting the Preferred Alternative. We will be submitting written comments by the April 16 deadline. Today I wish to make three points.

First, the Draft EIR correctly concludes that the Tribal take provisions of the Preferred Alternative will not cause significant impacts to the environment. This conclusion is supported by the fact that Tribal use of the marine environment has been and continues to be based on stewardship principles embedded in Tribal traditions. The conclusion is also supported by the fact that Tribal gathering, harvesting and fishing,

U-2

which have occurred since the beginning of time, are properly considered as integral to the environmental baseline for purposes of CEQA analysis.

U-2

Second, we concur with the information included in Draft EIR regarding the history and cultural practices of Tribes in the North Coast Region. Much of this information appropriately comes from documents submitted by the Tribes. We do suggest that the document include a brief summary of the sources of information provided by the Tribes. The Tribes' information is from a wide variety of credible sources, such as Tribal elders, Tribal cultural preservation projects, and documentation by anthropologists, historians, archaeologists and linguists.

U-3

Third, the InterTribal Sinkyone Wilderness Council continues to fully support the Preferred Alternative analyzed in the Draft EIR. The other alternatives do not provide the same assurances that Tribal traditional uses will continue uninterrupted and at the same level as before. The analysis of the Enhanced Compliance Alternative should include the point that because of their unique cultural basis, Tribal uses cannot and should not be considered part of recreational uses. Tribal uses must be separately and distinctly identified because of the unique history and legal status of Indian Tribes. This is another reason the Preferred Alternative is superior to the ECA.

U-4

Thank you.



## Comment Letter U – Rosales, Hawk

### Response to Comment U-1

Comment noted. The DEIR including a description of the proposed regulations was circulated to solicit public comments regarding the sufficiency of the related environmental analysis. Comments expressing a policy preference are noted and will be considered by the Commission as they contemplate final action.

No changes to the DEIR are necessary.

### Response to Comment U-2

*See Response to Comment S2-1.*

### Response to Comment U-3

*See Response to Comment S2-2.*

### Response to Comment U-4

*See Response to Comment S2-3.*

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April 4, 2012

APR 11 2012

Dan Richards, President  
California Fish and Game Commission  
P.O. Box 944209  
Sacramento, CA 94244-2090  
(916) 653-5040-Facsimile

COMMISSION MEETING  
AGENDA ITEM 7A-B

*Denise Padgett*

Charlton H. Bonham, Director  
California Department of Fish and Game  
1416 Ninth Street  
12<sup>th</sup> Floor  
Sacramento, CA 95814  
(916) 653-7667-Facsimile

**Re: Marine Life Protection Act, North Coast Region-Request for Correction  
Concerning the Traditional Tribal Gathering within the Proposed Pyramid Point  
and Point Saint George Marine Conservation Areas**

Dear President Richards and Director Bonham:

The purpose of this letter is to call upon you and your staffs to correct the Draft Environmental Impact Report ("DEIR"), the Initial Statement of Reasons for Regulatory Action ("ISOR") and proposed regulations as it relates to the identification of the federally recognized tribes authorized to fish and gather within the proposed State Marine Conservation Areas (SMCAs) of Pyramid Point and Point Saint George. The Tribes we represent intend to submit additional comments prior to the April 16, 2012 deadline, and this letter focuses only on the specific issue referenced above.

According to the Commission staff summary of the June 29, 2011 meeting, the Fish & Game Commission adopted Tribal Option 1, to allow traditional tribal gathering to continue within the proposed SMCAs by "federally recognized tribes who submit a factual record with sufficient documentation confirming current or historical use within specific geographies to DFG within 60 days." (emphasis added) Smith River Rancheria, the Elk Valley Rancheria, the Yurok Tribe and the Trinidad Rancheria were four of the five federally recognized Tribes who submitted a factual record within the 60 day deadline imposed by the Commission.

April 4, 2012  
President Richards  
Director Bonham  
Page 1

The considerable time constraint imposed by the Commission played a significant role in the outcome of those factual records. There was little opportunity for the federally recognized tribes within the region to coordinate with each other with respect to many critical issues.

A critical issue that was left to be addressed at a later date was how we, as Tribes, should address the traditional tribal uses by individuals who are members of a federally recognized tribe, but have been gathering within the aboriginal ancestral territory of a different federally recognized tribe, who has given those individuals permission to gather in those areas. Given the time constraints, this was addressed by asserting within the factual record that gathering under such circumstances are to be governed pursuant to inter-tribal use agreements, to be negotiated between the respective federally recognized tribes, and this was not a matter for the State of California to broach in any manner.

Yet by identifying all federally recognized tribes within the proposed SMCAs of Pyramid Point and Point Saint George who may have individual members who would have the right to gather there pursuant to the proposed regulations, the State of California has imposed upon the Tribes their interpretation of whose ancestral territory those SMCAs lie within. We believe that a careful reading of the factual record would not have warranted the inclusion of other tribes in these proposed SMCAs as contained in the Fish and Game documents.

We have attempted to rectify this problem by providing correspondence to Commission staff over the past four months, copies of which are attached. The ISOR acknowledges receipt of two letters, "calling attention to intertribal agreements. These intertribal agreements are transactions between tribes and tribal communities wishing to take resources within the ancestral territories of other tribes and tribal communities, and need to be negotiated between those tribes. The regulations for the NCSR MPAs will not be changed based upon intertribal agreements but will reflect tribal take in specific MPAs as they were listed in the factual records received by the Commission." (F&GC Initial Statement of Reasons, page 7, emphasis added)

This was never the intent of the Tribes we represent. The maps provided in each of our factual records delineated the areas that are considered to be "Tolowa" and "Yurok" aboriginal ancestral territories. Pyramid Point and Point Saint George are clearly within the aboriginal ancestral territory of the Tolowa Dee-ni'. The correspondence submitted by the Smith River Rancheria, Yurok Tribe and Trinidad Rancheria made it clear that, until such an intergovernmental tribal agreement is negotiated, no tribes other than those of Tolowa descent should be listed in the Pyramid Point and Point Saint George SMCAs.

Rather than consult with the federally recognized tribes in order to correct their interpretation of the factual record, Commission and Department staff have disregarded the efforts of our Tribes who have participated in this process. Since 2009, the federally recognized tribes who reside within the North Coast Study Region have worked tirelessly in our efforts to educate representatives of the Department and Commission as to the importance of the traditional tribal uses that have been ongoing throughout this region since time immemorial.

The DEIR, ISOR and proposed regulations do not accurately reflect the current traditional tribal uses within the proposed SMCA's of Pyramid Point and Point Saint George. On behalf of the Smith River Rancheria, the Elk Valley Rancheria, the Yurok Tribe, the Trinidad Rancheria and Resighini Rancheria, we respectfully request that the DEIR, the ISOR and proposed regulations be corrected to accurately

V-1

April 4, 2012  
President Richards  
Director Bonham  
Page 2



reflect that the proposed SMCA of Pyramid Point is within the aboriginal, ancestral territory of the Smith River Rancheria, and the proposed SMCA of Point Saint George is within the aboriginal, ancestral territory of both the Smith River Rancheria and Elk Valley Rancheria. As a result, the Smith River Rancheria should be the only federally recognized Tribe listed within Pyramid Point SMCA, and both the Smith River Rancheria and Elk Valley Rancheria should be the only federally recognized Tribes listed within Point Saint George SMCA. Further, the DEIR, ISOR and proposed regulations should be corrected to reflect that individuals from another federally recognized tribe shall be permitted to gather within the proposed Pyramid Point SMCA only if they possess some form of documentation issued by the Smith River Rancheria, and with respect to Point Saint George SMCA, documentation issued from either the Smith River Rancheria or Elk Valley Rancheria

Smith River Rancheria, in consultation with Elk Valley Rancheria and the enforcement staff of the Department of Fish & Game, will create documentation that will be issued to only individuals of other federally recognized tribes who have the permission of those respective tribes to gather in the SMCAs within their ancestral territory. .

As always, we stand ready and willing to work with state officials and consult with the appropriate agencies in order for the record to accurately reflect the customary uses within our region.

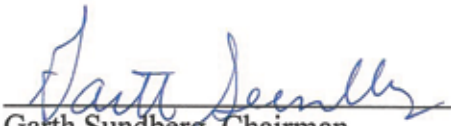
Sincerely,



Kara Brundin Miller, Chairperson  
Smith River Rancheria



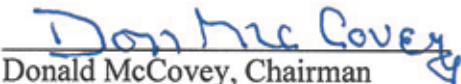
Thomas O'Rourke, Chairman  
Yurok Tribe



Garth Sundberg, Chairman  
Trinidad Rancheria



Dale Miller, Chairman  
Elk Valley Rancheria



Donald McCovey, Chairman  
Resighini Rancheria

Enclosures

cc: Honorable John Laird, Secretary, California Natural Resources Agency  
Sonke Mastrup, Executive Director, California Fish and Game Commission  
Becky Ota, Habitat Conservation Program, Marine Resources, California Department of Fish and Game  
Horizon Water & Environment

April 4, 2012  
President Richards  
Director Bonham  
Page 3



## Cher-Ae Heights Indian Community of the Trinidad Rancheria



November 28, 2011

Russ Crabtree, Tribal Administrator  
Smith River Rancheria  
140 Rowdy Creek Road  
Smith River, CA 95567

Mr. Crabtree,

It has come to my attention that there is some concern regarding the content of the factual record the Trinidad Rancheria submitted to the Department of Fish and Game concerning the proposed Marine Conservation Areas within the North Coast Region, specifically in relation to Point St. George and Pyramid Point.

The Trinidad Rancheria in no way intended to indicate that it asserts any authority or jurisdiction over Tolowa ancestral territory and respectfully apologizes for any misunderstanding pertaining to our factual record. The Trinidad Rancheria included the map, "Fig 4. Proposed Marine Protected Areas (MPAs) within Yurok Ancestral Territory and Traditional Fishing Grounds", to illustrate the Proposed Marine Protected Areas within the North Coast Study Region. We in no way intended this map to illustrate cultural jurisdiction over the area or to imply that Trinidad Rancheria members would have fishing and gathering rights at Pyramid Point and Point St. George without explicit authorization from the Smith River Rancheria.

The authority to regulate gathering at traditional places within Tolowa ancestral territory naturally rests with the Smith River Rancheria. The Trinidad Rancheria does not claim Pyramid Point or Point St. George to fall within Yurok ancestral territory and want to ensure that the Department of Fish and Game Regulations are clear regarding fishing and gather at these locations. If in fact, the situation arises where inter-tribal use agreements are created and negotiated on a government to government basis, between our two sovereign nations, it will be with the absolute acknowledgement of the Smith River Rancheria's right of jurisdiction over its ancestral territory.

V-2

[www.trinidadrancheria.com](http://www.trinidadrancheria.com)

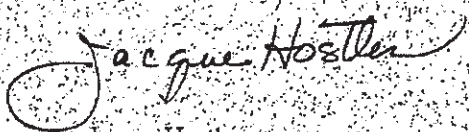
1 Cher-Ae Lane • PO Box 630 • Trinidad, California • 95570 • 707.677.0211 • 707.677.3921 (fax)



The Trinidad Rancheria is confident that we will be able to create inter-tribal agreements to address individual fishing and gathering rights within the proposed MPA's and recognize that fishing and gathering within the ancestral territory of the Tolowa Dee-ni' will only occur with the permission of the Smith River Rancheria. It was never our intention to insinuate otherwise, nor would we attempt to circumvent the sovereign rights of the Smith River Rancheria.

I hope that this clarifies the Trinidad Rancheria's position regarding Pyramid Point and Point St. George. Please accept my sincere apologies for any confusion that has occurred.

Thank You,



Jacque Hostler  
Chief Executive Officer  
Trinidad Rancheria

CC: *Anna Kimber, Attorney*  
*Law Office of Anna Kimber*

*Sonke Mastrup, Executive Director*  
*Fish and Game Commission*

V-2



# YUROK TRIBE

190 Klamath Boulevard • Post Office Box 1027 • Klamath, CA 95548

Phone: 707-482-1350 • Fax: 707-482-1377



February 14, 2012

Russ Crabtree, Tribal Administrator  
Smith River Rancheria  
140 Rowdy Creek Rd  
Smith River, CA 95567-9525

Dear Mr. Crabtree,

It has come to our attention that there is some confusion regarding the Yurok Tribe's intentions in including Pyramid Point and Point St. George State Marine Conservation Areas (SMCAs) in the *Yurok MLPA Marine Plan Factual Record of Use* presented to the Fish and Game Commission September 15, 2011.

The Yurok Tribe in no way intended to assert authority or regulatory jurisdiction over the Pyramid Point or Point St. George State Marine Conservation Areas in our inclusion of information on those sites in our Factual Record. The inclusion of these sites was merely to acknowledge historic Yurok use under traditional, Tolowa authorized inter-Tribal use agreements and allow flexibility for formal Inter-tribal use agreements to be negotiated and authorized by the Smith River Rancheria. The Yurok Tribe respects and defers to the sovereign, federally recognized authority of the Smith River Rancheria to manage use at Pyramid Point and Point St. George State Marine Conservation areas.

As we have discussed throughout the MLPA process it is imperative for us to reach agreement between Tribes regarding traditionally shared or permitted use areas without the State of California's influence or dictation.

The Yurok Tribe appreciates the good working relationship we have with Smith River Rancheria and hopes to continue to work together in order to protect our inalienable sovereign right to traditionally fishing and gathering for generations to come.

Sincerely,

Handwritten signature of Thomas O'Rourke in black ink.  
2-14-12

Thomas O'Rourke  
Chairman Yurok Tribe

CC: Sonke Mastrup, Director Fish and Game Commission

V-3





# Smith River Rancheria

140 Rowdy Creek Rd, Smith River, CA 95567-9525  
Ph: (707) 487-9255 Fax: (707) 487-0930

Kara Brundin Miller  
Chairperson

November 30, 2011

Denise Padgett  
Vice Chairperson

Mr. Sonke Mastrup, Director  
California Fish & Game Commission  
1416 Ninth Street, Suite 1320  
Sacramento, CA 95814  
[SMastrup@fgc.ca.gov](mailto:SMastrup@fgc.ca.gov)

Loren Bommelyn  
Council Secretary

Joel Bravo  
Treasurer

**RE: Addressing State Marine Conservation Areas Pyramid Point and Point St. George**

Marian Lopez  
Council Member

Dear Mr. Mastrup:

Dr. Joseph  
Giovannetti  
Council Member

I am following up on our earlier conversation regarding the concerns of the Smith River Rancheria with respect to the proposed regulations addressing the State Marine Conservation Areas Pyramid Point and Point St. George.

Lenora Hall  
Council Member

In the September 27, 2011 report to the Fish & Game Commission, both the Cher-Ae Heights Indian Community of the Trinidad Rancheria and the Yurok Tribe were identified as being authorized to take marine resources within both Pyramid Point and Point St. George. This report is contrary to the factual record submitted by both Tribes, which included a map, which clearly indicated both these SMCAs fall within the aboriginal and ancestral territory of the Tolowa people.

Russ Crabtree  
Tribal  
Administrator

Although there may be individuals of Yurok descent who have fished and gathered within the ancestral territories of the Tolowa people, those practices have occurred pursuant to the authorization of the Smith River Rancheria, the federally recognized Tribe that has exerted jurisdiction over individuals within these areas since time immemorial. The factual record submitted by both Trinidad Rancheria and the Yurok Tribe made it clear that any individual's right to fish and gather within those MPAs would be conducted pursuant to an "inter-tribal use agreement;" an agreement which has not been negotiated.

Until such an agreement is negotiated between the Smith River Rancheria and any other federally recognized tribe, it would be premature for the proposed regulations to identify any other tribe as being authorized to fish and gather within the Pyramid Point and Point St. George proposed SMCAs.

*Waa-saa-ghitlh-'a~ Wee-ni Naa-ch'aa-ghitlh-ni  
Our Heritage Is Why We Are Strong*

When this issue was brought to the attention of the Cher-Ae Heights Indian Community of the Trinidad Rancheria, they were quick to correct the record by sending a letter to me, a copy of which is enclosed.

Any individual tribal member's fishing and gathering activities within these MPAs can only occur with the permission of the Smith River Rancheria. Until such time as an inter-tribal use agreement can be negotiated between the Smith River Rancheria and other federally recognized tribes, the regulations prepared by the Department of Fish & Game must be corrected to reflect the factual record: that the Pyramid Point and Point St. George SMCAs are not within their ancestral territory of the Cher-Ae Heights Indian Community of the Trinidad Rancheria and the Yurok Tribe, but instead fall within the territory of the Tolowa Dee-ni of the Smith River Rancheria.

Please feel free to call if you have any questions.

Sincerely,



Russ Crabtree  
Tribal Administrator  
Smith River Rancheria

Enclosure

cc: Becky Ota  
California Department of Fish & Game

*Waa-saa-ghitlh-'a~ Wee-ni Naa-ch'aa-ghitlh-ni*  
*Our Heritage Is Why We Are Strong*

## Comment Letter V – Padgett, Denise

### Response to Comment V-1

Comment noted. This comment contains statements not related to the environmental review published in the DEIR, but rather related to proposed MPA regulations and/or regulatory sub-options under consideration by the Commission as part of its current rulemaking process conducted pursuant to the APA. See *Response to Comment A1-6*.

### Response to Comment V-2

Please see *Response to Comment L-7*.

### Response to Comment V-3

Please see *Response to Comment L-6*.

### Response to Comment V-4

Please see *Response to Comment L-8*.

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# Smith River Rancheria

140 Rowdy Creek Rd, Smith River, CA 95567-9525  
Ph: (707) 487-9255 Fax: (707) 487-0930

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Kara Brundin Miller  
Chairperson

March 21, 2012

Denise Padgett  
Vice Chairperson

California Department of Fish and Game  
c/o Horizon Water and Environment  
P.O. Box 2727  
Oakland, CA 94602

Loren Bommelyn  
Council Secretary

Re: MLPA North Coast CEQA Comments

Joel Bravo  
Treasurer

Dear Horizon:

Marian Lopez  
Council Member

The Smith River Rancheria has a long tradition of gathering and harvesting marine resources for cultural and religious purposes and for subsistence. We have always emphasized that Smith River Rancheria inherited and still today possess strong values about the stewardship and conservation of marine resources. The Tolowa Dee-ni' (people) have a strong held belief that they have an ongoing responsibility to be the stewards of their ancestral lands. The use of traditional cultural knowledge empowered tribes to thrive for thousands of years. It is a tribal practice to take only those resources needed in the spirit of respect and reciprocity.

Dr. Joseph  
Giovannetti  
Council Member

Lenora Hall  
Council Member

Pyramid Point and Prince Island proposed boundary is a California Coastal National Monument and the jurisdiction is under the Smith River Rancheria Tribal Government. The question of the waters and marine resources has never been fully vetted throughout this MPA process. Rather it has been discarded as one of those unanswered questions to be avoided and continues to be not addressed. Again, in the draft EIR we do not see adequate reference made to this question.

Russ Crabtree  
Tribal  
Administrator

The Smith River Rancheria's position is they have full jurisdiction over Prince Island and the surrounding seascape. As stated in the Smith River Rancheria Factual Based Record, that we were given 60 days to complete. As stated in the several Tribal Factual Based Records, "there would be areas of geographical overlap identified among Tribes. Any assertion and claims made by each tribe of their respective ancestral and or aboriginal lands and waters is a matter for tribes to resolve amongst themselves. It is not something for the State to attempt to mandate for tribes". Pyramid Point and Point Saint George is a very valid case and point.

The Department of Fish and Game has placed in several public records that other tribes are authorized to practice customary uses in the ancestral lands and seascape of the Smith River Rancheria. The Smith River Rancheria could certainly make this same point in other North Coast MPA's. As we have stated numerous times, it our strong held belief that this is a question to be decided only by tribes, and should not be broached in any manner by the State of California.

*Waa-saa-ghitlh-'a~ Wee-ni Naa-ch'aa-ghitlh-ni*  
*Our Heritage Is Why We Are Strong*

Duplicate of Comment L

The EIR should be revised to reflect this fact along with any other documents that in our view attempts to undermine the rights of tribes over their ancestral lands and water. Until an Inter-Tribal Agreement is negotiated with Smith River Rancheria and any other federally recognized tribes, it would be premature for the proposed regulations to identify any other tribes as being authorized to fish and gather within the Pyramid Point and Point Saint George proposed SMCAs.

It has been and will continue to be, the position of the Smith River Rancheria that the California Fish and Game has no authority to assert regulatory jurisdiction within the Smith River Rancheria boundaries, including the seascape surrounding Pyramid Point and Point Saint George. The Commission should adhere to the policy of avoidance adopted by the North Coast Regional Stakeholders Group and the Blue Ribbon Taskforce and not make these attempts to circumvent the traditional, historical and sovereign authority of the Smith River Rancheria.

Additional, there should be expanded discussion in the EIR on:

- The Federal nexus and compliance with the National Environment Policy Act;
- The positive impacts of co-management between federally recognized tribes and the Department of Fish and Game;
- Tribal Cultural Impacts;
- Ensure adequate Tribal Consultation and the development of a binding MOU.

Furthermore, it should be noted that the entire North Coast is effectively a traditional cultural property for tribes whom have inhabited this region for millennia. This proposed project should ensure that it does not set the stage for impacts to the diverse and culturally important traditional tribal uses. The State of California needs tribal support and local buy-in to sustain successful implementation of the Marine Life Protection Act.

Failure to do will only result in adverse effects on the marine environment, which will be coupled with insufficient enforcement capabilities. Such protection capacity can only be provide by the tribes and the local communities.

Sincerely,



Russ Crabtree

Tribal Administrator

Submitted on behalf of the SRR Tribal Council

Attachments:

SRR, Fish and Game Commission

Cher-Ae Heights Indian Community of the Trinidad Rancheria

Yurok Tribe Correspondence

*Waa-saa-ghitlh-'a~ Wee-ni Naa-ch'aa-ghitlh-ni*  
*Our Heritage Is Why We Are Strong*





# YUROK TRIBE

190 Klamath Boulevard • Post Office Box 1027 • Klamath, CA 95548  
Phone: 707-482-1350 • Fax: 707-482-1377



February 14, 2012

Russ Crabtree, Tribal Administrator  
Smith River Rancheria  
140 Rowdy Creek Rd  
Smith River, CA 95567-9525

Dear Mr. Crabtree,

It has come to our attention that there is some confusion regarding the Yurok Tribe's intentions in including Pyramid Point and Point St. George State Marine Conservation Areas (SMCAs) in the *Yurok MLPA Marine Plan Factual Record of Use* presented to the Fish and Game Commission September 15, 2011.

The Yurok Tribe in no way intended to assert authority or regulatory jurisdiction over the Pyramid Point or Point St. George State Marine Conservation Areas in our inclusion of information on those sites in our Factual Record. The inclusion of these sites was merely to acknowledge historic Yurok use under traditional, Tolowa authorized inter-Tribal use agreements and allow flexibility for formal Inter-tribal use agreements to be negotiated and authorized by the Smith River Rancheria. The Yurok Tribe respects and defers to the sovereign, federally recognized authority of the Smith River Rancheria to manage use at Pyramid Point and Point St. George State Marine Conservation areas.

As we have discussed throughout the MLPA process it is imperative for us to reach agreement between Tribes regarding traditionally shared or permitted use areas without the State of California's influence or dictation.

The Yurok Tribe appreciates the good working relationship we have with Smith River Rancheria and hopes to continue to work together in order to protect our inalienable sovereign right to traditionally fishing and gathering for generations to come.

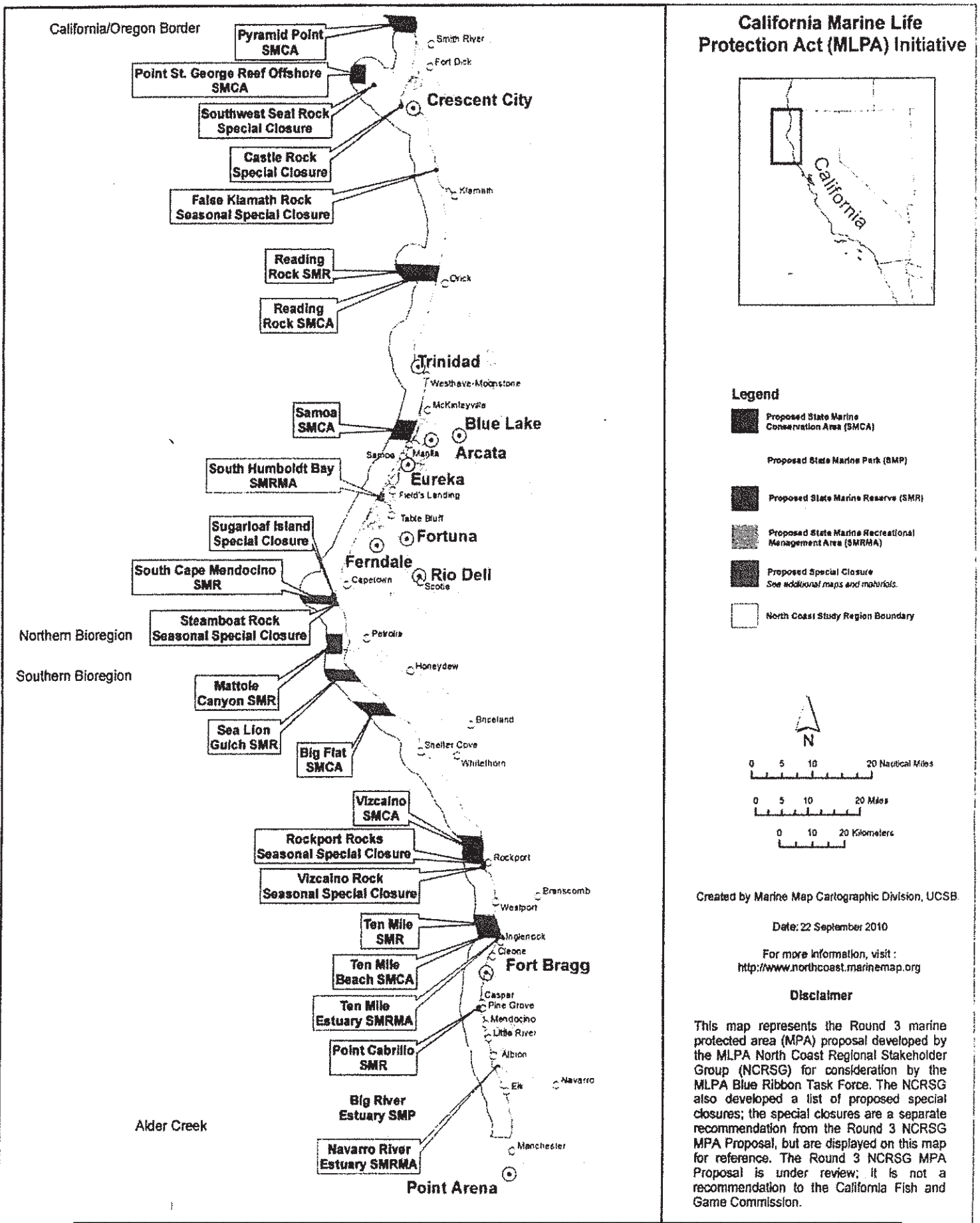
Sincerely,

A handwritten signature in black ink, appearing to read "T. O'Rourke".  
2-14-12

Thomas O'Rourke  
Chairman Yurok Tribe

CC: Sonke Mastrup, Director Fish and Game Commission

Duplicate of Comment L







## Cher-Ae Heights Indian Community of the Trinidad Rancheria



November 28, 2011

Russ Crabtree, Tribal Administrator  
Smith River Rancheria  
140 Rowdy Creek Road  
Smith River, CA 95567

Mr. Crabtree,

It has come to my attention that there is some concern regarding the content of the factual record the Trinidad Rancheria submitted to the Department of Fish and Game concerning the proposed Marine Conservation Areas within the North Coast Region, specifically in relation to Point St. George and Pyramid Point.

The Trinidad Rancheria in no way intended to indicate that it asserts any authority or jurisdiction over Tolowa ancestral territory and respectfully apologizes for any misunderstanding pertaining to our factual record. The Trinidad Rancheria included the map, "Fig 4. Proposed Marine Protected Areas (MPAs) within Yurok Ancestral Territory and Traditional Fishing Grounds", to illustrate the Proposed Marine Protected Areas within the North Coast Study Region. We in no way intended this map to illustrate cultural jurisdiction over the area or to imply that Trinidad Rancheria members would have fishing and gathering rights at Pyramid Point and Point St. George without explicit authorization from the Smith River Rancheria.

The authority to regulate gathering at traditional places within Tolowa ancestral territory naturally rests with the Smith River Rancheria. The Trinidad Rancheria does not claim Pyramid Point or Point St. George to fall within Yurok ancestral territory and want to ensure that the Department of Fish and Game Regulations are clear regarding fishing and gather at these locations. If in fact, the situation arises where inter-tribal use agreements are created and negotiated on a government to government basis, between our two sovereign nations, it will be with the absolute acknowledgement of the Smith River Rancheria's right of jurisdiction over its ancestral territory.

Duplicate of Comment L

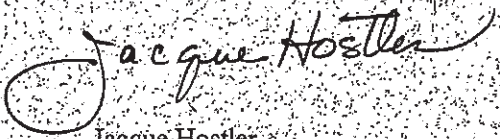
[www.trinidadrancheria.com](http://www.trinidadrancheria.com)

1 Cher-Ae Lane • PO Box 630 • Trinidad, California • 95570 • 707.677.0211 • 707.677.3921 (fax)

The Trinidad Rancheria is confident that we will be able to create inter-tribal agreements to address individual fishing and gathering rights within the proposed MPA's and recognize that fishing and gathering within the ancestral territory of the Tolowa Dee-ni' will only occur with the permission of the Smith River Rancheria. It was never our intention to insinuate otherwise, nor would we attempt to circumvent the sovereign rights of the Smith River Rancheria.

I hope that this clarifies the Trinidad Rancheria's position regarding Pyramid Point and Point St. George. Please accept my sincere apologies for any confusion that has occurred.

Thank You,



Jacque Hostler  
Chief Executive Officer  
Trinidad Rancheria

CC: Anna Kimber, Attorney  
Law Office of Anna Kimber

Sonke Mastrup, Executive Director  
Fish and Game Commission

Duplicate of Comment L



# Smith River Rancheria

140 Rowdy Creek Rd, Smith River, CA 95567-9525  
Ph: (707) 487-9255 Fax: (707) 487-0930

Kara Brundin Miller  
Chairperson

November 30, 2011

Denise Padgette  
Vice Chairperson

Mr. Sonke Mastrup, Director  
California Fish & Game Commission  
1416 Ninth Street, Suite 1320  
Sacramento, CA 95814  
[SMastrup@fgc.ca.gov](mailto:SMastrup@fgc.ca.gov)

Loren Bommelyn  
Council Secretary

Joel Bravo  
Treasurer

**RE: Addressing State Marine Conservation Areas Pyramid Point and Point St. George**

Marian Lopez  
Council Member

Dear Mr. Mastrup:

Dr. Joseph  
Giovannetti  
Council Member

I am following up on our earlier conversation regarding the concerns of the Smith River Rancheria with respect to the proposed regulations addressing the State Marine Conservation Areas Pyramid Point and Point St. George.

Lenora Hall  
Council Member

In the September 27, 2011 report to the Fish & Game Commission, both the Cher-Ae Heights Indian Community of the Trinidad Rancheria and the Yurok Tribe were identified as being authorized to take marine resources within both Pyramid Point and Point St. George. This report is contrary to the factual record submitted by both Tribes, which included a map, which clearly indicated both these SMCAs fall within the aboriginal and ancestral territory of the Tolowa people.

Russ Crabtree  
Tribal  
Administrator

Although there may be individuals of Yurok descent who have fished and gathered within the ancestral territories of the Tolowa people, those practices have occurred pursuant to the authorization of the Smith River Rancheria, the federally recognized Tribe that has exerted jurisdiction over individuals within these areas since time immemorial. The factual record submitted by both Trinidad Rancheria and the Yurok Tribe made it clear that any individual's right to fish and gather within those MPAs would be conducted pursuant to an "inter-tribal use agreement," an agreement which has not been negotiated.

Until such an agreement is negotiated between the Smith River Rancheria and any other federally recognized tribe, it would be premature for the proposed regulations to identify any other tribe as being authorized to fish and gather within the Pyramid Point and Point St. George proposed SMCAs.

*Waa-saa-ghitlh-'a~ Wee-ni Naa-ch'aa-ghitlh-ni  
Our Heritage Is Why We Are Strong*



When this issue was brought to the attention of the Cher-Ae Heights Indian Community of the Trinidad Rancheria, they were quick to correct the record by sending a letter to me, a copy of which is enclosed.

Any individual tribal member's fishing and gathering activities within these MPAs can only occur with the permission of the Smith River Rancheria. Until such time as an inter-tribal use agreement can be negotiated between the Smith River Rancheria and other federally recognized tribes, the regulations prepared by the Department of Fish & Game must be corrected to reflect the factual record: that the Pyramid Point and Point St. George SMCAs are not within their ancestral territory of the Cher-Ae Heights Indian Community of the Trinidad Rancheria and the Yurok Tribe, but instead fall within the territory of the Tolowa Dee-ni of the Smith River Rancheria.

Please feel free to call if you have any questions.

Sincerely,



Russ Crabtree  
Tribal Administrator  
Smith River Rancheria

Enclosure

cc: Becky Ota  
California Department of Fish & Game

Duplicate of Comment L

*Waa-saa-ghitlh-'a~ Wee-ni Naa-ch'aa-ghitlh-ni  
Our Heritage Is Why We Are Strong*

## Comment Letter W – Crabtree, Russ

This letter was submitted to the Commission on behalf of the Smith River Rancheria Tribal Council by Russ Crabtree, Tribal Administrator. It is a duplicate of another submittal. The original submittal from Russ Crabtree is included as Comment Letter L.

See responses to comments in Comment Letter L.