California MLPA Blue Ribbon Task Force Motion Regarding Traditional, Non-Commercial Tribal Uses of Marine Resources in the MLPA North Coast Study Region Adopted May 17, 2010

At the Marine Life Protection Act (MLPA) Blue Ribbon Task Force (BRTF) meeting held on May 4, 2010, and then again on May 17, the BRTF discussed the decision-making context for tribal uses of marine resources in marine protected areas. The BRTF adopted the language in this document with the understanding that the guidance is complementary to non-tribal related guidance already provided by the BRTF and that additional, further guidance may be provided as the north coast marine protected area planning process moves forward.

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California's tribes and tribal communities pre-date California's statehood, and make an ongoing and significant contribution to the culture and history of California's coast. In respect of California's tribes and tribal communities living in concert with the natural environment for thousands of years, it is not the intent of the MLPA Blue Ribbon Task Force (BRTF) to have the Marine Life Protection Act (MLPA) adversely affect traditional, non-commercial, tribal gathering, subsistence, harvesting, ceremonial and stewardship activities in the MLPA North Coast Study Region. It is the BRTF's goal that through ongoing consultation with tribes and tribal communities, the state will be able to develop a marine protected area proposal for the north coast that will closely conform to science guidelines.

Hence, the BRTF sees value in establishing tribal resource protection areas that acknolwedge and allow traditional, non-commercial, tribal gathering, subsistence, harvesting, ceremonial and stewardship activities while ensuring compliance with science guidelines. According to the California Secretary for Natural Resources, the state lacks legal authority to allow exclusive tribal gathering activities in MPAs. Unless and until legal authority can be established for exclusive tribal gathering activities in marine protected areas (MPAs), it is understood that non-commercial gathering activities specifically authorized in tribal resource protection areas will be allowable for all recreational users.

In consideration of California Secretary for Natural Resources Snow's letter of May 3, 2010 to Ms. Kimber, and in recognition of the BRTF charge from the secretary to exercise its best judgment in "[resolving] policy disputes and provide direction in the face of uncertainty," and understanding the MLPA North Coast Regional Stakeholder Group (NCRSG) request for guidance on how best to proceed regarding traditional, non-commercial tribal uses of marine resources, the BRTF provides the following additional guidance for Round 2 of the north coast marine protected area planning process:

The BRTF requests that the NCRSG try, where possible and as information allows, to avoid areas where traditional, non-commercial, tribal gathering, subsistence, harvesting, ceremonial and stewardship activities occur and to conform as closely as possible to the MLPA Master Plan Science Advisory Team (SAT) guidelines.

The BRTF is aware, however, that it may not be possible to altogether avoid areas where traditional, non- commercial, tribal gathering, subsistence, harvesting, ceremonial and stewardship activities occur when designing MPAs in the north coast study region. As a matter

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of policy, the BRTF concludes that MPAs that are otherwise intended by the NCRSG as state marine reserves, but for continued traditional, non-commercial, tribal gathering, subsistence, harvesting, ceremonial and stewardship activities, should be classified as state marine parks (SMPs); where an SMP is not feasible or advisable, the area should be classified as a state marine conservation area (SMCA). To maximize conformance with SAT guidelines, the NCRSG is urged to couple offshore SMRs and/or MPAs with high or moderate high levels of protection with nearshore SMPs (or SMCAs, as appropriate) designed for tribal resource protection.

As the MLPA north coast MPA planning process moves forward, the California Department of Fish and Game, in collaboration with the NCRSG, SAT, and MLPA Initiative staff, should consult with any affected tribes and tribal communities to help ensure the highest possible level of protection for specific SMPs or SMCAs designed for tribal resource protection, consistent with tribal values. Such consultation should include, but not be limited to, consideration of various co-management opportunities.

The BRTF recognizes that the SAT has not been provided with sufficient information to determine a level of protection for traditional, non-commercial, tribal gathering, subsistence, harvesting, ceremonial and stewardship activities. Thus, for the purposes of SAT evaluations, MPAs designed for tribal resource protection should not be assigned a level of protection, but rather be categorized as "undetermined" until specific species and gear types can be identified. In the interest of maximizing the usefulness of SAT feedback, these MPAs should be included in Round 2 evaluations using the best information and best analysis tools readily available to the SAT.