

**California MLPA Blue Ribbon Task Force**  
**Guidance Motions Related to Tribes and Tribal Communities**  
*March 1, 2010 (revised by staff March 12, 2010)*

At its March 1, 2010 meeting, the California Marine Life Protection Act (MLPA) Blue Ribbon Task Force (BRTF) received from the California Department of Fish and Game and the California Department of Parks and Recreation a briefing on the state decision-making context for tribal uses of marine resources and specifically in marine protected areas (MPAs). The BRTF also received from staff an update regarding the February 25, 2010 MLPA North Coast Regional Stakeholder Group (NCRSG) meeting, during which a recommendation was developed by the NCRSG regarding the treatment of tribal uses under the MLPA.

The BRTF took three actions with regard to this subject:

**1. Develop a Scope of Work for Potential Legal Analysis**

Staff will gather together into a single document a list of questions that might be addressed in a potential legal analysis. BRTF member Meg Caldwell shared several questions during the meeting, BRTF member Roberta Cordero has developed a list of questions based on her MLPA experiences, and other task force members who have any potential questions will forward them to staff as soon as possible. BRTF members also committed to sharing with one another examples of co-management agreements and state memorandums of understanding.

At its next meeting, the BRTF will discuss what could be the right mix of human and financial resources needed to potentially pursue such a legal analysis; the mix might include funds or expertise from the MLPA Initiative, state agencies, federal agencies, and tribes and tribal communities.

The BRTF will convene by conference call/webinar for a publically-noticed meeting in the next few weeks (after the meeting, March 18 was selected); a specific request was made for Deputy Director Sonke Mastrup of the California Department of Fish and Game to participate in the meeting.

**2. Preliminary Guidance to the NCRSG**

The BRTF received a recommendation from the NCRSG about the treatment of tribal uses under the MLPA (see attached), including a request for more guidance on how to incorporate tribal uses into MPA designs. The BRTF began drafting a motion that provides preliminary guidance for developing MPA proposals, responds to the NCRSG recommendation, and indicates a desire to work with the California tribes and tribal communities:

- a. In developing MPA proposals, the NCRSG should strive to accommodate non-commercial, traditional subsistence, religious, cultural and other customary tribal gathering uses, by identifying such gathering uses as permitted in MPAs, understanding that some traditional gathering uses may render an MPA as requiring a different classification (state marine conservation area or state marine park) and potentially a level of protection that is different from a state marine reserve. This guidance is consistent with previous BRTF guidance and is supplemental to, but does not in any way replace, prior guidance.

- b. NCRSG members should work with one another and members of California tribes and tribal communities to understand traditional tribal gathering areas, including high-priority areas, and use this information in developing MPA proposals. It is important that California tribes and tribal communities communicate and share information within the MPA planning process to help ensure that traditional tribal gathering areas are affected to the least extent possible by proposed MPAs. Note that this is not intended to result in any prioritization of areas between tribes or tribal communities – it is intended to help inform the MPA array development process to honor and affirm traditional gathering areas, regardless of tribal affiliation.
- c. NCRSG members should recommend potential co-management opportunities or approaches that can be recommended to the State of California.
- d. NCRSG members should recommend mechanisms for characterizing traditional gathering uses in a respectful manner, so that MLPA Initiative staff and the BRTF can understand how best to classify any MPA that may be coexistent with traditional tribal gathering areas.
- e. MLPA Initiative staff will work with two BRTF members, policy officials from the California Department of Fish and Game and California Natural Resources Agency, the U.S. Bureau of Indian Affairs and other appropriate federal agencies, and California tribes and tribal communities (at a minimum the NCRSG tribal representatives) to potentially establish a tribal advisory group for the purposes of developing regional process and policy recommendations for the BRTF, with a view toward ultimately developing recommendations for amendments to the MLPA master plan. (Note: A meeting currently being scheduled for April 9 or 10 may serve as the foundation for this kind of group; MLPA Initiative staff will also investigate what resources might be available to support such a group.)

This motion is to be further refined and potentially adopted at the next BRTF meeting on March 18 (see below). MLPA Initiative staff will work to make operational this guidance for the MLPA Master Plan Science Advisory Team and NCRSG.

### **3. Schedule for Next BRTF Meeting**

Since the next BRTF meeting was not scheduled until May 2010 and the BRTF members determined that this subject requires additional discussion prior to May, staff were directed to identify a potential BRTF meeting date, preferably before the next NCRSG meeting. (Note: March 18, 2010 at 2:00 p.m. was ultimately selected as the next BRTF meeting date and time.)

### **Additional Information Sharing Opportunities**

In order to continue creating opportunities for stakeholders, including California tribes and tribal communities, to share information with the BRTF and one another, the BRTF has requested that an agenda item focused on discussing information available within the north coast regional profile be added to the May 3-4 BRTF meeting agenda. During this agenda item, the task force will hear highlights regarding information available in the regional profile, including an additional appendix focused on California tribes and tribal communities. Stakeholders will also have the opportunity to highlight additional information to be considered in MPA planning.