

# California Marine Life Protection Act Initiative

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**To:** MLPA Blue Ribbon Task Force  
**From:** MLPA Facilitation Team: Scott McCreary and Rebecca Tuden, CONCUR Inc. and Eric Poncelet, Kearns and West  
**Subject:** Recommendations for Process Guidelines for Developing Final (Round 3) Marine Protected Area (MPA) Proposals  
**Date:** July 27, 2009

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This memorandum outlines a recommended process to implement the BRTF motion of June 4, 2009, that helps ensure productive and efficient deliberations and will result in a range of MPA proposals for BRTF consideration. At its June 4, 2009 meeting, the BRTF discussed process guidelines for the SCRSG's Round 3 deliberations. The BRTF unanimously recommended that any process design achieve the following goals:

- emphasize results of SAT analysis and evaluation;
- allow for a balanced array of proposals to emerge;
- reward existing and future good-faith negotiations and true cross-interest support across interest groups;
- give safe harbor for SCRSG members to pursue creative new options and combinations, including drawing from all proposals that have been considered in the SCRSG process; and
- commit to holding all SCRSG members accountable for observing ground rules as adopted by the SCRSG and remove any member than continues to violate the established ground rule after a written warning.

This memo also incorporates recent discussions with MLPA South Coast Regional Stakeholder Group (SCRSG) members and the findings of the online survey of the SCRSG members. In total, 60 SCRSG members responded to a query on their preferences for starting points for Round 3 deliberations.

## **Recommended Process Guidelines for Developing Final SCRSG (Round 3) MPA Proposals**

This recommendation addresses the following topics: 1) MPA proposals to use as a starting point (referred to as Round 3 platforms); 2) guiding directions for Round 3 workgroups; 3) assignments to Round 3 workgroups; 4) work group ground rules and decision-making process; 5) development of Round 3 proposals; and 6) reporting back to the SCRSG.

### **1. MPA Proposal as Starting Point for Respective Work Groups (Round 3 platforms):**

- a. We recommend establishing three new work groups. Each workgroup will be assigned a Round 2 proposal as the starting point (or platform) for their Round 3 deliberations.

Providing each work group with a starting platform helps to provide a common focus on geographies and makes the dialogue for newly formed groups more efficient. Based on the Round 2 deliberations and evaluations and the results of our survey, we recommend that the new work groups begin their work in Round 3 using the following proposal platforms:

- Work group 1: Topaz
  - Work group 2: External A
  - Work group 3: Lapis 1
- b. Consistent with the BRTF direction, SCRSG members are encouraged to draw on all MPA ideas generated to date to develop creative new solutions for their Round 3 proposals. The Round 2 proposals are to be used as platforms and, with the evaluations, are intended to help guide the initial discussion and direction of each work group.

## **2. Guiding Principles for Round 3 Workgroup Direction:**

- a. Each Round 3 work group will meet or achieve SAT guidelines, achieve cross-interest support within the SCRSG, and conform to the California Department of Fish and Game's (DFG) feasibility guidelines and State Parks guidance to the extent possible. Recall the BRTF's guidance that these elements are the foundation of all MPA proposals.
- b. In reviewing the evaluations from the MLPA Master Plan Science Advisory Team (SAT) alongside the survey responses from SCRSG members, it is clear that the proposals submitted for Round 2 each approached balancing the multiple MPA planning considerations in a different way. As a result, some MPA proposals were more successful in meeting different aspects of the BRTF's guidance for MPA proposal design. Recognizing the respective strengths of each Round 2 draft MPA proposal and the desire to provide a safe harbor for SCRSG members, it is recommended that each Round 3 work group maintain the particular strengths of each Round 2 MPA proposal and improve the proposal in other aspects. The direction for each work group is as follows:
- All work groups: Directed to improve their achievement of SAT guidelines, better conform to DFG feasibility criteria, and garner cross-interest support.
  - Work group 1 direction: Continue to achieve a high level of cross-interest support and improve achievement of SAT guidelines.
  - Work group 2 direction: Continue to seek efficiency of MPA design and improve achievement of SAT guidelines.
  - Work group 3 direction: Continue to address SAT guidelines and strive to achieve *preferred* SAT guidelines.
- c. In specific instances where work groups are finding it difficult to balance the multiple considerations in MPA designs, I-Team staff will remind work group members of the direction for their proposal.

### **3. SCRSG Members will be Assigned to New Round 3 Work Groups**

- a. *I-Team staff to assign each SCRSG member to one of the Round 3 work groups.* Drawing on experience in the previous rounds, we recommend that the I-Team be assigned the task of organizing SCRSG members into new work groups for Round 3. These work groups will be designed to enable successful development of Round 3 final MPA proposals and provide the opportunity for SCRSG members to have a safe harbor to pursue their interests and the interests of other SCRSG members. These work group assignments strive to accommodate each SCRSG member's expressed preferences for proposals to use as a starting point in Round 3, but may not meet individual preferences in every case.
- b. The I-Team will announce work group assignments at the August 3-4, 2009 SCRSG meeting; these assignments will be derived from four main sources of information:
  - The stated preferences of individuals reported to the online survey of SCRSG members requesting their preference for a Round 2 MPA proposal to use as a starting point for Round 3 deliberations;
  - I-Team observations of SCRSG members' preferences for which considerations to emphasize in developing MPA proposals;
  - I-Team observations on the degree to which SCRSG members have engaged in good-faith negotiations; and
  - I-Team discussions with individual SCRSG members.
- c. *Select reassignments may be considered.* I-Team staff may reassign SCRSG members to other work groups to better achieve the considerations described above. Reassignment will be based on considerations for the size of the work groups, balancing key interests and geography, and a history of good-faith negotiation.
- d. *SCRSG members are expected to conduct their primary work within these assigned work groups.* Opportunity for discussion or dialogue with other work group members will be available during plenary sessions and encouraged between meetings. Work group members are expected to support the development of their group's Round 3 proposals although they may choose to support other Round 3 proposals as well.

### **4. Reinforcing Work Group Ground Rules and Decision-Making Process**

- a. *Negotiating in good faith.* Consistent with the SCRSG's adopted ground rules, SCRSG members are expected to negotiate in good faith as evidenced by expressing their interests clearly, exploring options and offering or considering solutions that respond to multiple interests, and striving for a high level of broad-based agreement within their work groups. SCRSG members that show a pattern (2 or more times) of refusing to offer alternatives or to explore multiple interests may be asked to leave a work group. Facilitators and senior MLPA initiative staff will note when a stakeholder has not demonstrated good-faith negotiations.

- b. *Modeling respectful behavior.* Consistent with the SCRSG's adopted ground rules, SCRSG members are expected to respect divergent viewpoints and acknowledge the legitimacy of different interests. SCRSG are expected to listen courteously, refrain from personal attacks and refrain from denigrating the interests or proposals of fellow SCRSG members. SCRSG members that show a pattern (2 or more times) of failing to offer respectful behavior may be asked to leave the work group. Facilitators and senior MLPA Initiative staff will note when a stakeholder has not shown respectful behavior.
- c. *Considering complete proposals as linked geographies.* SCRSG members are asked to consider full MPA proposals as a complete network. Shifting a boundary or regulation in one area may have an implication in another part of the study region.
- d. *Developing and considering options for each geographic area.* As they build their proposals, work group members will probably consider multiple options for MPA boundaries and regulations for each geographic area. Facilitation team staff will manage the discussion to allow time to revisit key geographies where a high level of broad-based agreement in support of a proposal has not been achieved. Facilitation team staff will encourage consideration of linked geographies to help increase the opportunities for joint gains. However, SCRSG members will make a good-faith attempt to suggest multiple alternatives to identify options that best achieve broad-based agreement. SCRSG members are also encouraged to borrow "good" ideas from other proposals.
- e. *Use of straw votes to illuminate preferences for options in specific geographies:* Work groups may use straw votes to gauge relative support within a work group for alternative options for MPA proposals at specific geographies. Such straw votes on individual MPA geographies should be considered interim results. These straw votes will be used to inform the discussion of where broader support is needed and help to galvanize SCRSG members to identify additional alternatives that better address interests. While straw voting is an important tool in building agreements, facilitation team staff will ensure that the use of straw voting does not result in the disenfranchisement of particular interests or constituencies.
- f. *Coming to "agreement" on individual MPA options.* Coming to agreement within work groups on individual MPA options is defined as "being able to live with" that option. It is not the intent to accord any one SCRSG members a *de facto* veto on MPA boundaries and regulations.
- g. *Coming to agreement on complete MPA proposals:* Individual work group members will be asked to express their level of support for their entire Round 3 proposal, acknowledging that the proposal will be a product of many interim agreements and choices. Staff will help recall the BRTF's guidance to meet SAT and DFG guidelines and to maintain cross-interest support.

**5. Development of Round 3 draft and final proposals will take place in a series of steps.**

- a. Each work group will have a dedicated time in work sessions to prepare complete Round 3 proposals. Work groups are encouraged to organize additional meetings, if needed, to assist with completion of Round 3 proposals.
- b. Each work group will have the opportunity to present a draft version of its Round 3 MPA proposal to the full SCRSG without interruption. SCRSG members will then be provided with the opportunity to ask questions, followed by suggestions for and discussion of potential revisions with the proposal authors.
- c. At the August 2009 meeting, work groups will have an opportunity to discuss and consider revising their platforms. Each work group may choose to convene additional work sessions to support completion of their MPA proposals. At the beginning of the September 2009 meeting, SCRSG members will present their working proposals in plenary to obtain additional feedback.
- d. At the end of the September 2009 meeting, each work group will present any revisions and its final Round 3 proposal to the full SCRSG.

**6. Concluding the SCRSG process and reporting back to the BRTF**

A joint SCRSG and BRTF meeting will be held in October 2009, where SCRSG members will be provided the opportunity to express authorship, support, and preference for the final SCRSG proposals to be forwarded to the BRTF. Individual SCRSG members are not required to indicate support for their work group's proposal; they may also choose to express support for more than one proposal.