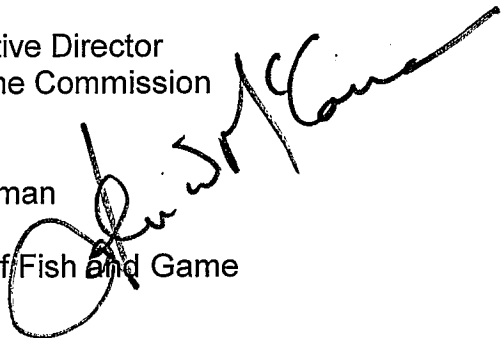


Memorandum

Date: June 14, 2011

To: Jon Fisher
Acting Executive Director
Fish and Game Commission

From: John McCamman
Director
Department of Fish and Game



Subject: Agenda Item for June 29-30, 2011 Fish and Game Commission meeting re:
Management Options for Marine Protected Areas in the Marine Life Protection Act
North Coast Study Region

At the Fish and Game Commission's (Commission), April 7, 2011 meeting, the Commission directed its staff to work with the Department of Fish and Game (Department) and Marine Life Protection Act Initiative (MLPAI) staff to develop options regarding marine protected areas (MPAs) in the MLPA North Coast Study Region for consideration at its June 29-30, 2011 meeting.

In addition to the efforts of the workgroup, the Department developed a revised supplemental report to provide the Commission and the public with revisions to Department recommendations for how to address the existing unresolved issues to support a preferred alternative and the options from the work group in a single document. This report is intended to allow for the initiation of the regulatory and environmental review process for north coast MPAs at the June 29-30, 2011 meeting per the Commission's request.

If you have further questions or need additional information, please contact Ms. Marija Vojkovich, Regional Manager in the Department's Marine Region, by telephone at (805) 568-1246.

Attachment(s)

cc: Marija Vojkovich, Regional Manager, Marine Region

**Unresolved Feasibility Issues for
North Coast Regional Stakeholder Group Revised Marine Protected Area
Proposal in the Marine Life Protection Act North Coast Study Region**

**Revised Supplemental Report to the
California Fish and Game Commission**



**California Department of Fish and Game
Marine Region
Marine Protected Areas Project
(06/14/2011)**

Executive Summary

For the California Fish and Game Commission's (Commission) April 7, 2011 meeting, the California Department of Fish and Game (Department) submitted a supplemental report titled *Unresolved Feasibility Issues for North Coast Regional Stakeholder Group Revised Marine Protected Area Proposal in the Marine Life Protection Act North Coast Study Region* (Supplemental Report)(Attachment 1). The purpose of this supplemental report was to provide potential solutions for Marine Protected Areas (MPAs) in the North Coast Regional Stakeholder Group Revised Marine Protected Area Proposal (RNCP) in the Marine Life Protection Act (MLPA) North Coast Study Region (NCSR). After discussion and public testimony, the Commission directed their staff to work with Department and Marine Life Protection Act (MLPA) Initiative staff to develop options regarding MPAs in the NCSR for consideration at its June 29-30, 2011 meeting. A work-group was formed per Commission request to develop options. The California State Parks (State Parks) provided input on issues related to their concerns and jurisdiction. To meet the Commission's request, the workgroup developed possible solutions to unresolved issues that could be addressed within a Commission preferred alternative at their June 29-30, 2011 meeting, and submitted that report to the Commission on June 9, 2011.

The Department is exercising its statutory authority and obligation to provide additional information regarding MPA options for a preferred alternative. The purpose of this revised supplemental report is to provide the Commission and the public with revisions to Department recommendations for how to address the existing unresolved issues to support a preferred alternative and the options from the work group in a single document. This information is intended to allow for the initiation of the regulatory and environmental review processes for north coast MPAs at the June 29-30, 2011 meeting per the Commission's request.

Background

The two MPA proposals submitted to the Commission in February 2011, are the North Coast Regional Stakeholder Group (NCRSG) "Unified" Revised North Coast Proposal (RNCP) and the BRTF Enhanced Compliance Alternative Proposal (ECA). Both proposals use the same overall geographic boundaries for each of 17 proposed MPAs and include identical proposed special closures. The main differences between the two proposals are attributed to: 1) the proposed allowed uses in those geographies; and 2) within the ECA four of the State Marine Conservation Areas (SMCA) are divided into nearshore/offshore MPAs with different take regulations, increasing the number of proposed MPAs to 21. The BRTF included five additional recommendations to the Commission to be considered for any proposals adopted by the Commission titled *California Marine Life Protection Act Initiative, Motions Adopted by the MLPA Blue Ribbon Task Force on October 26, 2010, Regarding Recommendations for the MLPA North Coast Study Region* (Attachment 2).

Approach

As requested by the Commission, the RNCP is the foundation for developing a potential preferred alternative. While the RNCP and ECA use the same overall boundaries at each of the 17 proposed geographies, they differ in the allowed uses proposed in those

geographies primarily to accommodate different levels of traditional non-commercial tribal take for subsistence and ceremonial purposes. These differences in proposed allowed uses also determine how closely each MPA proposal meets the Master Plan science guidelines. By allowing the least amount of proposed take, and at higher levels of protection (LOP), an MPA proposal will come closer to meeting the Master Plan science guidelines and goals of the MLPA; whereas allowing the greatest amount of proposed take, and including take with lower LOPs, leads further away from meeting the Master Plan science guidelines and goals of the MLPA.

Further, the Commission specifically requested that all BRTF recommendations be taken into account when developing materials to consider in a preferred alternative, including the Department's feasibility analysis, State Parks concerns, stakeholder concerns, and other issues identified through public comment. Options are thus provided for the Commission's consideration to modify the RNCP in order to account for these concerns. The Department identified two categories of potential changes to the RNCP: 1) unresolved issues that are not consistent with prior Commission policy regarding MPA designation and function; these would not be regulatory options; and 2) potential regulatory sub-options that staff recommend to be included in a potential preferred alternative. Using the RNCP with the proposed changes and then incorporating the various sub-options will help further refine an MPA proposal that may be considered as a preferred alternative. The Department is asking the Commission to make choices toward a preferred alternative so that California Environmental Quality Act and the Administrative Procedures Act rulemaking processes can be initiated.

Options for Traditional Tribal Take

Both the NCRSG and BRTF made recommendations about allowing traditional non-commercial tribal take within MPAs on the north coast. The Department had previously determined that traditional tribal non-commercial activities including take for subsistence and ceremonial purposes could be allowed to continue uninterrupted within MPAs (other than state marine reserves [SMRs]) only by incorporating such activities as proposed recreational uses for all non-commercial users. Based on more recent evaluations such uses may be accommodated in at least three different ways as identified in the workgroup document listed on the Commission's website.

Management Categories of Department Concern for Specific MPAs

This section of the report includes two sub-sections: The first sub-section provides revised Department input for management categories in specific geographies that were discussed in the April 7, 2011, Supplemental Report where new information has resulted in a change in the Department's advice to the Commission. The second sub-section provides new information on issues that the Department has not previously provided comment to the Commission. Each of the geographies has accompanying number that is linked to the April 7, 2011 Supplemental Report for reference.

I. Revised Department Input




A. Category: Boundaries

Geography: South Humboldt Bay State Marine Recreational Management Area (SMRMA) (3)

Issue: This proposed MPA does not meet the Department’s feasibility guidelines¹ for boundaries within estuaries due to the floating corners which reduces public understanding of the regulation which confounds enforceability. “Floating corners” are boundary points not anchored on land.

Revised Proposed Solution: Site the northern boundary on the prominent point located within the southwestern edge of Humboldt Bay, extending due east across the bay to the College of the Redwoods exit ramp off of Highway 101. Utilize the south boundary of the RNCP, extending the southern boundary due east across the bay.

Rationale: This solution avoids encompassing traditional clam beds utilized by the Wiyot Tribe, and addresses feasibility concerns regarding “floating corners” while still meeting science guidelines for eelgrass, estuary, and coastal marsh. Law Enforcement Division supports this recommendation over the RNCP because it does not rely on other government agencies to maintain non-permanent structures (buoys) for perpetuity as proposed by the NCSR RSG.

RNCP Proposed Boundary	Department Supplemental Report Proposed Solution	Department Revised Proposed Solution
		

Geography: Big River Estuary State Marine Park (SMP) (8)

Issue: Eastern boundary does not align with an easily recognizable permanent landmark. See the Department’s feasibility report to the Commission.

¹ CDFG. *Feasibility Criteria and Evaluation Components for Marine Protected Area Proposals*. March 23, 2010.

Revised Proposed Solution: Retain the originally proposed RNCP eastern boundary.

Rationale: Subsequent discussions between the Department and State Parks remedied this issue. State Parks will maintain signage at the proposed RNCP eastern boundary for this geography.

B. Category: Marine Protected Area Designations

Geographies: South Humboldt Bay SMRMA (3), Ten Mile Estuary SMRMA (7), Big River Estuary SMP (8), Navarro River Estuary SMRMA (9)

Issue: Waterfowl hunting is currently permissible in these geographies. A SMRMA designation has previously been used or recommended in Department feasibility evaluations when hunting activities occur in estuaries. However, on the north coast, this recommendation has come into question by State Parks due to the proposed proximity of these MPAs to State Park lands.

Revised Proposed Solution: Designate proposed SMRMAs as SMCAs with a provision for waterfowl hunting pursuant to the general hunting regulations.

Rationale: Subsequent discussions between the Department and State Parks remedied this issue. Both the Department and State Parks agree an SMCA classification and existing hunting regulations can be used in these proposed MPAs to ensure that waterfowl hunting continues without giving primary preference to waterfowl hunting.

II. New Input for Issues not Previously Commented On

C. Category: Naming Convention

Geography: Vizcaino SMCA (10)

Issue: The name of this MPA is a remnant from when it was first proposed but the current proposed boundary no longer contains the geographic feature known as Cape Vizcaino.

Solution: Rename to Double Cone Rock SMCA to reflect prominent geographic features inside the MPA.

D. Category: Take Regulations

Geographies: Ten Mile Estuary SMRMA (7), Big River Estuary SMP (8), Navarro River Estuary SMRMA (9)

Issue: The MLPA Blue Ribbon Task Force (BRTF) recommended that recreational take of Pacific lamprey and eulachon (candlefish) be added to these proposed estuarine MPAs to accommodate future non-commercial, traditional tribal take for subsistence and ceremonial. The recreational take of both species is currently legal under existing fishing regulations. However, eulachon is listed as threatened under the Endangered Species Act and is not found currently in these proposed MPAs. Pacific lamprey stocks are depressed throughout much of its west coast range and the Commission recently took action to reduce the bag limit from unlimited to five. This BRTF recommendation is made in anticipation that fishing for eulachon might occur in the future, it is pre-emptive and not consistent with Commission regulatory practice.

Proposed Solution: Remove take of Pacific lamprey and eulachon.

Geographies: All open coast SMCAs

Issue: The BRTF recommended spearfishing for pelagic finfish in all open coast SMCAs (7 MPAs)

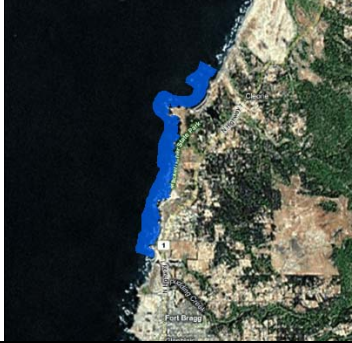
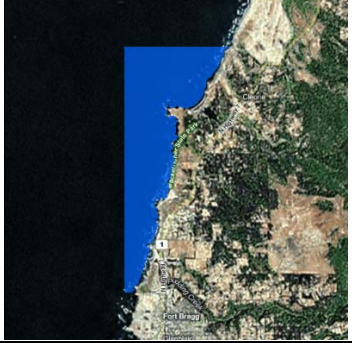




Proposed Solution: Maintain take regulations as proposed.

E. Category: Retention of existing MPAs (State Parks request)

Geography: MacKerricher SMCA, Russian Gulch SMCA, Van Damme SMCA

Issue: These existing SMCAs are adjacent to State Park System Units. At the request of State Parks, the BRTF recommended to retain these existing SMCAs with boundary modifications recommended by State Parks and Department, including recreational take allowances.

Proposed Solution: Retain the three existing SMCAs with boundary modifications and recreational take allowances and simplify regulations.

MacKerricher SMCA Existing	MacKerricher SMCA Proposed
 A satellite map showing the MacKerricher SMCA boundary in blue. The boundary follows the coastline of the Pacific Ocean, extending from the northern tip of the island down to the southern tip. The land is a mix of green forest and brownish terrain.	 A satellite map showing the proposed MacKerricher SMCA boundary in blue. The boundary is significantly smaller than the existing one, covering only the northern portion of the coastline.
Russian Gulch SMCA Existing	Russian Gulch SMCA Proposed
 A satellite map of Russian Gulch showing the existing SMCA boundary in blue. The boundary follows the shoreline of the gulch, including several inlets and bays. Labels for 'Brest Rd', 'Power Channel Dr', and 'Van Damme Dr' are visible.	 A satellite map of Russian Gulch showing the proposed SMCA boundary in blue. The boundary is much larger and more rectangular than the existing one, covering a significant portion of the land area within the gulch.
Van Damme SMCA Existing	Van Damme SMCA Proposed
 A satellite map of Van Damme showing the existing SMCA boundary in blue. The boundary follows the shoreline of the bay, including the area around the 'Line River'. Labels for 'Line River' and 'Dacoma' are visible.	 A satellite map of Van Damme showing the proposed SMCA boundary in blue. The boundary is larger than the existing one, extending further inland along the shoreline.

**Unresolved Feasibility Issues for
North Coast Regional Stakeholder Group Revised Marine Protected Area
Proposal in the Marine Life Protection Act North Coast Study Region**

**Supplemental Report to the
California Fish and Game Commission**



**California Department of Fish and Game
Marine Region
Marine Protected Areas Project
(03/22/2011)**

Attachment 1

Supplemental Report on Unresolved Feasibility Issues
Fish and Game Commission Meeting, April 6-7, 2011
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Background

At the Fish and Game Commission's (Commission) February 2, 2011 meeting, the Commission directed the Department of Fish and Game (Department) to develop potential solutions for unresolved feasibility issues that exist in the North Coast Regional Stakeholder (NCRSG) Revised North Coast Proposal (RNCP) for Marine Protected Areas (MPAs). The purpose of this supplemental report is to provide potential solutions for MPAs in the RNCP that did not meet the Department's feasibility guidelines¹.

Various issues were identified by the Department in its feasibility evaluation of the RNCP². The unresolved issues include the following categories:

- MPA boundaries,
- Improper MPA designation,
- Naming convention for MPAs and special closures, and
- Permissive take regulations, and
- Take and access options for California tribes and tribal communities

Nine MPA geographies with categories of concern are discussed within the document and are ordered north to south. A total of twelve issues within the nine geographies are highlighted. Following the specific MPAs, a general discussion about take options for California tribes and tribal communities, and issues regarding access to special closures, is provided. Note that the Department has identified feasibility issues regarding the goals and objectives for MPAs in the RNCP, although they are not covered in this supplemental report. During the planning process, each MPA was assigned goals and objectives by the NCRSG. The ability for these MPAs to realistically achieve their intended goals and objectives is dependent in part on the MPA design, placement, etc. After the Commission determines its preferred alternative, and subsequently adopts MPAs for the north coast, the Department intends to re-evaluate MPA goals and objectives. Any goals and objectives the Department identifies that need to be updated during the implementation phase will be brought to the Commission as part of the update to the California Marine Life Protection Act (MLPA) Master Plan for Marine Protected Areas. Details regarding the Department evaluation of goals and objectives can be found in the Department's full evaluation of the RNCP².

¹ CDFG. *Feasibility Criteria and Evaluation Components for Marine Protected Area Proposals*. March 23, 2010.

² CDFG. *California Department of Fish and Game Feasibility Evaluation of the Final Blue Ribbon Task Force Marine Protected Area Proposals for the North Coast Study Region*. January 24, 2011.

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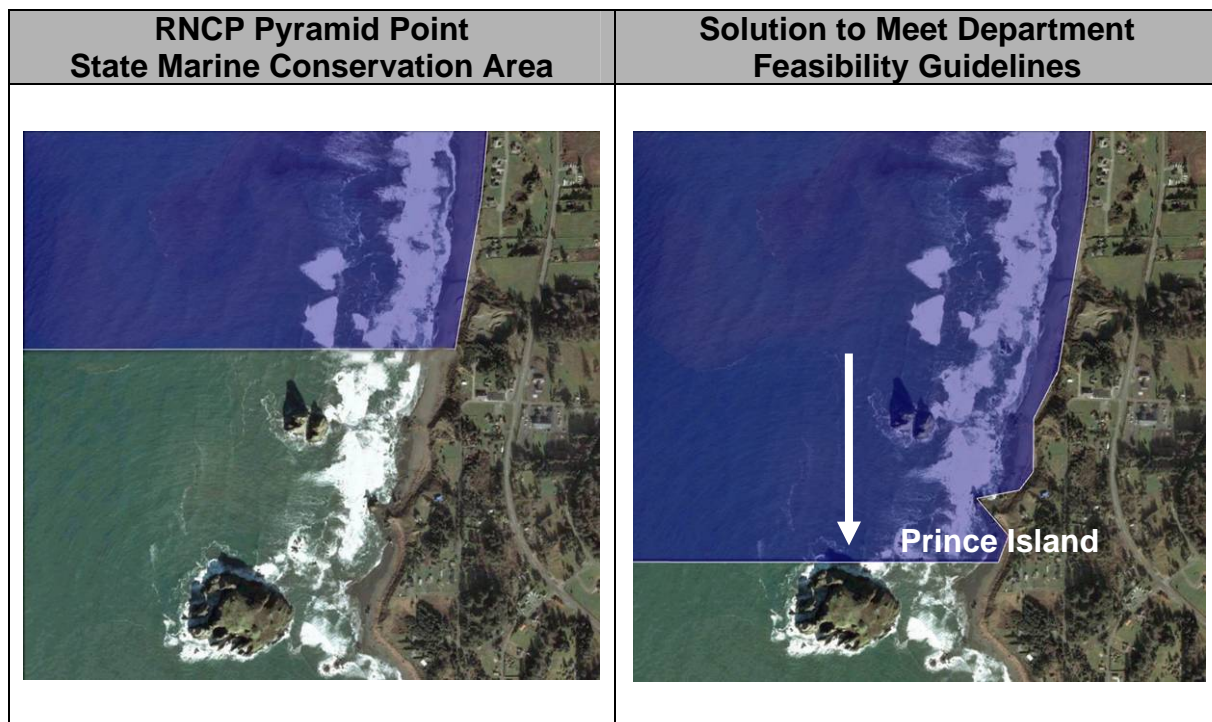
Specific MPA Geographies with Categories of Concern

Geography 1: Pyramid Point State Marine Conservation Area

Category: Boundaries

Issue: While the southern boundary is placed on a half minute of latitude, consistent with Department guidelines, the boundary splits a beach with no significant landmark when the easily recognizable from shore and offshore Prince Island is nearby.

Solution to Meet Department Feasibility Guidelines: Move the southern boundary approximately a third of a mile to the northern tip of Prince Island.



Geography 2: False Klamath Rock Seasonal Special Closure

Category: Special Closure Name

Issue: Special closures in other study regions that have seasonal restrictions do not include the word “Seasonal” in their name. If season restrictions exist, they are described in the regulations. To include the word “seasonal” in the naming convention for a special closure in the North Coast Study Region (NCSR) may cause confusion for the public and enforcement in other regions of the state.

Solution to Meet Department Feasibility Guidelines: Remove the word “seasonal” from the proposed name to make it consistent with the naming convention of marine special closures statewide.

Attachment 1

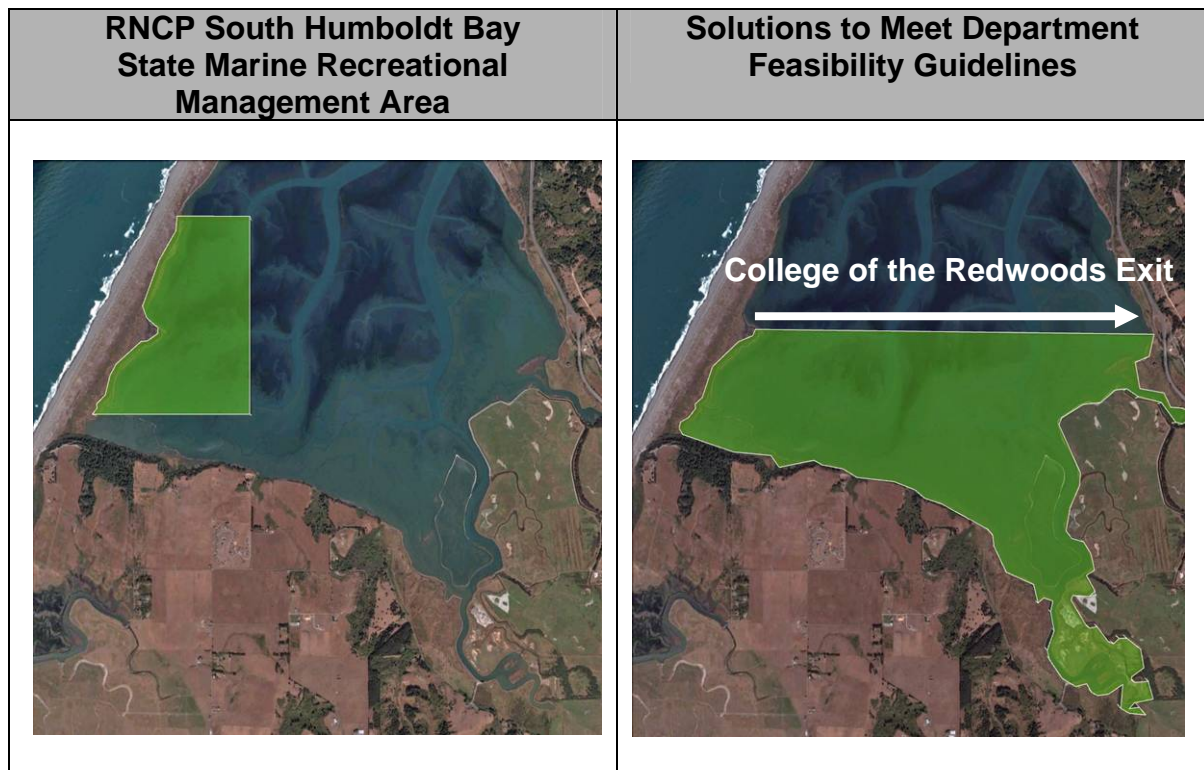
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Geography 3: South Humboldt Bay State Marine Recreational Management Area

Category: Boundaries

Issue: Boundaries in bays, estuaries, and rivers are feasible only if they use easily recognizable permanent landmarks to improve enforceability and to enhance compliance by users not equipped with a Global Position System (GPS). “Floating corners”, which are boundary corners not anchored on land, are particularly problematic inside contained bodies of water. This MPA does not meet the Department’s feasibility guidelines¹ for boundaries within estuaries and reduces enforceability and public understanding of the regulation.

Solutions to Meet Department Feasibility Guidelines: Site boundaries on a visible landmark. Utilize a landmark on a prominent point on the southwestern edge of Humboldt Bay, run due east across the bay at the College of the Redwoods exit ramp off of Highway 101, and extend the boundaries to enclose the entire southern portion of the bay.



Geography 4: Steamboat Rock Seasonal Special Closure

Category: Special Closure Name

Issue: As described for Geography 2, this proposed special closure name includes the word “seasonal”, which does not meet naming conventions and may cause confusion for the public and enforcement in other regions of the state.

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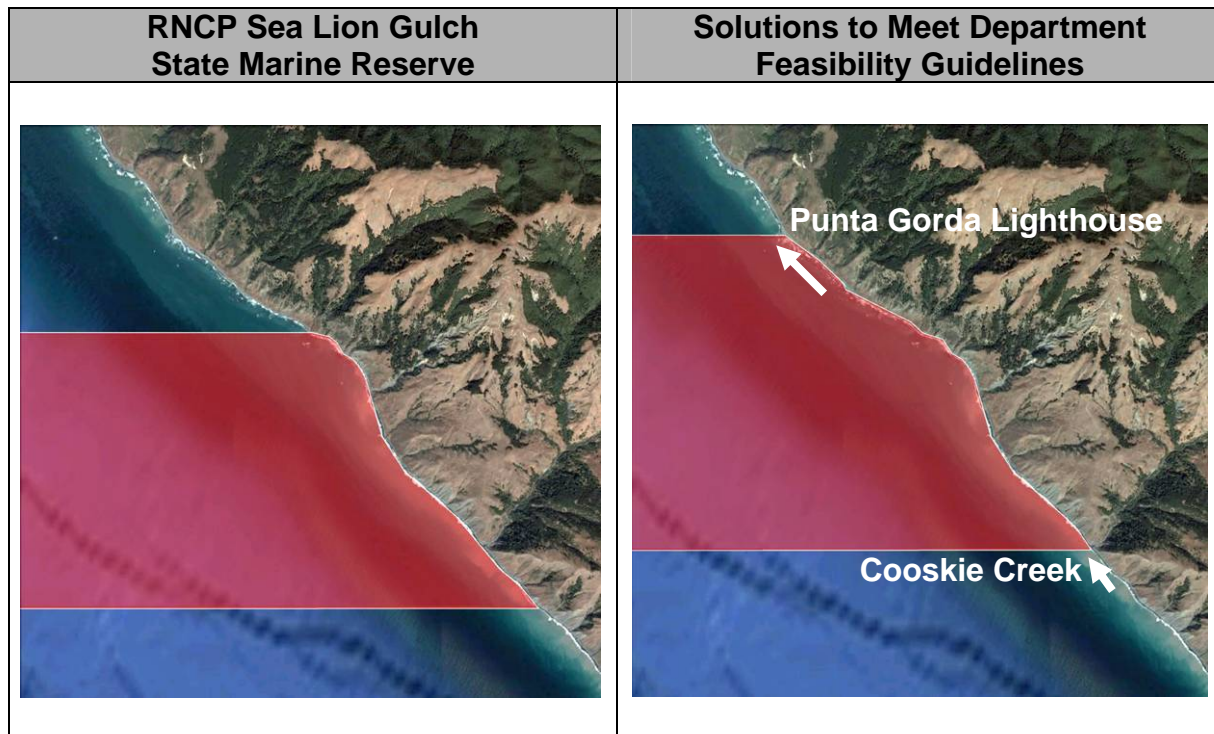
Solution to Meet Department Feasibility Guidelines: Remove the word “seasonal” from the proposed name to make it consistent with the naming convention of marine special closures statewide.

Geography 5: Sea Lion Gulch State Marine Reserve

Category: Boundaries

Issue: While the northern and southern boundaries are placed on tenths of a minute which is consistent with Department guidelines, the Department’s preferred guidance in this situation strongly suggests the use of easily recognizable landmarks. This is given as preferred guidance when an area is utilized by shore-based users and landmarks are available in the area.

Solutions to Meet Department Feasibility Guidelines: Site boundaries on visible landmarks by moving the northern boundary about one mile north to the Punta Gorda lighthouse, which is also aligned with an offshore buoy, and moving the southern boundary about a half mile north to the mouth of Cooskie Creek.



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Fish and Game Commission Meeting, April 6-7, 2011
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Geography 6: Rockport Rocks Seasonal Special Closure, Vizcaino Seasonal Special Closure

Category: Special Closure Name

Issue: As described for Geography 2, this proposed special closure name includes the word “seasonal”, which does not meet naming conventions and may cause confusion for the public and enforcement in other regions of the state.

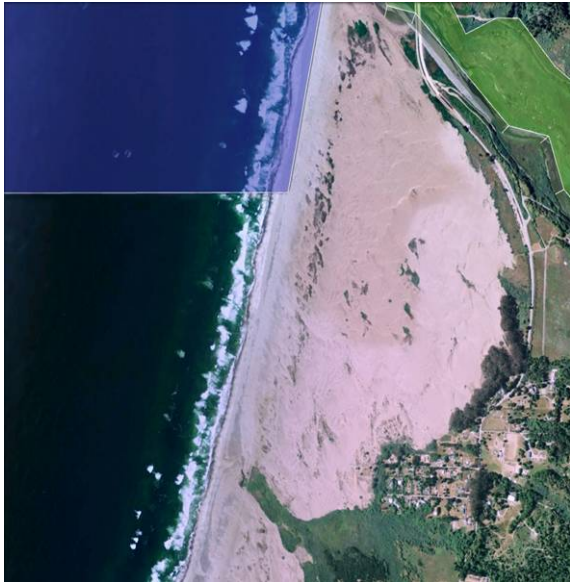
Solution to Meet Department Feasibility Guidelines: Remove the word “seasonal” from the proposed name to make it consistent with the naming convention of marine special closures statewide.

Geography 7: Skip Wollenburg/Ten Mile State Marine Reserve, Skip Wollenburg/Ten Mile State Marine Conservation Area, Skip Wollenburg/Ten Mile Estuary State Marine Recreational Management Area

Category: Boundaries (Skip Wollenburg/Ten Mile State Marine Conservation Area)

Issue: The southern boundary splits a beach when landmarks are available nearby.

Solution to Meet Department Feasibility Guidelines: Move the southern boundary about three quarters of a mile south to the mouth of Inglenook Creek.

RNCP Skip Wollenburg/Ten Mile State Marine Conservation Area	Solution to Meet Department Feasibility Guidelines
	

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Fish and Game Commission Meeting, April 6-7, 2011
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Geography 7, cont.

Category: MPA Naming Convention

Issue: Per Department feasibility guidelines¹, MPAs should be named for the geographic location, not after individuals or groups.

Solutions to Meet Department Feasibility Guidelines: Apply the geographic-based name for the three MPAs (Ten Mile State Marine Reserve, Ten Mile State Marine Conservation Area, and Ten Mile Estuary State Marine Recreational Management Area).

Geography 8: Big River Estuary State Marine Park³

Category: Boundaries

Issue: Boundaries in bays, estuaries, and rivers are feasible only if they use easily recognizable permanent landmarks when they are present. The eastern boundary of this MPA does not align with a visible landmark, but does align with a California State Parks (State Parks) boundary. However, recognizable landmarks are not available in this area so simple coordinates should be used as the next best option. While the east boundary is not a visible land mark, State Parks requested that the boundaries of this MPA not overlap with existing State Parks lands.

Solutions to Meet Department Feasibility Guidelines:



Option 1: Move the eastern boundary eastward to the nearest whole minute longitude at 123° 46.00" west to simplify the coordinates.

Option 2: Retain boundary as is so that the MPA does not overlap with existing State Parks lands.

³ This area, recommended by stakeholders as a State Marine Park (SMP), will be designated a State Marine Conservation Area by the Commission when drafting the regulations because only the State Park and Recreation Commission has the authority to designate a SMP. This area could subsequently be designated an SMP at the discretion of the State Park and Recreation Commission.

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Fish and Game Commission Meeting, April 6-7, 2011
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RNCP Big River Estuary State Marine Conservation Area	Solution to Meet Department Feasibility Guidelines
	

Geography 8, cont.

Category: Permissive Take Regulations

Issue: Permissive take allowances provide little ecological protection. The North Coast MLPA Science Advisory Team (SAT) evaluated this MPA and assigned a moderate level of protection (LOP) which is below the Department and MLPA Blue Ribbon Task Force (BRTF) standard of moderate-high and above. Permissive take will provide for little ecosystem protection and reduces prospects of contributing to MLPA goals.

Solutions to Meet Department Feasibility Guidelines: To meet ecological goals of the MLPA in this location, improve the level of protection to moderate high by removing the take of surfperch by hook and line gear from shore.

Category: MPA Designation

Issue: State Parks is concerned about hunting within this MPA due to its close proximity to State Parks lands. However, per the Commission's previous guidance in other regions, areas where waterfowl hunting occurs should be designated as State Marine Recreational Management Areas (SMRMA).

Solution to Meet Department Feasibility Guidelines: Designate this MPA as a SMRMA since waterfowl hunting is currently allowed in the area.

Geography 9: Navarro River Estuary State Marine Recreational Management Area³

Category: Permissive Take Regulations

Issue: Permissive take allowances are take allowances that provide for little ecological protection. The North Coast MLPA SAT evaluated this MPA and

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assigned a moderate low LOP which is below the Department and MLPA BRTF standard of moderate-high and above. Permissive take will provide for little ecosystem protection and reduces prospects of contributing to MLPA goals.

Solution to Meet Department Feasibility Guidelines: To meet ecological goals of the MLPA in this location, improve the level of protection to moderate high by removing the take of salmon by hook and line gear.

Feasibility issues regarding California Tribes and Tribal Communities

The RNCP proposal contains many MPAs with extensive take allowances and/or highly complex take regulations that would accommodate tribal taking and gathering to some degree. The permissive take in many of the proposed MPAs results in a LOP below the Department and MLPA BRTF standard of moderate-high and above due to the allowance of take by all users. Permissive take will provide for potentially reduced ecosystem protection and therefore would reduce prospects of contributing to MLPA goals. Complex take allowances that include a long list of allowed species and gear types in the general regulation reduce public understanding and enforceability of the regulation.

The Department believes that the Commission does not currently have the authority to grant exclusive rights for take or gather living marine resources, to any specific group including California tribes and tribal communities.

The Secretary of the California Natural Resources Agency in collaboration with California Tribes and Tribal Communities, the Office of the Attorney General, The MLPA Initiatives, State Parks and The Department is developing alternatives and ultimately a proposal if feasible to accommodate tribal interests. This option may provide an alternative to near shore ribbons to accommodate tribal take. A discussion of this or these alternatives is scheduled for your agenda on April 7, 2011.

MPAs with this LOP Concern: Pyramid Point SMCA, Reading Rock SMCA, Samoa SMCA, South Humboldt Bay SMRMA, Big Flat SMCA, Vizcaino SMCA, Skip Wollenberg/Ten Mile Beach SMCA, Big River Estuary SMP, and Navarro River Estuary SMRMA.

Blue Ribbon Task Force No Exclusive Take Option – Nearshore Ribbons

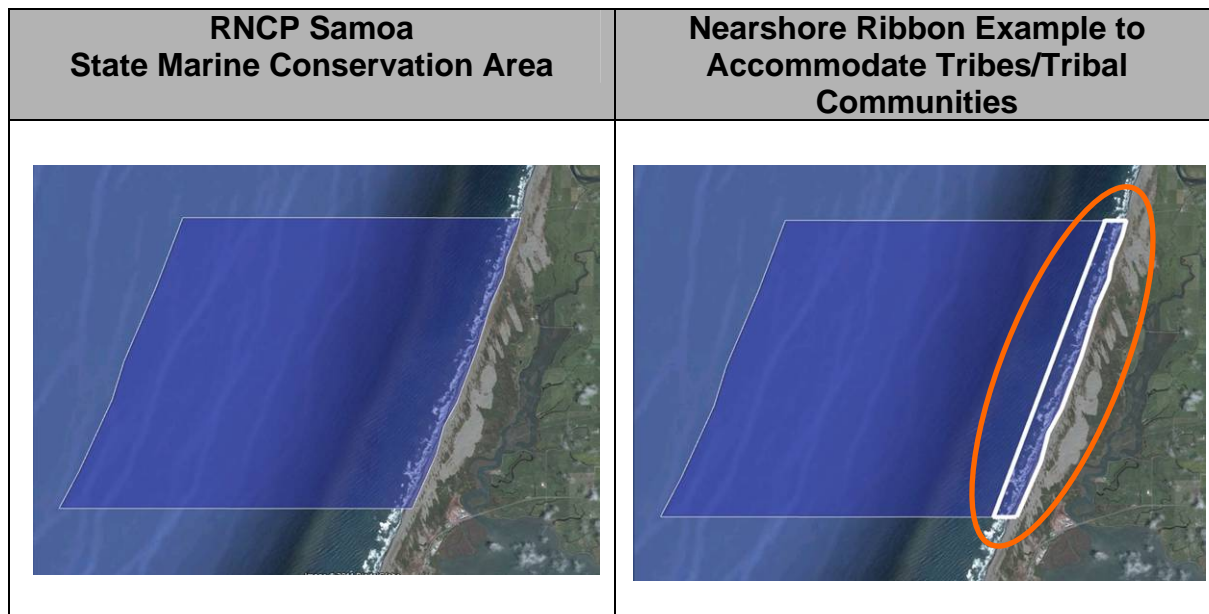
The MLPA BRTF used the RNCP as the foundation to create a MLPA BRTF-modified version of the proposal, named the Enhanced Compliance Alternative (ECA) which was forwarded to the Commission. The ECA incorporated narrow nearshore ribbon MPAs along the shoreline adjacent to four of the larger MPAs and therefore created four additional nearshore ribbon State Marine Conservation Areas (SMCA) (See example below). Use of nearshore ribbons would offer some accommodation for California tribes and tribal communities within the proposed MPAs and would potentially need to be applied to other MPAs in the RNCP if additional tribal use should be identified. This approach would still not provide exclusive rights for the California tribes and tribal

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communities, and the use of nearshore ribbons creates complex designs that do not meet feasibility guidelines. These ribbon MPAs also have complex take allowances with differences in gear type and species allowances among the onshore and offshore components and the surrounding. This creates concerns regarding multiple zoning, where three zones have complex regulation differences over a small area, and are difficult to enforce. The cost for implementing nearshore ribbons includes a lower LOP, loss of shoreline protection, potential loss of habitat, lower the ability to meet the goals of MLPA, and enforceability issues. If the ribbon is retained, enforcement can be significantly enhanced by simplifying take regulations and restricting activities within the ribbon from shore only.

MPAs with Nearshore Ribbons: Pyramid Point Nearshore SMCA, Samoa Nearshore SMCA, Big Flat Nearshore SMCA, and Vizcaino Nearshore SMCA. [Note: All four of these MPAs had offshore components that also intended to accommodate California tribes and tribal communities due to their interest to potentially access the offshore portion by traditional means in the future.]



Special Closure Access Options

Special closures are used in areas of significant importance to seabirds and marine mammals as part of the marine ecosystem. This special closure category works in conjunction with the MPA designation process and is used to provide further protections that would not otherwise be afforded by a MPA designation within the same geographical location. This includes minimizing disturbance of seabirds and marine mammals at nesting, roosting, and haul-out sites, through special restrictions on boating access in areas generally smaller than MPAs, either within an MPA or outside an MPA.

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All of the proposed special closures include a provision to allow access for specific groups year round. However, under current law, the Department does not believe the Commission has the authority to promulgate regulations that provides access only to specific groups. In addition, if access is allowed year round it conflicts with the conservation goals of a Special Closure.

Solutions: Revise the proposed regulation to apply to everyone, allow only seasonal access to everyone, or do not adopt a special closure.

For Tribes and Tribal communities, the State Parks Cultural Preservation designation may be a vehicle to also accommodate their desires to access Special Closure areas.

California Marine Life Protection Act Initiative
Motions Adopted by the MLPA Blue Ribbon Task Force on
October 26, 2010 Regarding Recommendations for the
MLPA North Coast Study Region
November 16, 2010

At its meeting on October 25-26, 2010, the Marine Life Protection Act (MLPA) Blue Ribbon Task Force (BRTF) adopted seven motions with recommendations related to marine protected areas (MPAs) and special closures in the MLPA North Coast Study Region. The BRTF recommendations are specific to the work of the California Fish and Game Commission, California Department of Fish and Game, and California Department of Parks and Recreation, or more generally to the State of California. This document contains the adopted motions as approved by the BRTF. An attachment to this document summarizes the actions resulting from the motions adopted by the BRTF, including which proposed MPAs or special closures are affected, the source of their design, and any modifications to the design (see Attachment A).

1. Motion to Forward the Revised MLPA North Coast Regional Stakeholder Group (NCRSG) MPA Proposal and Special Closures Recommendation for the MLPA North Coast Study Region to the California Fish and Game Commission (motion made by Cathy Reheis-Boyd, seconded by Greg Schem, passed unanimously)

The MLPA Blue Ribbon Task Force recommends that the Revised Round 3 NCRSG MPA Proposal be forwarded to the California Fish and Game Commission in its entirety, in recognition of all of the fine work that the NCRSG has done. The motion includes the NCRSG's Skip Wollenberg recommendation (to re-name the proposed Ten Mile MPAs), Round 3 NCRSG Special Closures Recommendation (with seven special closures recommended), alternative recommendations for Green Rock and Flatiron Rock, and the NCRSG motion regarding tribal uses.

2. Motion to Recommend Incorporation of Tribal Uses in Marine Protected Areas of the MLPA North Coast Study Region (motion made by Roberta Cordero, seconded by Meg Caldwell, passed unanimously)

The BRTF appreciates the extraordinary efforts of the NCRSG to develop feasible methods for ensuring inclusion of tribal traditional, non-commercial uses in the design and location of MPAs. The NCRSG worked diligently to carry out the guidance of the BRTF. Further work is needed to accomplish the goal of ensuring continuation of tribal uses. Accordingly, the BRTF adopts the following recommendations:

1. When the legal authority to do so is clarified and settled by the State of California and California tribes and tribal communities, the BRTF recommends that the California Fish and Game Commission identify "tribal uses" as a separate category of use in the regulations applicable to each MPA. And, for each state marine conservation area (SMCA), state marine park (SMP) and state marine recreational management area (SMRMA) for which the NCRSG has proposed to allow tribal uses, the California Fish and Game Commission should include the following descriptive language in the regulations: "Members of California Indian tribes and tribal communities shall be allowed to fish, gather and harvest marine resources for

traditional, non-commercial subsistence, ceremonial, religious or stewardship purposes.”

2. In recognition of the status quo, there is a mutual reservation of rights by the State of California and California tribes and tribal communities.
3. When the legal authority to do so is clarified and settled by the State of California and California tribes and tribal communities, an approximately 1,000-foot wide nearshore ribbon SMCA for tribal uses should be created adjacent to all proposed state marine reserves that extend from the shoreline in the north coast study region (South Cape Mendocino SMR, Sea Lion Gulch SMR, Skip Wollenberg/Ten Mile SMR and Point Cabrillo SMR) and to the Vizcaino SMCA. Shore-based, extractive uses within these nearshore ribbon SMCAs should be limited to traditional, non-commercial tribal uses.
4. The California Department of Fish and Game should consult and work with the tribes and tribal communities to resolve any outstanding issues with regard to the continuation of tribal traditional, non-commercial uses, including exploration of opportunities for co-management agreements under MLPA.

3. Motion to Recommend Co-Management of MPAs with Sister Agencies (motion made by Meg Caldwell, seconded by Greg Schem, passed unanimously)

The BRTF recommends that the California Fish and Game Commission work with tribes and tribal communities and encourage sister agencies to work with the commission and tribes and tribal communities to develop co-management of MPAs where appropriate. “Sister” agencies are broadly construed to include agencies at different levels of jurisdiction, including local agencies, tribes and tribal communities.

4. Motion Regarding an Enhanced Compliance Alternative MPA Proposal (motion made by Greg Schem, seconded by Bill Anderson, passed with six in favor and two abstentions)

The BRTF recommends that the North Coast Enhanced Compliance Alternative MPA Proposal be forward to the California Fish and Game Commission that consists of the Revised Round 3 NCRSG MPA Proposal, modified to include:

- with the exception of the Reading Rock and Ten Mile clusters, creating “nearshore ribbon” SMCAs with a shoreward boundary from the mean high tide line to approximately 1000 feet offshore only in SMCAs with proposed uses at all levels of protection intended to accommodate tribes and tribal communities (Pyramid Point, Samoa, Big Flat, and Vizcaino SMCAs); and
- for the remaining offshore SMCAs at Pyramid Point, Samoa, Big Flat, and Vizcaino, retaining only species/gear types that have a moderate-high or high level of protection and removing any shore-based activity; and

- for Reading Rock SMCA, retaining only species/gear types that have a moderate-high or high level of protection; and
- for Ten Mile SMCA, retaining all proposed uses at all levels of protection, including those intended to accommodate tribes and tribal communities, and
- for estuarine MPAs and SMRMAs with proposed uses intended to accommodate tribes (South Humboldt Bay SMRMA, Big River Estuary SMP, and Navarro River Estuary SMRMA), retaining only species/gear types that have a moderate-high or high level of protection for those uses intended to accommodate tribes and tribal communities; and
- an accompanying statement that proposed recreational uses intended to accommodate traditional tribal uses be restricted to only tribes and tribal communities when administrative or legislative action is taken that allows only tribes and tribal communities to engage in traditional tribal uses within MPAs and SMRMAs, and
- adding pelagic finfish (recreational spearfishing) to all SMCAs.

5. Motion to Recommend Adding Eulachon and Pacific Lamprey to Estuaries (motion made by Roberta Cordero, seconded by Cathy Reheis-Boyd, passed unanimously)

The BRTF recommends that eulachon (DIP NET) and Pacific lamprey (SPEARFISHING, HOOK AND LINE, BOW AND ARROW, and HAND) be added to all estuaries with proposed uses intended to accommodate tribes and tribal communities (South Humboldt Bay SMRMA, Big River Estuary SMP, and Navarro River Estuary SMRMA),.

6. Motion to Recommend Retaining Three Existing MPAs: MacKerricher, Russian Gulch and Van Damme SMCAs (motion made by Virginia Strom-Martin, seconded by Bill Anderson, passed unanimously)

The BRTF recommends that three existing MPAs that are offshore lands managed by the California Department of Parks and Recreation (MacKerricher SMCA, Russian Gulch SMCA and Van Damme SMCA) be retained with existing take regulations (both commercial and recreational) and with the addition of proposed allowed uses intended to accommodate tribes and tribal communities. Furthermore, the BRTF recommends that the California Department of Parks and Recreation and the California Department of Fish and Game work together to address feasibility concerns with the boundaries of each site.

7. Motion to Recommend Changing Classifications for Ten Mile Estuary and Navarro River Estuary State Marine Recreational Management Areas (motion made by Meg Caldwell, seconded by Greg Schem, passed unanimously)

The BRTF recommends that, if designated, the classification of Ten Mile Estuary State Marine Recreational Management Area be changed to a state marine reserve and the

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Navarro River Estuary State Marine Recreational Management Area be changed to a state marine conservation area, as intended by the NCRSG.

California Marine Life Protection Act Initiative
Summary of Actions Resulting from Motions Adopted by the
MLPA Blue Ribbon Task Force for the MLPA North Coast Study Region
November 16, 2010

At its October 25-26, 2010 meeting, the Marine Life Protection Act (MLPA) Blue Ribbon Task Force (BRTF) adopted seven motions with recommendations related to marine protected areas (MPAs) and special closures in the MLPA North Coast Study Region. The BRTF recommendations are specific to the work of the California Fish and Game Commission, California Department of Fish and Game, and California Department of Parks and Recreation, or more generally to the State of California (see the adopted BRTF motions document). This document summarizes the actions resulting from the motions adopted by the BRTF, including which proposed MPAs or special closures are affected, the source of their design, and any modifications to the design.

BRTF Motion 1: Forward the Revised Round 3 MLPA North Coast Regional Stakeholder Group (NCRSG) MPA Proposal and Special Closures Recommendation for the MLPA North Coast Study Region to the California Fish and Game Commission

This motion forwards the Round 3 NCRSG MPA Proposal in its entirety, but with two modifications:

- Per the NCRSG's recommendation, three MPA names (Ten Mile State Marine Reserve, Ten Mile Beach State Marine Conservation Area, and Ten Mile Estuary State Marine Recreational Management Area) were modified to include, "Skip Wollenberg/...."
- The proposed allowed uses intended to accommodate tribal uses were updated based on a staff review to ensure that legally appropriate species and gear types were included; the findings from this review were presented at the October BRTF meeting (<http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentVersionID=42651>).

The Round 3 NCRSG Special Closures Recommendation, the NCRSG's tribal uses recommendation, and the Green Rock and Flatiron Rock recommendation will accompany the Revised Round 3 NCRSG MPA Proposal. See Tables 1 and 2 for more details.

Table 1. Individual MPAs and MPA clusters included in the Revised Round 3 NCRSG MPA Proposal for BRTF Motion 1

MPA or MPA Cluster Name^{1,2}	Source of Boundaries and Proposed Allowed Uses	Modifications
Pyramid Point SMCA	Round 3 NCRSG MPA Proposal	Modified recreational uses intended to accommodate tribal uses
Point St. George Reef Offshore SMCA	Round 3 NCRSG MPA Proposal	None

¹ SMCA = state marine conservation area, SMP = state marine park, SMR = state marine reserve, SMRMA = state marine recreational management area

² Note this proposal includes state marine recreational management areas (SMRMAs), which are not MPAs but rather marine managed areas.

MPA or MPA Cluster Name^{1,2}	Source of Boundaries and Proposed Allowed Uses	Modifications
Reading Rock SMR/SMCA cluster	Round 3 NCRSG MPA Proposal	SMR: No change SMCA: Modified recreational uses intended to accommodate tribal uses
Samoa SMCA	Round 3 NCRSG MPA Proposal	Modified recreational uses intended to accommodate tribal uses
South Humboldt Bay SMRMA	Round 3 NCRSG MPA Proposal	Modified recreational uses intended to accommodate tribal uses
South Cape Mendocino SMR	Round 3 NCRSG MPA Proposal	None
Mattole Canyon SMR	Round 3 NCRSG MPA Proposal	None
Sea Lion Gulch SMR	Round 3 NCRSG MPA Proposal	None
Big Flat SMCA	Round 3 NCRSG MPA Proposal	Modified recreational uses intended to accommodate tribal uses
Vizcaino SMCA	Round 3 NCRSG MPA Proposal	Modified recreational uses intended to accommodate tribal uses
Ten Mile SMR/SMCA cluster	Round 3 NCRSG MPA Proposal	SMR: Modified name to, "Skip Wollenberg/ Ten Mile SMR" SMCA: Modified name to "Skip Wollenberg/ Ten Mile Beach SMCA" and modified recreational uses intended to accommodate tribal uses
Ten Mile Estuary SMRMA	Round 3 NCRSG MPA Proposal	Modified name to "Skip Wollenberg/ Ten Mile Estuary SMRMA"
Point Cabrillo SMR	Round 3 NCRSG MPA Proposal	None
Big River Estuary SMP	Round 3 NCRSG MPA Proposal	Modified recreational uses intended to accommodate tribal uses
Navarro River Estuary SMRMA	Round 3 NCRSG MPA Proposal	Modified recreational uses intended to accommodate tribal uses

Table 2. Special Closures included in the Round 3 NCRSG Special Closure Recommendation for BRTF Motion 1

Special Closure Name	Source of Boundaries and Closure Times	Modifications
Southwest Seal Rock Special Closure	Round 3 NCRSG Special Closures Recommendation	None
Castle Rock Special Closure	Round 3 NCRSG Special Closures Recommendation	None
False Klamath Rock Seasonal Special Closure	Round 3 NCRSG Special Closures Recommendation	None

Special Closure Name	Source of Boundaries and Closure Times	Modifications
Sugarloaf Island Special Closure	Round 3 NCRSG Special Closures Recommendation	None
Steamboat Rock Seasonal Special Closure	Round 3 NCRSG Special Closures Recommendation	None
Rockport Rocks Seasonal Special Closure	Round 3 NCRSG Special Closures Recommendation	None
Vizcaino Rock Seasonal Special Closure	Round 3 NCRSG Special Closures Recommendation	None

BRTF Motion 2: Recommend Incorporation of Tribal Uses in MPAs of the MLPA North Coast Study Region

This motion recommends that tribal traditional, non-commercial uses be accommodated in proposed state marine parks (SMPs), state marine conservation areas (SMCAs) and state marine recreational management areas (SMRMAs) when the legal authority to do so is clarified and settled by the State of California and California tribes and tribal communities. The motion also recommends modifying the proposed South Cape Mendocino State Marine Reserve (SMR), the Sea Lion Gulch SMR, Ten Mile SMR, Point Cabrillo SMR and Vizcaino SMCA to include a nearshore ribbon SMCA of approximately 1000 feet with only traditional, non-commercial tribal shore-based activities allowed within the SMCA ribbon.

BRTF Motion 3: Recommend Co-Management of MPAs with Sister Agencies

This motion recommends that the California Fish and Game Commission work with tribes and tribal communities and encourage sister agencies to work with the commission and tribes and tribal communities to develop co-management of MPAs where appropriate.

BRTF Motion 4: Motion Regarding the North Coast Enhanced Compliance Alternative MPA Proposal

This motion describes the North Coast Enhanced Compliance Alternative MPA Proposal (ECA). The ECA builds off the Revised Round 3 NCRSG MPA Proposal with modifications to improve compliance with science guidelines and California Department of Fish and Game feasibility criteria. The modifications involve replacing some SMCAs from the NCRSG proposal with MPA clusters that include a nearshore ribbon SMCA to accommodate tribal uses and an offshore SMCA with more limited take regulations in an effort to raise the level of protection; this approach is consistent with previous BRTF guidance to the NCRSG. In addition, Motion 4 includes a recommendation to restrict proposed recreational uses intended to accommodate traditional tribal uses to only tribes and tribal communities when administrative or legislative action is taken that allows only tribes and tribal communities to engage in traditional tribal uses within MPAs and SMRMAs. See Table 3 for more details.

Table 3. Individual MPAs and MPA clusters included in the North Coast Enhanced Compliance Alternative MPA Proposal described in BRTF Motion 4.

MPA or MPA Cluster Name^{3,4}	Source of Boundaries & Proposed Allowed Uses	Boundary Modifications	Proposed Allowed Uses Modifications⁵
Pyramid Point Nearshore/ Offshore SMCA cluster	Revised Round 3 NCRSG MPA Proposal: Pyramid Point SMCA	Modify MPA to create MPA cluster that includes a nearshore ribbon SMCA of approximately 1000 feet and an offshore SMCA	Nearshore ribbon SMCA: Include all proposed allowed uses at all levels of protection, including those intended to accommodate tribal uses, and add recreational take of pelagic finfish by spearfishing. Offshore SMCA: Retain only proposed allowed uses with moderate-high or high levels of protection and add recreational take of pelagic finfish by spearfishing; any proposed allowed uses with moderate, moderate-low or low levels of protection removed.
Point St. George Reef Offshore SMCA	Revised Round 3 NCRSG MPA Proposal: Point St. George Offshore Reef SMCA	None	Add recreational take of pelagic finfish by spearfishing.
Reading Rock SMR/SMCA cluster	Revised Round 3 NCRSG MPA Proposal: Reading Rock SMR/Reading Rock SMCA	None	SMR: No changes SMCA: Retain only proposed allowed uses with moderate-high or high levels of protection, and add recreational take of pelagic finfish by spearfishing; any proposed allowed uses with moderate, moderate-low or low levels of protection removed.

³ SMCA = state marine conservation area, SMP = state marine park, SMR = state marine reserve, SMRMA = state marine recreational management area

⁴ Note this proposal includes state marine recreational management areas, which are not MPAs, but rather marine managed areas.

⁵ The detailed lists of proposed allowed uses (species and gear types) can be found in MarineMap (www.marinemap.org).

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MPA or MPA Cluster Name^{3,4}	Source of Boundaries & Proposed Allowed Uses	Boundary Modifications	Proposed Allowed Uses Modifications⁵
Samoa Nearshore/ Offshore SMCA cluster	Revised Round 3 NCRSG MPA Proposal: Samoa SMCA	Modify MPA to create MPA cluster that includes a nearshore ribbon SMCA of approximately 1000 feet and an offshore SMCA	<p>Nearshore ribbon SMCA: Include proposed allowed uses at all levels of protection, including those intended to accommodate tribal uses, and add recreational take of pelagic finfish by spearfishing.</p> <p>Offshore SMCA: Retain only proposed allowed uses with moderate-high or high levels of protection and add recreational take of pelagic finfish by spearfishing; any proposed allowed uses with moderate, moderate-low or low levels of protection removed.</p>
South Humboldt Bay SMRMA	Revised Round 3 NCRSG MPA Proposal: South Humboldt Bay SMRMA	None	Retain only proposed allowed uses with moderate-high or high levels of protection, including those intended to accommodate tribal uses; any proposed allowed uses with moderate, moderate-low or low levels of protection removed.
South Cape Mendocino SMR	Revised Round 3 NCRSG MPA Proposal: South Cape Mendocino SMR	None	None
Mattole Canyon SMR	Revised Round 3 NCRSG MPA Proposal: Mattole Canyon SMR	None	None
Sea Lion Gulch SMR	Revised Round 3 NCRSG MPA Proposal: Sea Lion Gulch SMR	None	None
Big Flat Nearshore/ Offshore SMCA cluster	Revised Round 3 NCRSG MPA Proposal: Big Flat SMCA	Modify MPA to create MPA cluster that includes a nearshore ribbon SMCA of approximately 1000 feet and an offshore SMCA	<p>Nearshore ribbon SMCA: Include proposed allowed uses at all levels of protection, including those intended to accommodate tribal uses, and add recreational take of pelagic finfish by spearfishing.</p> <p>Offshore SMCA: Retain only proposed allowed uses with moderate-high or high levels of protection and add recreational take of pelagic finfish by spearfishing; any proposed allowed uses with moderate, moderate-low or low levels of protection removed.</p>

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MPA or MPA Cluster Name^{3,4}	Source of Boundaries & Proposed Allowed Uses	Boundary Modifications	Proposed Allowed Uses Modifications⁵
Vizcaino Nearshore/ Offshore SMCA cluster	Revised Round 3 NCRSG MPA Proposal: Vizcaino SMCA	Modify MPA to create MPA cluster that includes a nearshore ribbon SMCA of approximately 1000 feet and an offshore SMCA	Nearshore ribbon SMCA: Include proposed allowed uses at all levels of protection, including those intended to accommodate tribal uses, and add recreational take of pelagic finfish by spearfishing. Offshore SMCA: Retain only proposed allowed uses with moderate-high or high levels of protection and add recreational take of pelagic finfish by spearfishing; any proposed allowed uses with moderate, moderate-low or low levels of protection removed.
Skip Wollenberg/Ten Mile SMR/SMCA cluster	Revised Round 3 NCRSG MPA Proposal: Skip Wollenberg/Ten Mile SMR and Skip Wollenberg/Ten Mile Beach SMCA	None	SMR: No changes SMCA: Add recreational take of pelagic finfish by spearfishing.
Skip Wollenberg/Ten Mile Estuary SMRMA	Revised Round 3 NCRSG MPA Proposal: Skip Wollenberg/Ten Mile Estuary SMRMA	None	None
Point Cabrillo SMR	Revised Round 3 NCRSG MPA Proposal: Point Cabrillo SMR	None	None
Big River Estuary SMP	Revised Round 3 NCRSG MPA Proposal: Big River Estuary SMP	None	Retain only proposed allowed uses with moderate-high or high levels of protection for those uses intended to accommodate tribal uses; any proposed allowed uses intended to accommodate tribal uses with moderate, moderate-low or low levels of protection removed.
Navarro River Estuary SMRMA	Revised Round 3 NCRSG MPA Proposal: Navarro River Estuary SMRMA	None	Retain only proposed allowed uses with moderate-high or high levels of protection for those uses intended to accommodate tribal uses; any proposed allowed uses intended to accommodate tribal uses with moderate, moderate-low or low levels of protection removed.

BRTF Motion 5: Recommend Adding Eulachon and Pacific Lamprey to Estuaries

This motion recommends that the recreational take of Pacific lamprey (by hook and line, hand, spear, and bow and arrow) and eulachon (by dip net) be added to the proposed allowed uses for estuarine MPAs intended to accommodate tribes: South Humboldt Bay SMRMA, Big River Estuary SMP and Navarro River Estuary SMRMA.

BRTF Motion 6: Recommend Retaining Three Existing MPAs with Modifications: MacKerricher, Russian Gulch and Van Damme SMCAs

This motion recommends that three of the five existing MPAs (MacKerricher SMCA, Russian Gulch SMCA and Van Damme SMCA) be retained with modifications. The BRTF recommends that two state agencies, the California Department of Fish and Game (DFG) and California Department of Parks and Recreation, work together and modify the three existing MPAs so that DFG feasibility concerns regarding boundaries are addressed. See Table 4 for more details.

Table 4. Existing MPAs (Proposal 0) included in BRTF Motion 6.

MPA or MPA Cluster Name	Source of Boundaries and Proposed Allowed Uses	Boundary Modifications	Proposed Allowed Uses Modifications⁶
MacKerricher SMCA	Proposal 0	Modify boundaries to address DFG feasibility concerns.	Modify proposed allowed uses to include recreational take that accommodates tribal uses.
Russian Gulch SMCA	Proposal 0	Modify boundaries to address DFG feasibility concerns.	Modify proposed allowed uses to include recreational take that accommodates tribal uses.
Van Damme SMCA	Proposal 0	Modify boundaries to address DFG feasibility concerns.	Modify proposed allowed uses to include recreational take that accommodates tribal uses.

BRTF Motion 7: Recommend Changing the Classifications of the Ten Mile Estuary and Navarro River Estuary SMRMAs

This motion recommends modifying the proposed designation of two SMRMAs back to the MPA designation originally assigned by the NCRSG before waterfowl hunting was suggested to take place in these geographies. As such, the Ten Mile Estuary SMRMA would change to a state marine reserve and the Navarro River Estuary SMRMA would change to a state marine conservation area. For both of these proposed MPAs, any proposed allowed uses related to waterfowl hunting would be removed.

⁶ MLPA Initiative and California Department of Fish and Game staff are working to develop the list of additional proposed uses intended to accommodate tribal uses, which will be added to MarineMap (www.marinemap.org) when complete.