Section 7. Funding

Adequate funding for implementing the Marine Life Protection Act (MLPA) should be a high priority. The MLPA states that "...the commission shall...implement the program [of marine protected areas] to the extent funds are available" Section 2859 (b). Consistent with this legislative intent, many participants in the MLPA Initiative advocated sufficient funding for effective management, education, enforcement, monitoring and evaluation as critical to successful implementation. Members of the California Fish and Game Commission also voiced this position, as did the leadership of the Department.

MLPA Funding History

Assembly Bill 993 (1999) enacted the MLPA to mandate the adoption by the Fish and Game Commission of a Master Plan guiding implementation of the Marine Life Protection Program.[13] The MLPA specifies the Master Plan components, including recommendations for funding sources to ensure all MPA management activities are carried out and the Marine Life Protection Program is implemented.[14]

In signing AB 993, Governor Davis stated he was encouraging the proponents and the Department "to seek assistance from private resources to help implement the provisions of the bill." The following year, AB 2800 (Stats.2000, Chapter 385) enacted the Marine Managed Areas Improvement Act (MMAIA), to require a standardized classification system for marine managed areas, which includes MPAs. The MMAIA expressly recognizes the need to coordinate efforts to identify opportunities for public/private partnerships,[15] and is intended to work in coordination with the MLPA.[16] The MLPA, in turn, requires that the Master Plan be prepared with the advice, assistance, and involvement of [fisheries] participants, marine conservationists, marine scientists, and other interested persons, and allows the Department to engage other experts to contribute to the Master Plan.[17]

The funding history of the current MLPA effort began with a 2004 public/private partnership between the Resources Agency, the Department, and the Resources Legacy Fund Foundation. The anticipated use of private matching funds for MLPA implementation was acknowledged in the agendas of both the Assembly Budget Subcommittee No. 3 (April 21, 2004) and the Senate Budget and Fiscal Review Subcommittee No. 2 (May 19, 2004). In appropriating $500,000 (Item 3600-001-0647), the Budget Bill (SB 1113; Stats.2004, Chapter 208) provided that the funds shall be available to match private funds for expenditure for MLPA-related activities. The Budget Bill was signed by the Governor on July 31, 2004. On August 27, 2004, the three entities executed a Memorandum of Understanding that laid the groundwork for the MLPA Initiative.

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[13]Fish and Game Code §§ 2853(b) 2855(a).
[14]Fish and Game Code § 2856(a)(2)(K).
[15]Public Resources Code § 36601(a).
[16] Fish and Game Code §§1591, 2854; Public Resources Code §§ 36750(a), 36900(b), 36900(e); See also Assembly Committee on Water, Parks, and Wildlife, Analysis of AB 2800 (1999-2000 Regular Session) April. 25, 2000; Senate Rules Committee, 3d reading analysis of AB 2800.
[17]Fish and Game Code § 2855(b)(4), (b)(5).

In 2005, the Governor's budget proposed $500,000 from the Environmental License Plate Fund to continue MLPA implementation. The agendas for both the Assembly Budget Subcommittee No. 3 (April 13, 2005) and the Senate Budget and Fiscal Review Subcommittee No. 2 (May 18, 2005) note the funding "is leveraging over $2 million in private foundation expenditures." In February, the Legislative Analyst's Office recommended that the Legislature hold the issue open pending receipt and review of the draft Master Plan Framework from the Blue Ribbon Task Force.[18] After the draft Framework was transmitted to the Fish and Game Commission on May 13, 2005, the Senate Subcommittee staff recommended approving the proposal as budgeted. Consistent with the subcommittee actions, the Budget Bill (SB 77, Stats.2005, Chapter 38) appropriated $15,802,000 (Item 3600-001-0005), of which $500,000 was allocated through a Budget Change Proposal to the Marine Region for MLPA Design Management (PCA A1020) totaling $416,667.

The Governor's January 10, 2006 budget again proposed $500,000 from the Environmental License Plate Fund to continue MLPA implementation.[19] A March 30, 2006 Finance Letter included an additional $380,000 from the General Fund to fund existing Department positions that were supported by a reimbursement contract with the Resources Legacy Fund Foundation, which expires December 31, 2006.[20] On April 24, 2006, Senate Subcommittee No. 2 staff recommended that it hold the issue open and request the Department to provide additional information. The Governor's May 2006 Revision proposed $2.6 million from the General Fund to the Ocean Protection Council for MLPA implementation, together with an equivalent amount of reimbursement authority to the Department. On May 17, 2006, staff for the Senate Budget and Fiscal Review Subcommittee No. 2 recommended that it approve all MLPA proposals as budgeted. Consistent with the subcommittee actions, the Budget Bill (AB 1801, Stats.2006, Chapter 47) appropriated "at least" $ 3.47 million for MLPA implementation (Item 3600-001-0001, paragraph 8).

Blue Ribbon Task Force Input on Future Funding

Decisions about funding the MLPA involve considerations of:

1. Appropriate sources of funds;
2. Expected activities required to implement the MLPA;
3. Possible partners in funding or performing activities required to implement the MLPA;
4. Expected duration and levels of expenditures; and
5. Structures for receipt and allocation of funds.

Each of these decisions was considered by the MLPA Blue Ribbon Task Force (BRTF) and recommendations made for each.

Appropriate Sources of Funds

Implementing the MLPA will help protect marine life and habitat and benefit Californians. Therefore, the use of general purpose, taxpayer supported resources (the General Fund for

[18] Analysis of the 2005-06 Budget Bill (LAO: February 2005), pp. B-63 to B-65.
[19] "Environmental License Plate Fund (ELPF)," Presentation to Assembly Budget Subcommittee No. 3 (LAO: May 23, 2006), p. 2.
[20] Senate Budget and Fiscal Review Subcommittee No. 2 Agenda (April 24, 2006), p. 15.

operating expenses and general obligation bonds for capital expenditures) is clearly warranted. Some particular benefits of enhanced marine life will accrue to specific users, such as recreational divers whose experiences are improved. However, these benefits may not develop for some time, or be of small magnitude to any individual, and may be administratively difficult to collect in a cost-efficient manner. At a broader geographical scale, there are likely to be economic benefits of enhanced marine life to coastal tourist businesses and to coastal property owners. Additionally, industries with operations in marine environments should reasonably expect MPAs not only to protect but also to enhance marine life over time.

Task force recommendations related to appropriate sources of funds:

1. The primary public source of funding for implementing the MLPA should be general-purpose taxpayer funds. Efforts should be made to seek General Fund operating and general obligation bond support for the MLPA.
2. A state statute should be pursued establishing an occupancy tax on lodging in coastal areas, which is a reasonable way to capture benefits from enhanced marine life to fund implementation of the MLPA.
3. A state statute should be pursued directing fines and/or legal settlements for harmful acts in marine environments to the “Marine Life Protection Fund” (described below).
4. A state statute should be pursued establishing a presumption that costs to enhance marine life should be part of any new or renewed license or other regulatory permission for industrial activities in marine environments, to be funded by payments directed to the Marine Life Protection Fund.
5. A state statute should be pursued to allocate a share of any operating permit, or similar state, federal or local regulation, which deals with facilities, individuals or businesses that impact the ocean through discharges to the Marine Life Protection Fund.
6. A small group of interested parties should be convened to negotiate a “rigs-to-marine life” agreement to place agreed upon funds for decommissioning oil rigs into the Marine Life Protection Fund.
7. In conjunction with the above, the state should seek federal and private sector support on a matching basis.

Expected Activities Required to Implement the MLPA

California has managed individual MPAs for some time, and has recent experience with managing a network of MPAs created around the Channel Islands. This experience provides some useful information about management activities required under the MLPA. However, existing MPAs, excepting those at Channel Islands, were created before the MLPA was enacted and all were created prior to full implementation of the MLPA. The MLPA established new goals for ecosystem protection and management of both individual MPAs and networks. The management requirements and associated costs of the MLPA, therefore, go beyond the activities currently undertaken by most existing MPAs.

Without specifying them in detail, it is useful to identify the different activities required for successful implementation of the MLPA, which include at least the following:

1. *design*, such as the process undertaken for the MLPA Central Coast Project
2. *designation*, including the regulatory and environmental review processes necessary to create MPAs

3. *start up*, including public education regarding designation, signage, capital equipment, and recruitment of personnel
4. *baseline science*, both biological and socioeconomic regarding human uses and impacts
5. *operations*, including management, education, personnel and enforcement
6. *monitoring***,** including data collection, maintenance and analysis, both within and outside individual MPAs to: 1) inform management about individual MPAs and 2) provide a basis for adaptive management
7. *adaptive management processes*, being the collection of information and judgments regarding the performance of individual MPAs and of networks at an ecosystem level, to change the configuration and regulations of the MPA to reflect new information and experience
8. *refreshing* equipment, materials and personnel as required

The first four of these activities are "one time" but will occur over several years, almost certainly past the 2011 completion date for designating marine protected areas as anticipated in the Master Plan. The remaining activities will continue as long as established MPAs remain in force.

For each activity, choices may be made about how to complete the activity (that is, steps followed to complete the activity and level of effort expended). For example, monitoring is an activity which can be undertaken in a variety of ways, with four major sets of choices needed regarding (a) what to monitor, (b) how to collect data, (c) where to collect those data, and (d) with what frequency. Choices about how to undertake activities should be made in terms of sufficiency to support management and policy decisions regarding the workings of the network of marine protected areas. There will also be choices about who "does" the needed activities. For some activities, it is possible for non-agency actors to play very large roles, with baseline science, monitoring and education being good examples. The design, adaptive management and enforcement activities will remain largely the responsibility of governments.

With respect to long-term funding, some of these activities will be fundable from bonds. Capital expenses clearly fall into this category and planning for such expenditures has been funded from bond proceeds.

Task force recommendations related to expected activities required to implement the MLPA:

1. Plans to fund implementation of the MLPA should address all of the activities required for its successful implementation, recognizing that the sources of the funds may vary and who undertakes activities may also vary over time.
2. Allocation of funds for the MLPA should be pursued in resource-focused bond proposals now pending or those developed in the future.

Possible Partners in Funding or Performing Activities Required to Implement the MLPA

While the MLPA is a state statute, successful implementation can rely on partnerships. Identifying possible partners, creating the devices for joint action, and managing partnerships over time requires resources, but offers considerable promise. The list of possible partners includes other state agencies, local governments, fishermen and other users of marine

resources, non-profit organizations, philanthropic organizations and volunteer groups. Partnerships can also provide access to streams of funding that are not directly available for implementing the MLPA, with examples including sharing of facilities or monitoring activities in ways that achieve the goal of MLPA implementation at lower cost. In other cases, a partner may have competencies that need not be directly provided by the state.

In developing and managing partnerships, the goal of effectively implementing the MLPA should be the criterion for entering into a partnership and the test of its success. Most partners will have goals only partially congruent with those of the MLPA and their activities will only partly match those needed by the MLPA, factors which require attention to managing the relationships. Explicit attention to partnerships contributed to the success of the Great Barrier Reef National Marine Park Authority, which has 40 individual managing partnerships.

Task force recommendations related to potential partners in funding or performing activities required to implement the MLPA:

1. Explicitly provide for the development and management of partnerships in state funding and personnel authorizations of the Department of Fish and Game.
2. Create funding mechanisms that support partnerships, which could include a joint pool of funds for marine related research to which state agencies, local governments, and philanthropic organizations could contribute, which would then fund and manage research pursuant to an agreed upon plan. Ensure legally that funds placed in joint pool or similar arrangement must be spent on MPA activities, and may not be diverted for other purposes.

Expected Duration and Levels of Expenditures

The MLPA anticipates protection of marine resources over a long period of time. The goals of protecting ecosystem integrity and habitats will continue indefinitely even as adaptive management may result in changes to specific MPAs.

Given that the statewide network of MPAs has not yet been designated, the choices about how activities are performed have not been made, and the desirability of partnerships in specific areas are not known, efforts to predict exact levels of needed funding will inevitably be inaccurate. Analyses of costs of similar or analogous programs, however, can be used to develop a reasonable range of expected expenditures. For example, an examination of the monitoring and evaluation activities associated with the Channel Islands marine protected areas and Monterey Bay National Marine Sanctuary can provide two examples of costs incurred in the activities of those two efforts to protect marine areas.

As plans for implementing the MLPA are developed, closer examination of those similar or analogous programs can inform decisions regarding funding. Closer examination may lead to the conclusion that some activities can be dropped while others need to be added.

A staff analysis of the costs of similar and analogous programs suggests a range of $20-60 million annually to implement the MLPA in all California state waters. Design expenditures will be high in early years, operation and monitoring expense will build up as MPAs are designated, and adaptive management and refreshing costs will be included regularly in later years. These cost estimates will be refined as more is learned about the programs for which

cost data are available but they are unlikely to change dramatically. While not large in the context of the total California State budget, expenditures in this range would be large for the Department of Fish and Game, for which the Governor's 2006-07 budget projects $310 million in expenditures, of which only $53.6 million is from the General Fund.

Task force recommendations related to expected duration and levels of expenditures:

1. Reliable long-term funding sources are needed for implementation of the MLPA and such sources should be a significant part of a long-term funding plan.
2. Sufficient funds should be anticipated from all sources, state and other, to adequately fund implementation of the MLPA. The best available estimates suggest total costs of several tens of millions of dollars annually. Those cost estimates should be refined, but realistic estimates of both costs and available funds should be the basis of judgments that adequate funds are available.
3. While MLPA implementation expenditures should be funded from both state and non-state sources, the state should play the lead role in ensuring adequate funding for this state program.

Structures for Receipt and Allocation of Funds

State funds for MLPA implementation will come through the established state funding mechanisms of annual budget of operating funds and bond accounts. Implementation of the MLPA would be facilitated by creating two additional structures for receipt and disbursement of funds. The first would be the "Marine Life Protection Fund" established to receive funds other than state appropriations devoted to the protection of marine life in California. The legal structure and governance of the organization should be designed to minimize risk of diversion of funds received to purposes other than marine life protection. The Marine Life Protection Fund should be structured to receive and allocate both endowment funds and capital or operating funds to be disbursed for general or specified purposes. Some sources of funds for this organization were identified above and its existence could attract other funds. The Marine Life Protection Fund would be a ready device to which organizations or individuals could direct funds to support marine life protection.

A second new structure to collect and allocate funds should focus on monitoring and evaluation activities in California ocean and estuarine waters. California has several state programs and local governments have created entities to implement monitoring and evaluation activities (e.g., Southern California Coastal Water Research Project). A similar structure could provide a device to effectuate partnerships in designing and implementing monitoring programs and in managing and analyzing data for needed policy making. This structure could be called the "California Marine Monitoring and Evaluation Institute." A similar approach was successful in the Great Barrier Reef National Marine Park.

Task force recommendations related to structures for receipt and allocation of funds:

1. A design for the "Marine Life Protection Fund" as described above be developed and support pursued for this concept.
2. A design for the "California Marine Monitoring and Evaluation Institute" as described above should be developed and support pursued for this concept.