

California Marine Life Protection Act Initiative

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To: MLPA Blue Ribbon Task Force
From: MLPA Initiative Staff
Subject: Summary of Key Guidance Provided in Previous Marine Life Protection Act Study Regions for the Development of Marine Protected Area Proposals
Date: November 18, 2009

The purpose of this memorandum is to summarize key guidance provided by the Marine Life Protection Act (MLPA) Blue Ribbon Task Force (BRTF) in previous MLPA study regions.

The MLPA Initiative began along the central California coast in a pilot project, from Pigeon Point in San Mateo County to Point Conception in Santa Barbara County. Upon successful completion of a recommendation for marine protected areas (MPAs) along the central coast, the next project undertaken was in the north central coast (Alder Creek near Point Arena in Mendocino County to Pigeon Point) and, ultimately, the south coast (Point Conception to the California/Mexico border in San Diego County). In each of these three study regions the BRTF provided specific guidance regarding the development of MPA proposals; attached to this memo are various staff memos with the guidance, key points of which are summarized below.

Cross-Interest Support

Cross-interest Support for MPA Proposals is Very Important and Will be Given Great Weight; Strive for Convergence Where Possible

Regional stakeholder group members in each study region were charged with creating cross-interest MPA proposals that focused on "middle-ground" options. Cross-interest support was defined as support across a broad range of consumptive and non-consumptive interests. Stakeholders were advised that MPA proposals that did not reflect cross-interest support will carry less weight in the MLPA Initiative process and may not carry forward to the final round of MPA proposal development.

Scientific Evaluations

Place Great Weight on the Results of the MLPA Master Plan Science Advisory Team Evaluations of Marine Protected Area Proposals

Regional stakeholder group members and authors of draft external MPA proposals were advised to incorporate feedback from the SAT, especially results from evaluations of habitat representation, habitat replication, MPA size, and MPA spacing. Results of bioeconomic modeling in the south coast study region helped address contributions of MPAs proposed at offshore islands, where the BRTF agreed that the science spacing guidelines did not apply under the advice of the MLPA Master Plan Science Advisory Team (SAT). The task force indicated that the bioeconomic models represented a useful tool that should be utilized in conjunction with, but not in place of, the other SAT analyses.

Place strong emphasis on MPAs that meet the SAT guidelines for "preferred" size and spacing. Proposals should include MPAs with "very high" or "high" levels of protection. Marine reserves are the "backbone" of any proposed network. Proposals may include MPAs with "moderate-high" levels of

protection; the BRTF will seriously consider such proposals and will use all SAT-evaluated levels of protection when considering MPA alternative proposals and their socio-economic consequences.

Water Quality

Water Quality Considerations are Secondary to the Ecological Function Goals and Guidelines of the MLPA and Master Plan

The BRTF indicated that water quality was important to consider in MPA planning, and that the SAT was providing excellent information regarding both opportunities for siting MPAs, such as in areas of special biological significance, and areas to be avoided. Stakeholders were asked to incorporate this information into MPA planning, but also to note that water quality considerations are secondary to the ecological function goals and guidelines of the Marine Life Protection Act and the *California Marine Life Protection Act Master Plan for Marine Protected Areas*.

California Department of Fish and Game Feasibility Criteria

Give Strong Consideration to the California Department of Fish and Game Feasibility Criteria and Provide Specific Rationale for Deviations

Stakeholders were strongly encouraged to consider the California Department of Fish and Game (DFG) feasibility criteria and address feedback from DFG in developing their MPA proposals. The BRTF indicated that MPA proposals that did not meet DFG feasibility criteria should include a specific rationale as to why they did not. Stakeholders were asked to pay particular attention to enforceability of MPAs, including clear and simple boundaries and regulations. Stakeholders were asked to avoid proposing MPAs that provide minimal amounts of protection and provide clear rationale where MPAs of this nature were included in their MPA proposals.

Stakeholders should recognize that the development of fisheries regulations is outside the purview of the MLPA Initiative and that the DFG guideline to avoid proposing fisheries regulations within the MLPA process should be followed.

Funding

Long-Term Funding for Implementation and Management is Important, but Does not Affect the MPA Planning Process

The BRTF recognized that the MLPA Initiative is focused on the planning phase of implementing the MLPA. The BRTF provided feedback to the State of California in the first phase of the MLPA Initiative regarding options for long-term funding and recommendations for which options to pursue. The BRTF indicated its support for identifying funding for long-term implementation and management, but also that issues of long-term funding would not affect the MPA planning process.

Military Use Areas and Pending Military Closures

Military Use Areas May be Proposed as MPAs, Taking into Consideration that Some Military Activities May be Inconsistent with MPA Goals

For the MLPA South Coast Study Region, where military use areas are more prevalent than in other MLPA study regions, the BRTF provided very specific advice about individual military use areas and how they were to be treated in MPA proposals. More generally, the task force also said:

- Stakeholders and authors of external proposals were given the flexibility to propose MPAs within military use areas.
- Stakeholders and authors of external proposals were asked to work with military representatives to address military uses and interests.
- The BRTF directed stakeholders and authors of external proposals to consider available information on where different kinds of military uses occur that may be inconsistent with MPA goals
- In the case of pending military closures, the BRTF indicated that those areas could be included in an MPA proposal as an "undesignated" MPA.
- For evaluation purposes, if a pending military closure(s) was included in an MPA proposal, regardless of whether it was identified as an undesignated MPA or a state MPA, it was evaluated as part of the proposal using a "very high" level of protection.

Use of Best Readily Available Data

Utilize the Best Readily Available Science and Information as Directed by the MLPA

Stakeholders and members of the SAT should utilize the best readily available information in developing MPA proposals. The BRTF recognized that fine scale substrate data was not always available in all areas, but noted that the MLPA requires the use of best readily-available science and information. The BRTF also recognized that the SAT developed methods for addressing habitat data gaps and clarified those methods for stakeholders and authors of external proposals. The BRTF found the treatment of data gaps adequate and directed stakeholders to move forward with readily available data.

Special Closures

Special Closures May be Useful in Specific Cases, but Should be Used Sparingly and Selectively

The BRTF directed that the main focus of the regional stakeholder is to develop alternative MPA proposals. In some instances special closures may offer geographically-specific protection from threats, such as disturbance, that are not necessarily addressed by MPAs. The BRTF indicated that the regional stakeholder group may elect to include recommendations for special closures so long as it did not detract from completing the primary task of developing alternative MPA proposals. The BRTF stated that special closures should be used sparingly and selectively.

California Marine Life Protection Act Initiative Blue Ribbon Task Force

Don Benninghoven, *Chair*
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Ken Wiseman, *Executive Director*

To: MLPA South Coast Regional Stakeholder Group and Authors of Draft External MPA Proposals

From: MLPA Blue Ribbon Task Force

Subject: Summary of Key Guidance for Developing Round 2 Draft MPA Proposals

Date: April 24, 2009

On April 16, 2009 the MLPA Blue Ribbon Task Force (BRTF) met and discussed guidance to the MLPA South Coast Regional Stakeholder Group (SCRSG) and authors of draft external MPA proposals regarding the development of Round 2 draft MPA proposals. This memorandum conveys key aspects of the BRTF's guidance. The BRTF directs MLPA Initiative staff to make operational this guidance in the process design for developing draft MPA proposals in Round 2 of the MLPA South Coast Project.

Reiterate and Update Guidance Provided in the MLPA North Central Coast Study Region

Stakeholders should strongly consider the guidance given to the MLPA North Central Coast Regional Stakeholder Group in a memorandum dated February 20, 2008 (attached), and first provided to the SCRSG on January 13, 2009. The BRTF noted two changes to this guidance for the MLPA South Coast Study Region. First, in Round 2, no more than five to six draft MPA proposals should be forwarded to the BRTF for consideration, ultimately leading to no more than three proposals in Round 3. Second, previous guidance from the north central coast regarding salmon fishing does not apply in the south coast. Revised guidance for the south coast study region therefore includes:

1. Place great weight on the results of the MLPA Master Plan Science Advisory Team (SAT) evaluations of marine protected area (MPA) proposals.
2. Place strong emphasis on MPAs that meet the SAT guidelines for "preferred" size and spacing (note that the SAT spacing guidelines do not apply to the offshore islands; see "Scientific Evaluations" below). Proposals should include MPAs with "very high" or "high" levels of protection. Marine reserves are the "backbone" of any proposed network. Proposals may include MPAs with "moderate-high" levels of protection; the BRTF will seriously consider such proposals and will use all SAT-evaluated levels of protection when considering MPA alternative proposals and their socio-economic consequences.
3. Cross-interest support for the final MPA proposals is very important and will be given great weight.
4. Forward no more than five to six alternative MPA proposals in Round 2 and strive for convergence where possible.

5. Give strong consideration to the California Department of Fish and Game (DFG) feasibility criteria. Provide specific rationale for any deviations from the recommendations in the feasibility analysis conducted by DFG.
6. The main focus of the SCRSG is in developing alternative MPA proposals. In some instances special closures may offer geographically-specific protection from threats, such as disturbance, that are not necessarily addressed by MPAs. The SCRSG may elect to include recommendations for special closures so long as this does not detract from completing the primary task of developing alternative MPA proposals. Special closures should be used sparingly and selectively.

Cross-Interest Support

SCRSG members are charged with creating cross-interest MPA proposals in each work group that focus on “middle-ground” options that assumes the pursuit of “cross-interest” support within the work groups. Cross-interest support constitutes support across a broad range of consumptive and non-consumptive interests.

The BRTF recognizes that some Round 1 draft arrays developed by the SCRSG have been influenced by positional bargaining and, as a result, many MPA ideas have been replicated in multiple draft arrays and proposals: this replication results in multiple, similar proposals that do not reflect cross-interest support. Proposals that do not reflect cross-interest support will carry less weight in the MLPA Initiative process and may not carry forward to the final round of MPA proposal development.

For draft MPA arrays developed by the SCRSG, the BRTF notes that Round 1 was focused on exploring a range of ideas in order to maximize the gathering of information and feedback. However, in developing draft MPA proposals in Round 2, the gems work groups should focus on finding middle-ground solutions.

Specific to external MPA proposals, the BRTF notes several observations that should be considered in Round 2:

- Draft External MPA Proposal A and Draft External Proposal B appear to be similar in geographic overlap and may represent an opportunity for convergence;
- Draft External MPA Proposal B does not meet DFG feasibility guidelines in several locations;
- Draft External MPA Proposal C has significant socioeconomic impacts in comparison to other proposals.

Scientific Evaluations

The SCRSG and authors of draft external MPA proposals should incorporate feedback from the SAT, especially results from evaluations of habitat representation, habitat replication, MPA size, and MPA spacing. Results of the bioeconomic modeling help to address contributions of MPAs proposed at the offshore islands, where the BRTF has agreed that the spacing guidelines do not apply. In this way, the bioeconomic models represent a useful tool and should be utilized in conjunction with, but not in place of, the other SAT analyses.

Water Quality

Water quality is important to consider in MPA planning, and the SAT is providing excellent information regarding both opportunities for siting MPAs, such as in areas of special biological significance, and areas to be avoided. Stakeholders should incorporate this information into MPA planning, but note that water quality considerations are secondary to the ecological function goals and guidelines of the Marine

Life Protection Act and the *California Marine Life Protection Act Master Plan for Marine Protected Areas*.

California Department of Fish and Game Feasibility Criteria

Stakeholders should strongly consider the DFG feasibility criteria and address feedback from DFG in developing Round 2 proposals. Proposals that do not meet DFG feasibility criteria should include a specific rationale as to why they do not. Stakeholders should pay particular attention to enforceability of MPAs, including clear and simple boundaries and regulations. In addition, stakeholders should provide clear goals and objectives for all proposed MPAs. Stakeholders should avoid proposing MPAs that provide minimal amounts of protection and provide clear rationale where MPAs of this nature are included in Round 2 draft proposals.

Stakeholders should recognize that the development of fisheries regulations is outside the purview of the MLPA Initiative and that the DFG guideline to avoid proposing fisheries regulations within the MLPA process should be followed.

Funding

The MLPA Initiative is focused on the planning phase of implementing the MLPA. The BRTF already provided feedback to the State of California in the first phase of the MLPA Initiative regarding options for long-term funding and recommendations for which options to pursue. The BRTF is very much in support of identifying funding for long-term implementation and management, but issues of long-term funding do not affect the current MPA planning process.

Military Use Areas and Pending Military Closures

For Round 2 of MPA proposal development, the BRTF approved the following MOTION (as stated on April 16, 2009 with staff-suggested clarifying language):

- In military use areas at San Clemente and San Nicolas islands, MLPA South Coast Regional Stakeholder Group (SCRSG) members and [authors of] external proposals may include pending military closures or propose new [marine protected areas] (MPAs) in Round 2
- SCRSG members and [authors of] external proposals should continue to work with military representatives to address military uses and interests
- Science advisory team should evaluate MPAs in military use areas and pending military closures using the best analysis tools readily available
- Reiterate Round 1 guidance for the mainland; allowing new MPAs to be proposed within military use areas
- Direct stakeholders and [authors of] external proposals to consider available information on where different kinds of military uses occur that may be inconsistent with MPA goals
- In at least one of the five to six Round 2 proposals, the BRTF would like to see the pending military closures [included] and no additional MPAs at San Clemente and San Nicolas islands. If one of the Round 2 proposals does not include just the military closures at the islands, then the BRTF requests that one of the proposals be evaluated twice, one time with just the pending military closures at the islands and one time as originally proposed. [Staff note: The intent of this language is to ensure that at least one Round 2 proposal includes the pending military closures and at least one proposal does not in order to better understand the impact of the pending military closures. Staff will ensure that the evaluation of Round 2 proposals includes both scenarios.]

Additional staff clarification of the above motion:

- Identification of pending military closure MPAs: SCRSG work groups should specifically articulate whether the pending military closures are or are not included in their draft proposals. Pending military closures may be included in an MPA proposal as an "undesigned" MPA. Alternatively, stakeholders may propose a new MPA in the same location as the pending military closure, or in a different geographic location around the military islands.
- For evaluation purposes, the same guidance applies as for Round 1: If a work group chooses to include a pending military closure(s) in its draft MPA proposal, regardless of whether it is identified as an undesigned MPA or a state MPA, it will be evaluated as part of the proposal using a "very high" level of protection. This evaluation approach is a "placeholder" approach pending SAT guidance regarding the expected conservation benefits of military closures or proposed MPAs subject to military activities. For example: If a work group does not include any proposed draft MPAs in geographic areas that are the same, or overlap with, a pending military closure, the pending military closures will not be included in the work group's draft MPA array, will not be evaluated, and will not contribute towards meeting the goals and objectives of the MLPA. Conversely, if a work group does include a draft MPA (either undesigned or state MPA) in a geographic area that is the same, or overlaps with, a pending military closure, the draft MPA will be included in the work group's draft MPA array and will be evaluated using a "very high" level of protection to determine how it is contributing toward the goals and objectives of the MLPA.

BRTF discussion on military use areas and pending military closures will continue in mid-May, when new information is expected from the SAT. The SAT is comparing the ecological values of the pending military closures with other proposed MPA designs at different locations around San Clemente and San Nicolas Islands. The SAT is also analyzing how military activities may affect the ability of the pending military closures or proposed MPAs to meet the ecological goals of the Marine Life Protection Act. If the SAT is unable to provide specific or detailed guidance regarding the likely conservation benefits of military closures or proposed MPAs subject to military activities at its May meeting, the BRTF is likely to make a policy determination on these issues at its May meeting based on the available information.

Use of Best Readily Available Substrate Data

Stakeholders and members of the SAT should utilize the best readily available information in developing MPA proposals in the MLPA South Coast Study Region. The BRTF recognizes that fine scale substrate data are not available for the study region in nearshore areas and in some locations around offshore islands, but notes that the data available for MPA planning are comparable, and in some cases superior to, datasets readily available in the MLPA central coast and north central coast study regions. The BRTF recognizes that the SAT has developed methods for addressing these data gaps consistent with previous study regions and that MLPA Initiative staff is developing a strategy for both clarifying those methods for stakeholders and incorporating additional information as appropriate. The BRTF finds the treatment of data gaps adequate and directs the SCRSG to move forward with the readily available data.

California Marine Life Protection Act Initiative
Summary of MLPA Blue Ribbon Task Force Guidance to the
North Central Coast Regional Stakeholder Group
February 14, 2008 BRTF meeting
Prepared February 20, 2008

At its February 14 meeting, the MLPA Blue Ribbon Task Force (BRTF) provided the following guidance to the MLPA North Central Coast Regional Stakeholder Group (NCCRSR) and the MLPA Initiative team of staff and contractors (I-Team) as they work to complete the MLPA Initiative process for the North Central Coast Study Region.

1. NCCRSR members should place great weight on the results of the MLPA Master Plan Science Advisory Team (SAT) evaluations of marine protected area (MPA) proposals.
2. In preparing the final round of proposals, NCCRSR members should place strong emphasis on MPAs that meet the SAT guidelines for "preferred" size and spacing. Proposals should include MPAs with "very high" or "high" levels of protection. The BRTF considers marine reserves to be the "backbone" of any proposed network. The BRTF recognizes that proposals may include MPAs with "moderate-high" levels of protection. The BRTF will seriously consider such proposals and will use all SAT-evaluated levels of protection when considering MPA alternative proposals and their socio-economic consequences, as outlined above.
3. The BRTF deliberated on the levels of protection assigned by the SAT to MPAs that allow salmon trolling. Specifically, the BRTF agreed that MPAs that allow salmon trolling at depths less than 50 meters should be characterized as providing a "moderate-high" level of protection for the North Central Coast.

In reaching its decision, the BRTF noted that in the SAT evaluation for the MLPA Central Coast Study Region, MPAs allowing salmon trolling in less than 50 meters water depth were assigned a "moderate" level of protection. The BRTF also recognized that for the MLPA North Central Coast Study Region, the SAT had reached a split vote on the issue of salmon trolling at depths less than 50 meters, and that the SAT acknowledged that resolving this issue would likely require policy direction from the BRTF.

4. The BRTF stressed that cross-interest support for the final MPA proposals is very important and will be given great weight.
5. The BRTF asked that in March the NCCRSR forward no more than three alternative MPA proposals, where there are currently five draft MPA proposals. BRTF members applauded the cross-interest work in developing the draft MPA proposals and asked that the NCCRSR continue to strive for convergence.
6. The BRTF asked that RSG members give strong consideration to the Department of Fish and Game Feasibility guidelines. In the final MPA proposals, the NCCRSR should provide specific rationale for any deviations from the recommendations in the feasibility analysis conducted by the California Department of Fish and Game.

7. The BRTF considered the merits of including recommendations for special closures, for marine bird and marine mammal protection, in the final MPA proposals. The BRTF reaffirmed that the main focus of the NCCRSG in developing final proposals should be on MPAs rather than special closures, as the primary charge of this group is to develop alternative MPA proposals for the north central coast. The BRTF also recognized that in some instances special closures may offer geographically-specific protection from threats such as disturbance that are not necessarily addressed by MPAs.
 - a. The NCCRSG may elect to include recommendations for special closures in their final proposals so long as this does not detract from completing the primary task of developing alternative MPA proposals.
 - b. Special closures should be used sparingly and selectively.
 - c. Refinement of special closures options may require an additional meeting of the NCCRSG Special Closures Work Group.

California Marine Life Protection Act Initiative
Summary of MLPA Blue Ribbon Task Force Policy Guidance to the
Central Coast and North Central Coast Regional Stakeholder Groups
December 4, 2008

The Marine Life Protection Act (MLPA) Blue Ribbon Task Force provided policy guidance to previous regional stakeholder groups (RSGs) on several topics. At its November 4, 2008 meeting, the task force requested that MLPA Initiative staff summarize this previous guidance for use by the RSG in the current and future study regions.

Socioeconomic Considerations in Developing Proposals for a Network of Marine Protected Areas: January 13, 2006 Memo from MLPA Initiative Staff to the MLPA Blue Ribbon Task Force

During the MLPA Central Coast Project, MLPA Initiative staff developed a memo regarding socioeconomic considerations of the MLPA in developing proposals for a network of marine protected areas; the task force approved the approach outlined in the memo during its January 31-February 1, 2006 meeting.

The MLPA gives precedence to ecosystem integrity and habitat protection goals in designing a network of MPAs. Consideration of socioeconomic factors in the act includes (1) the goal of attention to species of economic value; (2) participation by interested parties and local communities; (3) development of a siting plan for protected areas that considers economic information to the extent possible while achieving goals of the act; and, (4) decision-making based on the best readily available science with no suggestion of deferring action for additional data collection or analyses.

While the California Environmental Quality Act is not triggered by the adoption of a program based on the master plan for marine protected areas, promulgation of implementing regulations by the California Fish and Game Commission would require an economic analysis.

To date, the MLPA Initiative has complied with and gone beyond the requirements of the MLPA to consider socioeconomic factors by incorporating (1) the knowledge of its RSG members, (2) analyses of existing socioeconomic data, (3) information from interviews with consumptive and non-consumptive users, (4) recreational and commercial fishing data collected by a contractor to the MLPA Initiative, and (5) information gathered from public participation, including during the development of regional profiles.

Qualitative Standards of the Marine Life Protection Act and Qualitative Guidelines of the MLPA Master Plan Framework: January 20, 2006 Memo from the Central Coast Project Manager to the MLPA Blue Ribbon Task Force

During the MLPA Central Coast Project, MLPA Initiative staff developed a memo regarding the qualitative standards of the MLPA and qualitative guidelines of the master plan framework (which has since evolved into the draft master plan for MPAs); the task force approved the approach outlined in the memo during its January 31-February 1, 2006 meeting.

Qualitative standards are described in two primary sections of the MLPA. Section 2853:

- (a) identifies the need for the redesign of California's MPA system to increase the coherence and effectiveness at protecting the state's marine life, habitat, and ecosystems; and
- (b)(c) requires that the Marine Life Protection Program meet six specific goals and include five specific elements to improve the design and management of California's system of MPAs.

Section 2857:

- (a) requires the preferred siting alternative to incorporate information and views of the people who live in the area and other interested parties,
- (b) defines two objectives that may be included,
- (c) requires MPA networks have an improved marine life reserve component and be designed consistent with five specific guidelines,
- (d) requires that the existence and location of commercial kelp beds be taken into account, and
- (e) allows for recommendations to phase in the new MPAs.

The MLPA master plan framework (now the draft master plan for MPAs) also contains four specific qualitative guidelines:

- key habitats be represented and replicated in the MPA network,
- MPAs include a range of depths from the intertidal zone to deep offshore waters,
- MPAs be designed with a minimum alongshore span of 5-10 kilometers (3-6 miles or 2.5- 5.4 nautical miles) of coastline and preferably 10-20 kilometers (6-12.5 miles or 5.4- 11 nautical miles) of coastline to protect adult populations, and
- Maximum spacing between habitats in MPAs of 50-100 kilometers (31-62 miles or 27- 54 nautical miles) to protect larval dispersion of various marine species.

Summary of MLPA Blue Ribbon Task Force Guidance to the North Central Coast Regional Stakeholder Group (February 20, 2008)

At its February 14, 2008 meeting, the MLPA Blue Ribbon Task Force (BRTF) provided guidance to the MLPA North Central Coast Regional Stakeholder Group and the MLPA Initiative team of staff and contractors as they worked to complete the MLPA Initiative process for the North Central Coast Study Region:

1. Place great weight on the results of the MLPA Master Plan Science Advisory Team (SAT) evaluations of marine protected area (MPA) proposals.
2. Place strong emphasis on MPAs that meet the SAT guidelines for "preferred" size and spacing. Proposals should include MPAs with "very high" or "high" levels of protection. Marine reserves are the "backbone" of any proposed network. Proposals may include MPAs with "moderate-high" levels of protection; the BRTF will seriously consider such

proposals and will use all SAT-evaluated levels of protection when considering MPA alternative proposals and their socio-economic consequences.

3. MPAs that allow salmon trolling at depths less than 50 meters are characterized as providing a “moderate-high” level of protection.
4. Cross-interest support for the final MPA proposals is very important and will be given great weight.
5. Forward no more than three alternative MPA proposals and strive for convergence where possible.
6. Give strong consideration to the California Department of Fish and Game (DFG) feasibility guidelines. In the final MPA proposals, provide specific rationale for any deviations from the recommendations in the feasibility analysis conducted by DFG.
7. The main focus of the RSG is in developing alternative MPA proposals. In some instances special closures may offer geographically-specific protection from threats, such as disturbance, that are not necessarily addressed by MPAs. Special closures should be used sparingly and selectively.

**Fisheries Management and Total Allowable Catch in Relation to the Design of MPAs:
March 19, 2008 Memo from the California Department of Fish and Game to the MLPA
North Central Coast Regional Stakeholder Group**

While not this memo was not expressly written from the task force to an RSG, the task force confirmed that the California Department of Fish and Game (DFG) guidance would be applied in the MLPA Initiative process for designing MPAs. Similar to a July 2, 2007 memo (an attachment to the March 19, 2008 memo) on the interaction between fisheries statutes and regulations with MPA proposal development, which stated that the MLPA is a separate statute aimed at the protection of all marine life rather than individual species, future potential changes to total allowable catch (TAC) should not influence the design of MPAs under the MLPA.

The TAC for a species is currently based on estimates of biomass, not available fishing area. Therefore, there is no nexus between MPA proposal development and TAC. TAC adjustments, if any, will be discussed in the ongoing adaptive management process once final MPA decisions are made. Harvest control rules that explicitly consider changes in available fishing area when establishing TACs have not yet been developed or approved. Consequently, it is premature to speculate what TAC changes might occur, if any, and it is likely that any proposed changes would first need to be fully vetted under the review process of existing fishery management plans.

This memo from DFG is currently being updated for the MLPA South Coast Study Region.

Attachments

1. MLPA Initiative staff memo from the MLPA Central Coast Study Region regarding socioeconomic considerations (January 13, 2006)

2. MLPA Initiative staff memo from the MLPA Central Coast Study Region regarding qualitative standards (January 20, 2006)
3. Summary of task force guidance for the MLPA North Central Coast Study Region (February 20, 2008)
4. California Department of Fish and Game memo from the MLPA North Central Coast regarding existing fishing regulations and statutes (March 19, 2008)



California Marine Life Protection Act Initiative

c/o California Resources Agency
1416 Ninth Street, Suite 1311
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To: MLPA Blue Ribbon Task Force
From: MLPA Initiative Staff
Date: January 13, 2006

**Subject: SOCIOECONOMIC CONSIDERATIONS IN DEVELOPING ALTERNATIVE
NETWORK COMPONENTS FOR A NETWORK OF MARINE PROTECTED
AREAS ALONG THE CENTRAL COAST**

Summary

The Marine Life Protection Act (MLPA) gives precedence to ecosystem integrity and habitat protection goals in designing a network of MPAs. Consideration of socioeconomic factors in the act includes the goal of attention to species of economic value, participation by interested parties and local communities, and development of a siting plan for protected areas that considers economic information to the extent possible while achieving goals of the act. Best readily available science and the knowledge of participants is required for decision making; there is no expectation of new data collection or analyses. While the MLPA is not excluded from the requirements of the California Environmental Quality Act (CEQA), additional review under CEQA is not necessary when the Fish and Game Commission adopts a master plan or a program based on that plan.

To date, the Initiative process has complied with requirements of the MLPA to consider socioeconomic factors and gone beyond those requirements to collect and analyze additional socioeconomic information. The California Department of Fish and Game has stated it will undertake an analysis of the maximum anticipated economic impact of the preferred alternative it proposes to the California Fish and Game Commission. Unlike the National Environmental Policy Act, CEQA does not require analysis of economic impacts unless they have a significant indirect environmental impact. However, the promulgation of implementing regulations by the commission would require an economic analysis.

Socio economic considerations in the MLPA

The MLPA includes few references to socioeconomic or economic factors, shown in bold below:

2853. (b) To improve the design and management of that system, the commission, pursuant to Section 2859, shall adopt a Marine Life Protection Program, which shall have all of the following goals:
- (2) To help sustain, conserve, and protect marine life populations, **including those of economic value**, and rebuild those that are depleted.

2855. (b) (1) ... the department shall convene a master plan team to advise and assist in the preparation of the master plan...

(3) The team shall be composed of the following individuals:

(B) Five to seven members who shall be scientists, one of whom **may have expertise in the economics and culture** of California coastal communities.

(c) The department and team, in carrying out this chapter, **shall take into account relevant information from local communities**, and **shall solicit comments** and advice for the master plan from interested parties on issues including, but not necessarily limited to, each of the following:

(2) **Socioeconomic** and environmental **impacts** of various alternatives.

2857. (a) ... The department and team shall develop a preferred siting alternative that incorporates information and views provided by people who live in the area and other interested parties, **including economic information, to the extent possible** while maintaining consistency with the goals of Section 2853 and guidelines in subdivision (c) of this section.

(d) The department and team, in developing the preferred siting alternative, shall take into account the **existence and location of commercial kelp beds**.

As stated above, the Fish and Game Commission's designation of MPAs does not require an additional CEQA analysis once a master plan and program based on that plan are adopted:

Section 2859 (b). ..The commission's adoption of the plan and a program based on the plan **shall not trigger additional review under the California Environmental Quality Act** (Division 13 (commencing with Section 21000) of the Public Resources Code).

Information requirements for decision-making in the MLPA

Importantly, the MLPA anticipates decision-making based on readily available, up-to-date science and provides no suggestions of deferring action for additional data collection or analyses. The relevant phrases are again in bold:

2855. (a) The commission shall adopt a master plan that guides the adoption and implementation of the Marine Life Protection Program adopted pursuant to Section 2853 and decisions regarding the siting of new MPAs and major modifications of existing MPAs. The plan shall be based on the **best readily available science**.

2856. (C) Recommendations to augment or modify the guidelines in subdivision (c) of Section 2857, if necessary to ensure that the guidelines reflect **the most up-to-date science**, including, for example, recommendations regarding the minimum size of individual marine life reserves needed to accomplish the various goals set forth in Section 2853.

Incorporation of socio economic factors in the MLPA Initiative

Consistent with the MLPA, socioeconomic information has been brought into the development of proposed MPA packages through:

- a. Knowledge of members of the MLPA Central Coast Regional Stakeholder Group (CCRSG),
- b. Compilation of existing information into the MLPA Central Coast Regional Profile, and
- c. Opportunities for public participation, including posting documents on the web for comment and public comment periods at MLPA Blue Ribbon Task Force, CCRSG and Master Plan Science Advisory Team (SAT) meetings.

Additional socioeconomic information regarding areas of high value uses was collected from interviews with:

- a. A purposive sample of commercial fishermen from 17 fisheries providing GIS data layers and maps available to CCRSG members and the SAT,
- b. Selected non consumptive users (e.g., divers, kayakers) reported in the Central Coast Regional Profile and also related GIS layers, and
- c. Central coast recreational fishing effort data for commercial passenger fishing vessels (CPFV) and private skiffs, based on surveys by the Department of Fish and Game and the California Recreational Fisheries Survey, were assembled and made available to the SAT.

These data are only spatial, that is they define areas of high value, but do not assign a monetary measure to the value of uses in locations. While estimating monetary values of use is possible for some activities, especially commercial fishing, it is not possible to develop equivalent monetary measures for other valued uses, especially at the fine spatial resolutions needed for decisions regarding marine protected areas. To provide whatever information could be extracted from existing literature on the value of non consumptive uses, three reviews of existing literature were commissioned. They addressed understanding the potential economic value of (a) marine wildlife and whale watching, (b) SUBA diving and snorkeling, and (c) marine recreational fishing (Pendleton and Rooke, 2005-2006).

Additionally, public documents (e.g., general plans) from coastal cities and counties in the study area were analyzed and selected officials of those jurisdictions interviewed to identify local public policies related to marine resources. This analysis and supporting official documents was available to the CCRSG in hard copy (Sturm 2005)

The SAT evaluations of proposed packages being provided to the BRTF in 2006 will include:

- a. Analyses of the proximity of proposed MPAs to population centers to proposed MPAs, and
- b. Estimation of the maximum possible impacts on commercial and recreational fisheries from more restrictive regulations associated with proposed MPAs.

A final contribution of socioeconomic data and analysis is anticipated after the BRTF completes its role in forwarding alternative package of MPAs to the Department of Fish and Game. The department plans to contract for analysis of maximum anticipated economic impact of a preferred alternative for use in deliberations of the California Fish and Game Commission.



California Marine Life Protection Act Initiative

c/o California Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

To: MLPA Blue Ribbon Task Force
From: Michael DeLapa, Central Coast Project Manager
Date: January 20, 2006

**Subject: QUALITATIVE STANDARDS OF THE MLPA AND QUALITATIVE GUIDELINES
OF THE MLPA MASTER PLAN FRAMEWORK**

Summary

The purpose of this memo is to assist the MLPA Blue Ribbon Task Force (BRTF) in its review of candidate MPA packages for the central coast by identifying substantive tests and key concepts in the Marine Life Protection Act (MLPA; Fish and Game Code, sections 2850-2863) and MLPA Master Plan Framework (as adopted by the California Fish and Game Commission in August 2005). Nothing in this memo shall impute decision-making authority to the BRTF, whose deliberative role is properly confined to broad policy issues. The entities with primary decision-making authority are the California Department of Fish and Game and the California Fish and Game Commission.

Sections 2853 and 2857 of the MLPA provide a variety of standards for judging candidate MPA packages while Section 2853 identifies the six goals of the act. Section 2857 addresses the design of a preferred alternative, including specific requirements for the design of an improved marine life reserve component. Appendix A of this memo provides the full text of these sections.

In addition, the MLPA (Section 2855(a)) requires that the commission adopt

"...a master plan that guides the adoption and implementation of the Marine Life Protection Program adopted pursuant to Section 2853 and decisions regarding the siting of new MPAs and major modifications of existing MPAs. The plan shall be based on the best readily available science."

The commission adopted a master plan framework in August 2006. The framework provides additional design guidance, based on best readily available science. Appendix B provides excerpts of the master plan relevant to the MLPA's requirements for MPA size, number, type of protection, location and other MPA network design features.

Qualitative Standards of the MLPA

1. Pursuant to Section 2853 (redesign of MPA system, goals and elements of program), does the package [emphasis added]:

- Increase the coherence and effectiveness of California's MPA system at protecting the state's marine life, habitat, and ecosystems?
- Meet the six goals of the act?
 - i. To protect the natural diversity and abundance of marine life, and the structure, function, and integrity of marine ecosystems.
 - ii. To help sustain, conserve, and protect marine life populations, including those of economic value, and rebuild those that are depleted.
 - iii. To improve recreational, educational, and study opportunities provided by marine ecosystems that are subject to minimal human disturbance, and to manage these uses in a manner consistent with protecting biodiversity.
 - iv. To protect marine natural heritage, including protection of representative and unique marine life habitats in California waters for their intrinsic value.
 - v. To ensure that California's MPAs have clearly defined objectives, effective management measures, and adequate enforcement, and are based on sound scientific guidelines.
 - vi. To ensure that the state's MPAs are designed and managed, to the extent possible, as a network.
- Include all of the following elements:
 - i. An improved marine life reserve component consistent with the guidelines in subdivision (c) of Section 2857?
 - ii. Specific identified objectives, and management and enforcement measures, for all MPAs in the system?

[Note: other requirements described in this section will be met later in the MLPA planning process]

2. Pursuant to Section 2857 (workshops and a preferred siting alternative, does the package:
 - Include MPA networks with an improved marine life reserve component and is designed according to each of five guidelines?
 - i. Each MPA shall have identified goals and objectives.
 - ii. Marine life reserves in each bioregion shall encompass a representative variety of marine habitat types and communities, across a range of depths and environmental conditions.
 - iii. Similar types of marine habitats and communities shall be replicated, to the extent possible, in more than one marine life reserve in each biogeographical region.

- iv. Marine life reserves shall be designed, to the extent practicable, to ensure that activities that upset the natural ecological functions of the area are avoided.
- v. The MPA network and individual MPAs shall be of adequate size, number, type of protection, and location to ensure that each MPA meets its objectives and that the network as a whole meets the goals and guidelines of this chapter.
 - Take into account the existence and location of commercial kelp beds?

Qualitative Guidelines of the MLPA Master Plan Framework

1. Pursuant to the adopted MLPA Master Plan Framework, does the package:
 - Represent every 'key' marine habitat in the MPA network?
 - Include MPAs from the intertidal zone to deep waters offshore to protect the diversity of species that live in different habitats and those that move among different habitats over their lifetime?
 - Have an alongshore span of 5-10 km (3-6 m or 2.5-5.4 nm) of coastline, and preferably 10-20 km (6-12.5 m or 5.4-11 nm), based on adult neighborhood sizes and movement patterns, to protect adult populations?
 - Are placed within 50-100 km (31-62 m or 27-54 nm) of each other to facilitate dispersal of important bottom-dwelling fish and invertebrate groups among MPAs, based on currently known scales of larval dispersal?

Appendix A: Relevant Provisions of the California Marine Life Protection Act (MLPA)

2853. (a) The Legislature finds and declares that there is a need to reexamine and redesign California's MPA system to increase its coherence and its effectiveness at protecting the state's marine life, habitat, and ecosystems.

(b) To improve the design and management of that system, the commission, pursuant to Section 2859, shall adopt a Marine Life Protection Program, which shall have all of the following goals:

- (1) To protect the natural diversity and abundance of marine life, and the structure, function, and integrity of marine ecosystems.
- (2) To help sustain, conserve, and protect marine life populations, including those of economic value, and rebuild those that are depleted.
- (3) To improve recreational, educational, and study opportunities provided by marine ecosystems that are subject to minimal human disturbance, and to manage these uses in a manner consistent with protecting biodiversity.
- (4) To protect marine natural heritage, including protection of representative and unique marine life habitats in California waters for their intrinsic value.
- (5) To ensure that California's MPAs have clearly defined objectives, effective management measures, and adequate enforcement, and are based on sound scientific guidelines.
- (6) To ensure that the state's MPAs are designed and managed, to the extent possible, as a network.

(c) The program may include areas with various levels of protection, and shall include all of the following elements:

- (1) An improved marine life reserve component consistent with the guidelines in subdivision (c) of Section 2857.
- (2) Specific identified objectives, and management and enforcement measures, for all MPAs in the system.
- (3) Provisions for monitoring, research, and evaluation at selected sites to facilitate adaptive management of MPAs and ensure that the system meets the goals stated in this chapter.
- (4) Provisions for educating the public about MPAs, and for administering and enforcing MPAs in a manner that encourages public participation.
- (5) A process for the establishment, modification, or abolishment of existing MPAs or new MPAs established pursuant to this program, that involves interested parties, consistent with paragraph (7) of subdivision (b) of Section 7050, and that facilitates the designation of MPAs consistent with the master plan adopted pursuant to Section 2855.

2857. (b) The preferred alternative may include MPAs that will achieve either or both of the following objectives:

(1) Protection of habitat by prohibiting potentially damaging fishing practices or other activities that upset the natural ecological functions of the area.

(2) Enhancement of a particular species or group of species, by prohibiting or restricting fishing for that species or group within the MPA boundary.

(c) The preferred siting alternative shall include MPA networks with an improved marine life reserve component, and shall be designed according to each of the following guidelines:

(1) Each MPA shall have identified goals and objectives. Individual MPAs may serve varied primary purposes while collectively achieving the overall goals and guidelines of this chapter.

(2) Marine life reserves in each bioregion shall encompass a representative variety of marine habitat types and communities, across a range of depths and environmental conditions.

(3) Similar types of marine habitats and communities shall be replicated, to the extent possible, in more than one marine life reserve in each biogeographical region.

(4) Marine life reserves shall be designed, to the extent practicable, to ensure that activities that upset the natural ecological functions of the area are avoided.

(5) The MPA network and individual MPAs shall be of adequate size, number, type of protection, and location to ensure that each MPA meets its objectives and that the network as a whole meets the goals and guidelines of this chapter.

(d) The department and team, in developing the preferred siting alternative, shall take into account the existence and location of commercial kelp beds.

(e) The department and team may provide recommendations for phasing in the new MPAs in the preferred siting alternative.

Appendix B: Relevant Excerpts from the MLPA Master Plan Framework as Adopted by the California Fish and Game Commission in August 2005

Science Advisory Team Guidance on MPA Network Design (page 38)

The MLPA calls for the use of the best readily available science, and establishes a science team as one vehicle for fostering consistency with this standard. The MLPA also requires that the statewide MPA network and individual MPAs be of adequate size, number, type of protection, and location as to ensure that each MPA and the network as a whole meet the objectives of the MLPA. In addition, the MLPA requires that representative habitats in each bioregion be replicated to the extent possible in more than one marine reserve.

The availability of scientific information is expected to change and increase over time. As with the rest of this framework, the following guidelines may be modified if new science becomes available that indicates changes. Additionally, changes may be made based on adaptive management and lessons learned as MPAs are monitored throughout various regions of the state.

The science team provided the following guidance in meeting these standards. This guidance, which is expressed in ranges for some aspects such as size and spacing of MPAs, should be the starting point for regional discussions of alternative MPAs. Although this guidance is not prescriptive, any significant deviation from it should be consistent with both regional goals and objectives and the requirements of the MLPA. The guidelines are linked to specific objectives and not all guidelines will necessarily be achieved by each MPA.

Overall MPA and network guidelines:

- The diversity of species and habitats to be protected, and the diversity of human uses of marine environments, prevents a single optimum network design in all environments.
- For an objective of protecting the diversity of species that live in different habitats and those that move among different habitats over their lifetime, every 'key' marine habitat should be represented in the MPA network.
- For an objective of protecting the diversity of species that live at different depths and to accommodate the movement of individuals to and from shallow nursery or spawning grounds to adult habitats offshore, MPAs should extend from the intertidal zone to deep waters offshore.
- For an objective of protecting adult populations, based on adult neighborhood sizes and movement patterns, MPAs should have an alongshore span of 5-10 km (3-6 m or 2.5-5.4 nm) of coastline, and preferably 10-20 km (6-12.5 m or 5.4-11 nm). Larger MPAs would be required to fully protect marine birds, mammals, and migratory fish.

- For an objective of facilitating dispersal of important bottom-dwelling fish and invertebrate groups among MPAs, based on currently known scales of larval dispersal, MPAs should be placed within 50-100 km (31-62 m or 27-54 nm) of each other.

Memorandum

Date: March 19, 2008

To: Marine Life Protection Act, North Central Coast Regional Stakeholder Group

From: **John Ugoretz** 
Department of Fish and Game

Subject: **Update on fisheries management and total allowable catch in relation to the design of MPAs for the second phase of the Marine Life Protection Act Initiative**

The Department of Fish and Game memo, "Fisheries Management in Relation to the Marine Life Protection Act" dated July 2, 2007 (attached), described the complimentary relationship between the Marine Life Management Act (MLMA) and the Marine Life Protection Act (MLPA) with regard to state fisheries management. MLPA North Central Coast Regional Stakeholder Group (NCCRSG) members have asked more specific questions regarding whether establishing marine protected areas (MPAs) may lead to adjustments in total allowable catch (TAC). The following provides some further information on the specific issue of MPA design and TAC.

As with other fisheries management measures, the policy analysis provided in the July 2, 2007 memo also applies in this case. Whether or not there is a potential for future changes to TAC, the potential should not influence the design of MPAs under the MLPA.

The Nearshore Fishery Management Plan¹ (NFMP) notes that TAC is currently based on estimates of biomass, not available fishing area. The TAC is intended to provide for a sustainable fishery, with increasing precaution for stocks that are poorly understood due to data limitations. Comprehensive fishery management under the NFMP is designed to be accomplished through a combination of limits on total fishing mortality in combination with a network of MPAs. For unassessed stocks, a network of MPAs could serve a precautionary role in management. For assessed stocks TAC adjustments in response to MPAs were not deemed appropriate in developing the harvest formula, because MPAs are not expected to encompass large portions of a stock's habitat.

Similarly, TAC levels in the Abalone Recovery and Management Plan² (ARMP) are established according to estimates of recruitment and density from key locations. In contrast, it is important to point out that the March 4, 2008 evaluation³ provided to the NCCRSG on the potential impacts proposed MPAs may have to the abalone

¹ Department of Fish and Game. 2002. Nearshore Fishery Management Plan. <http://www.dfg.ca.gov/marine/nfmp/index.asp>.

² Department of Fish and Game. 2005. Abalone Recovery and Management Plan. <http://www.dfg.ca.gov/marine/armp/index.asp>.

³ Supplement to Evaluation of the Potential Impacts Draft Marine Protected Area Proposals May Pose for Abalone Management and Abalone Recreational Fishery. March 4, 2008.

fishery depicts estimates of impacts to harvest, not to density or recruitment. Presumably, MPAs would lead to increased densities within MPAs and potentially increased recruitment in the region as a whole. Ongoing monitoring of density and recruitment would determine if changes are necessary in management in the remaining fished areas.

TAC adjustments, if any, will be discussed in the ongoing adaptive management process once final MPA decisions are made. Harvest control rules that explicitly take changes in available fishing area into consideration for establishing TACs have not yet been developed or approved. Consequently, it is premature to speculate what TAC changes might occur, if any, and it is likely that any proposed changes would first need to be fully vetted under the review process of existing fishery management plans.

cc: California MLPA Blue Ribbon Task Force

Memorandum

Date: July 2, 2007

To: Marine Life Protection Act Blue Ribbon Task Force

From: **John Ugoretz**
Department of Fish and Game



Subject: **Fisheries Management in Relation to the Marine Life Protection Act**

Many have argued that MPAs are unnecessary because existing fishery conservation and management are capable of performing the same function, with less impact to commercial and recreational fishing interests. Others have asked why MPAs were necessary when particular fish stocks were either healthy, or rebuilding on their own.

The MLPA expressly states that MPAs and fisheries management are complementary [Fish and Game Code (FGC) subsection 2851(d)]. Similarly, the Marine Life Management Act [MLMA, Statutes 1999 Chapter 483] declares that "conservation and management programs prevent overfishing, rebuild depressed stocks, ensure conservation, facilitate long term protection and, where feasible, restore marine fishery habitats" [FGC, subsection 7055(b); see also Section 7056(b), (c)]. Although MPAs and fisheries management are complementary, they are not equivalent. The purpose of habitat protection in the MLMA is to advance the "primary fishery management goal" of sustainability (FGC, Section 7056). Moreover, that which is being managed is a specific fishery - which may be based on geographical, scientific, technical, recreational and economic characteristics (FGC, Section 94) - and so may only provide limited protection of a particular habitat.

Conversely, although the MLPA considers managing fishery habitat [FGC, subsections 2851(c), (d)], it also encompasses broader, ecosystem-based objectives that are not limited to *only* managing fisheries. If only existing fishery conservation and management measures were considered in designing the MLPA networks, then arguably only some of the ecosystem goals and objectives might be met. Other goals and elements would be undervalued (e.g. improving "recreational, educational and study opportunities provided by marine ecosystems" and protecting "marine natural heritage...for their intrinsic value" [FGC, subsection 2853(b)]. The MLPA also states that one of the purposes of the marine reserve component is to generate baseline data that allows the quantification of the efficacy of fishery management practices outside the reserve [FGC, subsections 2851(e), (f)]. This would be difficult to implement if the MPA design itself must consider those very same existing conservation and management measures.

Moreover, it is important to remember that the MLMA is the most comprehensive revision of state marine fishery management procedures in history. The subsequent enactment of the MLPA the following year strongly suggests the Legislature recognized that fishery conservation and management measures alone

were inadequate to the task of broad ecosystem protection. Finally, had the Legislature intended existing fishery conservation and management measures to be considered in designing MPAs, then it plainly would have said so, as it did in the MLMA (FGC, Section 7083). As it is, the fact that the MLPA allows the Commission to "regulate commercial and recreational fishing and any other taking of marine species in MPAs" [FGC, subsection 2860(a)] strongly suggests that fishery measures are not intended to be considered in the design of MPAs but may in fact be subject to limitations beyond those already existing under fishery management regimes. In particular, the Nearshore Fisheries Management Plan (NFMP) developed pursuant to MLMA is specifically designed to adapt management in the presence of MPAs. Similarly, other fishery management changes, if necessary, would occur after the implementation of MPAs through the MLMA process. Thus, while the design of fishery management measures should properly consider the existence of MPAs, the reverse is not true.

The conclusion that existing fishery management measures are not properly considered in designing MPAs is further bolstered by three "real world" considerations. First, the direction from the Legislature is to use "the best readily available information" and studying the interaction of existing fishery management practices would add another dimension of complexity that retards, not facilitates, the process. Second, the subject of interaction with existing fishery management processes reflects exactly the kind of "scientific uncertainty" acknowledged by the Legislature when it authorized the application of adaptive management to the MLPA process. Third, the unfortunate reality is that existing fishery management processes do not always work. Indeed, as evidenced by the collapse of the west coast groundfish fishery, they can fail entirely. Fishery conservation and management measures alone do not necessarily guarantee either fishery sustainability or ecosystem health. The MLPA is designed to seek these key features, in addition to existing fishery management.