

## Marine Life Protection Act Initiative South Coast Tribal Forum

### Final Summary Report

*Updated April 26, 2009*

Temescal Gateway Park, February 27 and 28, 2009

This report summarizes the main outcomes from the Marine Life Protection Act (MLPA) South Coast Tribal Forum, which took place on February 27 and 28, 2009 in Pacific Palisades, California. This report summarizes the impetus for the forum, key elements in its development, its goals and participants, and its key outcomes.

The purpose of this report is to inform the ongoing MLPA Initiative planning process of the involvement of California Natives in current and future study regions. This report is also intended to serve as a reference for forum participants and MLPA Initiative staff. It will be made available on the MLPA Initiative website to help inform and involve those California Natives unable to attend the forum.

#### **1. Background**

Participation of California Natives in the MLPA Initiative process has increased over the history of the project. California Natives were not significantly involved in creating the Marine Life Protection Act (MLPA). Similarly, no California Native representatives participated in the marine protected area (MPA) designation process in the first study region focused on the central coast portion of the state (ranging from Pillar Point in San Mateo County to Point Conception in Santa Barbara County). This early lack of involvement of California Natives, coupled with a general mistrust of government processes due to a long history of negative experiences at both the state and federal levels, led to skepticism amongst California Natives regarding the goals and intended benefits of the MLPA and the MLPA Initiative.

Spurred by an aggressive “lessons learned” evaluation of the central coast process, efforts to involve California Natives began to improve in the next study region, which focused on the north central coast portion of the state (ranging from Alder Creek in Mendocino County to Pillar Point). Here, two tribal representatives were appointed to the MLPA North Central Coast Regional Stakeholder Group (NCCRSG). Also during the north central coast process, MLPA Initiative staff convened a one-day “tribal workshop” designed to collect spatial information on the historical and current uses of coastal resources by regional tribes. However, the workshop suffered from key shortcomings. First, the workshop was designed without significant input from California Natives. And second, the workshop did not grow out of a foundation of established relationships with local tribes. As a result, only a small number of north central coast tribes participated in the workshop, and those who participated were generally reluctant to share confidential use information with MLPA Initiative staff or other workshop participants. The workshop did, however, encourage some of the participants to become more involved in the process, and a number of them attended some of the later MLPA Initiative public meetings. The importance of building relationships and creating a foundation of trust and understanding was an important lesson learned through the north central coast process.

The MLPA Initiative's experiences in the central and north central coast processes helped to inform outreach efforts to California Natives in the next study region—the south coast (ranging from Point Conception to the California/Mexico border). MLPA Initiative staff began their outreach to south coast tribes early in the process. In particular, MLPA Initiative staff contacted Larry Myers, Secretary of the Native American Heritage Commission, who helped make initial introductions to key individuals from the Kumeyaay, Chumash, Juaneño/Acjachemem, Tongva/Gabrieleño and Luiseño tribes. Additionally, two California Natives were appointed to the MLPA South Coast Regional Stakeholder Group (SCRSG), both as “primary” members with voting rights.<sup>1</sup>

However, even with the concentrated outreach conducted in the early stages of the south coast process, it became clear that additional efforts were required to ensure inclusive and meaningful involvement of California Natives in the MLPA Initiative south coast process. To achieve this goal, the MLPA Initiative convened two *MLPA South Coast Tribal Forum*, which were held on February 27 & 28, 2009 in the Pacific Palisades.

## **2. Development of MLPA South Coast Tribal Forum**

MLPA Initiative staff took several key steps to help make certain the goals, format and objectives of the forums were approached in an inclusive and culturally sensitive way:

- *Established a MLPA South Coast Tribal Steering Committee to Spearhead Forum Planning.* Comprised of MLPA Initiative staff, SCRSG tribal representatives, staff from California Department of Fish and Game (DFG), California Department of Parks and Recreation (State Parks), California State Lands Commission (State Lands), and outside advisors and consultants (appendix A), the MLPA South Coast Tribal Steering Committee helped establish the goals for the forum. Importantly, the steering committee recommended moving away from an emphasis on information gathering and toward a focus on relationship building and facilitating future tribal input into the south coast process. Steering committee members assisted with outreach efforts, commented on documents, and helped build the forums' agenda. They also provided valuable insight and guidance on how to create an inviting environment to promote inclusive and interactive dialogue. The steering committee envisioned the tribal forums as not only an opportunity to inform and involve, but also an occasion to listen and learn.
- *Organized Pre-Forum Outreach Events.* To further establish and strengthen relationships with south coast California Natives, the MLPA South Coast Tribal Steering Committee highlighted the need of a series of pre-forum outreach events that were designed to give basic information about the MLPA and the MLPA Initiative process while promoting the MLPA South Coast Tribal Forum. It is important to note these information meeting were suggested by one of the SCRSG tribal representatives who knew the appropriate way to convene interested Natives. This point illustrates the importance of having California Natives actively guide the forum development process.

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<sup>1</sup> In the north central coast process, one of the tribal members was appointed as a “primary” member and the other as his “alternate”. Only the primary member had voting rights. The designation of two primary members in the south coast study region was meant to indicate the equal status of the two appointed tribal representatives in the MLPA process. There was, however, a request made by one SCRSG tribal representative to have an alternate, however it was too late in the process to consider.

During the pre-forum outreach events, MLPA Initiative staff typically gave a short “Introduction to the MLPA” presentation and followed this with an extensive question and answer period. At least one of the two SCRSG tribal members attended each outreach event.

In all, the MLPA Initiative hosted four formal pre-forum outreach events:

1. January 25, Santa Ynez Tribal Hall
2. January 27, Southern California Tribal Chairman’s Association
3. February 1, Aquarium of the Pacific
4. February 13, Kumeyaay Unity Meeting and Kumeyaay Diegueño Land Conservancy

Approximately 75 federally and non-federally recognized California Natives attended these outreach events in total, representing all five coastal tribal nations in the South Coast Region. MLPA Initiative staff gathered contact information for all those in attendance and used this contact information to distribute invitations to the tribal forums as well as general MLPA Initiative process information.

An additional meeting was held at the Santa Ynez Tribal Hall on February 8 as a follow-up to the Initiative-sponsored meeting held in January. Convened and facilitated by SCRSG member Roberta Cordero, approximately 50 attendees, primarily Chumash, met to re-emphasize and discuss the MLPA Initiative process. This meeting was instrumental in helping participants understand the significance of the Initiative process and in galvanizing interest and action.

- *Prepared a Frequently Asked Questions Document.* One of the key outcomes from the pre-forum outreach events was the development of a list of frequently asked questions (FAQs). To better address these, MLPA Initiative staff, in collaboration with DFG, State Parks, and State Lands Commission staff, prepared a series of responses. The document was entitled: *Frequently Asked Questions for the Marine Life Protection Act South Coast Tribal Forum* (appendix B). This document addressed such key questions as: how California Natives have participated in the MLPA Initiative process in the past, the role government-to-government consultation in the MLPA Initiative process, and how marine protected areas may affect access and use of cultural resources.
- *Established Clear, Achievable Tribal Forum Goals and an Appropriate Format.* The MLPA South Coast Tribal Steering Committee, supported by feedback gained during the pre-forum outreach events, helped inform the process design of the tribal forums. The emphasis of the forums moved away from a data-gathering exercise and towards an information exchange, focusing on two primary goals:
  - Provide information about the MLPA, the MLPA Initiative, and the process. Establish the relationship between the MLPA process and constructive dialogue with state agencies.
  - Receive information from both federally recognized and non-federally

recognized tribes in the south coast study region and develop a plan for tribal involvement to support the MLPA process.

The forum was initially designed to be a single two-day event. However, steering committee members expressed concern that California Natives from non-federally recognized tribes, in particular, would not be able to make the Friday portion because of personal commitments (i.e., work, family). The steering committee therefore decided to structure the forums so the agenda for both days was identical to better accommodate participants' schedules. Meals were provided on both days to attendees and overnight accommodations were made available to those who chose to attend both days.

### **3. MLPA South Coast Tribal Forum—Participation and Organization**

The two MLPA South Coast Tribal Forum were held on Friday, February 27 and Saturday, February 28 at Temescal Gateway Park, which is located in the Pacific Palisades. Twenty California Natives attended the forums, 12 on Friday and 14 on Saturday, with 6 attending on both days. In addition, two non-California Natives attended the Friday forum, one of which was invited by a California Native to observe the meeting on their behalf but not act as a participant. These forum were not open to the general public in an effort to maintain confidentiality and privacy of information shared by California Natives. Because of this, one member of the general public was turned away from attending Saturday's forum.

The forum were also attended by members of the MLPA South Coast Tribal Steering Committee as well as DFG Deputy Director, Sonke Mastrup, MLPA Blue Ribbon Task Force Chair, Don Benninghoven, and MLPA Initiative Program Manager, Melissa Miller-Henson. Two SCRSG members, Julie Burseck, Education and Outreach Coordinator for the Channel Islands National Marine Sanctuary, and Russ Galipeau, Superintendent of the Channel Islands National Park, also attended.

The forum agenda (appendix C) was organized around the forum goals described above. It included specific informational presentations on the MLPA Initiative given by MLPA Initiative, DFG and State Parks staff in the morning, followed by informal group discussions in the afternoon focusing on a series of guiding questions:

#### **Breakout Session 1**

1. Help us understand the importance of the ocean to you and/or your tribe.
2. In the MLPA Initiative planning process the SCRSG relies on information about geographies or important uses and values associated with those geographies.
  - a. What type of tribal information is appropriate to share with this process?
  - b. What is the best way to bring this information into the process?

#### **Breakout Session 2**

1. How can California Natives best engage with and inform the MLPA Initiative south coast process?
2. In what ways would you like to be involved?

In response to steering committee guidance, the afternoon agenda items had a lot of flexibility built in. While it was originally anticipated that the forum would break out into smaller discussion groups, participants on both days requested the opportunity to discuss the guiding questions in private, without the involvement of MLPA Initiative staff or non-California Natives. The forum participants used this caucusing opportunity to discuss how best to bring potentially sensitive information into the process, and how best to provide input from all of the south coast tribes to the work of the south coast regional stakeholder group. Participants also used the caucus period to formulate additional key questions for Initiative staff.

It is important to note that while the Friday and Saturday forum were designed as two distinct meetings, there was a natural culminating effect that took place over the two days, perhaps strengthened by those participants who attended both days. This resulted in a stronger, more coherent set of outcomes that emerged from the Saturday forum.

At the end of both days, MLPA Initiative staff offered a one-hour training on MarineMap to forum participants. Forum participants used this opportunity to better understand this important planning tool and to improve their knowledge of how key information was being incorporated into the MPA planning process.

#### **4. Tribal Forum Key Outcomes**

Key outcomes from the Tribal Forum included the following:

##### *Agreement on steps for California Natives to provide input to south coast process*

- Participants established an Intertribal Group to provide ongoing input into the south coast process. This organized group, comprised of forum attendees and open to all California Natives, will provide feedback on Rounds 1-3 arrays/proposals and potentially develop individual MPA options.
- Participants established a listserv to assist with Intertribal Group coordination efforts. The listserv is open to all interested California Natives.
- Participants developed the following schedule for providing feedback on the draft Round 1 MPA arrays:

Week of March 16

- Begin review Round 1 MPA draft arrays

April 11

- Intertribal Group meets to discuss Round 1 draft MPA arrays and develop initial comments
- Circulate initial comments to other California Natives via community events

April 18

- Integrate feedback from California Natives and re-circulate for input

April 25

- Finalize feedback and compile final comments

May 7

- Submit comments to MLPA Initiative (through SCRSNG tribal members or via [MLPAcomment@resources.ca.gov](mailto:MLPAcomment@resources.ca.gov))

A similar timeline will be developed for reviewing Rounds 2 and 3 of draft proposals.

- The Intertribal Group will also conduct outreach in their local communities as well as at various community festivals and events in an effort to gain inclusive input from Southern California Natives.
- Participants requested background and support materials to be better prepared for reviewing marine protected area arrays and proposals during Rounds 1-3. Requests for additional MLPA Initiative staff support were also suggested, specifically in the form of teleconferences and possibly a face-to-face meeting during Round 2.

#### *Key Issues Raised by Tribal Forum Participants*

- Participants shared a deep concern about the lack of tribal consideration and involvement in both the creation of the MLPA as well as throughout the MLPA Initiative process to date. Currently, California Natives are not acknowledged for their historical or current connection and usage of coastal resources within the MLPA and its goals, nor in the marine protected area designations or regulatory language utilized under the Department of Fish and Game. In particular:
  - MLPA only considers living marine resources, not uses (e.g., subsistence, cultural/educational, and ceremonial).
  - MPA designations under the MLPA protect cultural resources (e.g., submerged sites), but not current subsistence, cultural/educational, and/or ceremonial uses.
  - Categories of 'recreational' and 'commercial' take do not encompass tribal uses.

MLPA Initiative staff acknowledged these legitimate concerns.

- Participants think it important to recognize the long history California Natives have played as caretakers and stewards of the ocean and its resources.
- Participants were reluctant to share confidential information regarding historical and current coastal uses or cultural practices. Participants expressed their need to take the

information gathered at the forum back to their community to consult with their leaders and members to discern what level of confidential cultural information can be provided to the MLPA Initiative.

- Participants expressed the importance for Native stakeholders to advocate for interests of all California Natives on the entire coast, and not be limited to only one's own tribe's interests.
- Participants recognized that multiple, parallel processes might be needed for California Natives to achieve all of their interests, particularly for issues that lie outside the purview of the MLPA (ie. the state's lack of distinction between California Natives and 'cultural' groups). This may require engaging in conversations with DFG to develop creative solutions when formal government-to-government consultation is not an available option.

#### *Key Documents Produced in Support of Tribal Forum*

- **"Frequently Asked Questions" Document** – Ten FAQs were born out of a series of pre-forum outreach presentations held in January and February. Answers to these questions were created in collaboration with DFG, State Lands and State Parks and presented at the forums.
- **"How to get involved" Document** – This reference guide outlined the various ways California Natives can become involved in the MLPA Initiative process.
- **State Parks Consultation Policy** – During the forums' preparation and development stages, State Parks uncovered a critical policy document that outlines the process in place for California Natives to consult with the agency (appendix C). This document was distributed at the forums.

#### *Preparations for future tribal involvement in the MLPA process*

- **Tribal Forum experience served to lay the groundwork for the MLPA north coast process.** The framework and approach of the south coast forums will provide a model for how best to engage with north coast tribes. Also, those California Natives who attended the south coast forums can now become advocates for involvement in the process and assist with reaching north coast California Natives.
- **Participants began building relationships that may extend well beyond the MLPA Initiative.** These forum provided California Natives and state officials an opportunity to begin building new relationships that will continue once the MLPA Initiative process is completed. It is important to recognize the state's willingness to participate in a conversation with tribes and find creative solutions regardless of their access to government-to-government consultation.

### **5. Near-Team Next Steps for the South Coast Process**

*Intertribal Group*

The Intertribal Group will meet and provide input toward the revision of Round 1 MPA arrays and proposals according to the tasks and schedule identified in the section above.

*MLPA Initiative Staff*

The MLPA Initiative will provide the following support to the Intertribal Group as well as those California Natives unable to attend the forum:

- **Establish Intertribal Group Listserv** – On March 13, 2009, the MLPA Initiative established the Intertribal Group listserv. This email list will assist the Intertribal Group with coordination and provide a direct link to MLPA Initiative staff when questions arise.
- **Establish MarineMap Accounts for Interested California Natives** – All forum participants were invited to create a MarineMap account to gain access to habitat data. This account also offers account users the opportunity to develop individual marine protected area options. Additionally, a number of forum participants requested they receive physical maps of MPA arrays and proposals – these names have been included in the MLPA Initiative’s distribution list.
- **Create Tribal Forum Contact List** – A complete contact list of forum participants was circulated via the Intertribal Group listserv on April 9, 2009.
- **Distribute MLPA Initiative Support Materials** – On March 13, 2009, a memo was circulated via the Intertribal Group that included links to background and support materials requested by forum participants, including the public resources code for the MLPA and the Marine Managed Areas Improvement Act, the Draft MLPA Initiative Master Plan, the MLPA South Coast Regional Profile, California Department of Fish and Game Feasibility Criteria and Evaluation Components for Marine Protected Area Proposals, and the MLPA Master Plan Science Advisory Plan Team list of species likely to benefit (appendix E).
- **Post Forum Materials on MLPA Initiative Website** – All materials developed for the MLPA South Coast Tribal Forums will be posted online for reference, including the forum agenda, the FAQs and “How to Get Involved” documents, and contact information of the MLPA South Coast Tribal Steering Committee. This final report will also be made available online.
- **Continue Outreach to California Natives** – The MLPA Initiative Public Outreach and Education Team will continue reaching out to California Natives throughout south coast, specifically Gabrieleño/Tongva, Juaneño/Acjachemem, and Luiseño.

MLPA Initiative staff members also agreed to discuss additional support on a case-by-case basis. This included the possibility of organizing teleconferences or webinars, providing real-time I-Team support at strategic points, or providing responses to technical questions by phone and email.

**7. Next Steps: Beyond the South Coast**

Tribal Forum participants acknowledged that the MLPA South Coast Tribal Forum was a first step in improving the involvement of California Natives in the implementation of the MLPA. They recommended the lessons learned from the south coast process be addressed as the MLPA Initiative turns its attention next to the north coast and San Francisco Bay study regions. To further highlight these lessons learned, the MLPA South Coast Tribal Steering Committee will prepare a memo to MLPA Initiative senior staff as well as the MLPA Blue Ribbon Task Force and present a number of recommendations for tribal involvement in future study regions (i.e., include California Native appendix to MLPA Initiative Master Plan).

Tribal Forum Participants also acknowledged that the relationships built during the Tribal Forum—both among tribes and between tribes and state agencies—were an important start, but that these relationships need to be nurtured and expanded in the months and years to come.

## Appendix A

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## Appendix B

**California Marine Life Protection Act Initiative**  
**Frequently Asked Questions for the**  
**Marine Life Protection Act South Coast Tribal Forum**  
*Revised February 26, 2009*

Below is a list of frequently asked questions regarding the Marine Life Protection Act Initiative that have been posed by California Natives at previous tribal outreach events. Answers to the questions are in the pages below.

1. What are marine protected areas (MPAs), what is their purpose, and how do they function?
2. Were California Natives involved in the creation of the Marine Life Protection Act (MLPA)? Does the MLPA address California Native interests? How or how not?
3. Have California Natives participated in the MLPA Initiative process? How? And how does the MLPA South Coast Tribal Forum fit into the process?
4. Can Native Americans use government-to-government consultation to engage the State of California and the MLPA Initiative process?
5. How are federal government agencies involved in the MLPA Initiative process?
6. What recourse do I have if I disagree with the Marine Life Protection Act?
7. If an MPA includes natural resources or places of cultural interest and traditional use to California Native Americans, would Indian people be able to use those resources or places?
8. What is the impact of MPAs on cultural resources, including submerged village sites?
9. How can I be involved in the MLPA south coast MPA planning process? Is there a deadline? Besides the MLPA South Coast Tribal Forum, what other support can I expect?
10. Can I become a member of the MLPA South Coast Regional Stakeholder Group (SCRSG)? How else can I provide input, since no other members of my tribe are on the SCRSG?

## **1. What are marine protected areas (MPAs), what is their purpose, and how do they function?**

A "marine protected area" (MPA) is a named, discrete geographic marine or estuarine area seaward of the mean high tide line or the mouth of a coastal river, including any area of intertidal or subtidal terrain, together with its overlying water and associated flora and fauna that has been designated by law or administrative action to protect or conserve marine life and habitat. MPAs are primarily intended to protect or conserve marine life and habitat. [Reference: *Public Resources Code, Sections 36602 and 36710*]

The State of California has three types of MPA classifications, each with different allowed uses. State marine reserves (SMR) prohibit all extractive activities. State marine parks (SMPs) allow some recreational fishing and prohibit commercial extraction. State marine conservation areas (SMCAs) allow for specified commercial and recreational activities. Allowed uses in SMPs or SMCAs can include fishing for certain species but not others, fishing with certain practices but not others, and kelp harvesting, provided that these activities are consistent with the objectives of the area and the goals and guidelines of each study region.

MPAs have been studied in a variety of locations around the world, including California. On average, science shows that there are increases in the number of individual animals, average individual size, numbers of young produced, and even the total numbers of different species inside MPAs. Additional information on MPA effectiveness may be found on the MLPA Initiative website at <http://www.dfg.ca.gov/mlpa/science1.asp>.

MPAs are primarily intended to protect or conserve marine life and habitat, and are therefore a subset of marine managed areas (MMAs). Marine managed areas are a broader group of named, discrete geographic areas along the coast that protect, conserve, or otherwise manage a variety of resources and uses, including living marine resources, cultural and historical resources, and recreational opportunities. Marine managed area classifications include state water quality protection area, state marine cultural preservation area, and state marine recreational management area.

## **2. Were California Natives involved in the creation of the Marine Life Protection Act (MLPA)? Does the MLPA address California Native interests? How or how not?**

California Natives were not significantly involved in creating the Marine Life Protection Act (MLPA), an oversight that has been recognized by the MLPA Initiative and the California Department of Fish and Game.

The goals of the MLPA, however, are strongly aligned with the conservation and resource protection interests of many California Natives. Key goals include:

- Protect the natural diversity and abundance of marine life, and the structure, function, and integrity of marine ecosystems.
- Help sustain, conserve, and protect marine life populations, including those of economic value, and rebuild those that are depleted.

- 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.
- Protect marine natural heritage, including protection of representative and unique marine life habitats in California waters for their intrinsic value.

### **3. Have California Natives participated in the MLPA Initiative Process? How? And how does the MLPA South Coast Tribal Forum fit into the process?**

Native American participation in the MLPA Initiative process has increased over the history of the project. Currently, two tribal representatives participate as appointed members of the MLPA South Coast Regional Stakeholder Group (SCRSG) (see questions #9 and #10 below for more information on the tribal participants in the SCRSG). Both tribal SCRSG members are “primary” members, meaning they are both voting members. The SCRSG consists of 64 stakeholders representing a wide variety of interests and perspectives regarding southern California’s marine resources. The SCRSG is charged with developing alternative marine protected area (MPA) proposals for review and consideration by a policy level blue ribbon task force and the California Fish and Game Commission, the ultimate decision-making body under the MLPA.

The south coast “study region”—which ranges from Point Conception to the California/Mexico border, including offshore islands—is the third of five regions being addressed as part of the MLPA Initiative process.

The central coast study region (Pigeon Point in San Mateo County to Point Conception in Santa Barbara County) was the first of these five study regions to complete the MLPA planning and implementation process. In April 2007, the California Fish and Game Commission adopted MPAs for the central coast that will function as part of a statewide network of MPAs. There were no California Native representatives on the central coast regional stakeholder group during the central coast process.

To help improve Native American participation and representation, a concerted effort was made to better involve tribal interests in the next study region—the north central coast (Alder Creek near Point Arena in Mendocino County to Pigeon Point, including offshore islands). Two tribal representatives were appointed to the MLPA North Central Coast Regional Stakeholder Group. These tribal members participated in the development of MPA proposals and assisted in bringing appropriate information about Native American cultural uses in that region. The MPA proposals developed by the north central coast regional stakeholder group are currently being considered by the California Fish and Game Commission.

When the MLPA Initiative began addressing the south coast in 2008, a commitment was made to further increase efforts to involve tribal members and interests in the MLPA Initiative process. As noted above, two tribal members have been appointed to the south coast regional stakeholder group. Additionally, the MLPA Initiative has hosted or co-hosted a number of workshops and meetings aimed at increasing outreach and education to California Natives.

As part of this effort to inform and involve the greater community of California Natives, the MLPA Initiative will host two, one-day MLPA South Coast Tribal Forums. The objectives of the tribal forums are to:

- 1) Provide information about the California Marine Life Protection Act (MLPA) and the MLPA Initiative process to interested tribal members in southern California.
- 2) Initiate steps for tribal participation in the MLPA Initiative, and determine effective ways for tribes to share information on tribal-ocean relationships and current and traditional ocean uses.

MLPA Initiative staff hope to use the outcomes of the tribal forums to establish a model for more effective tribal involvement in the MLPA Initiative that can be replicated in the final two study regions: the north coast (California/Oregon border to Alder Creek near Point Arena), and San Francisco Bay (waters within San Francisco Bay, from the Golden Gate Bridge northeast to the Carquinez Bridge).

#### **4. Can Native Americans use government-to-government consultation to engage the State of California and the MLPA Initiative process?**

Unlike the federal government, the State of California has no legal authority to engage in formal, government-to-government consultation with California Natives. As such, the California Department of Fish and Game and the California Department of Parks and Recreation—the two principal state agencies involved in implementing the MLPA—have no jurisdiction to enter into formal government-to-government consultations with California Natives. For its part, the MLPA Initiative is a public-private partnership, which similarly cannot engage with tribes in a formal consultation process.

However, as in the past, state agencies like the California Department of Fish and Game and the California Department of Parks and Recreation are willing to engage in *informal* consultations with tribes to learn and address tribal needs and interests.

The most direct way for Native Americans to inform the MLPA Initiative is to participate in the process itself. See question 9 below for more information on how to become involved.

#### **5. How are federal government agencies involved in the MLPA Initiative process?**

Just as tribes participate as members of the MLPA South Coast Regional Stakeholder Group, so too do federal agencies. Agencies such as the Channel Islands National Marine Sanctuary, the Channel Islands National Park, and the National Park Service all serve as south coast stakeholder group members and have equal standing and voting power as tribal representatives, commercial and recreational fishing interests, the conservation community, divers, local government officials, and non-consumptive users.

As federally-recognized tribes have formal government-to-government relations with these agencies, these tribes can also seek to influence the MLPA Initiative process through consultation with these agencies.

## **6. What recourse do I have if I disagree with the Marine Life Protection Act?**

If you disagree with the Marine Life Protection Act (MLPA) itself, you may contact your state assemblyperson, state senator, or the Governor to voice your concerns. As the Marine Life Protection Act has already been passed (it was signed into law in 1999), it would take another act by the California State Legislature and the Governor to revise or repeal it.

While the above path remains an option for California Natives and indeed all California citizens, participation in the MLPA Initiative process itself may be the most effective way to influence the outcomes of the act.

## **7. If an MPA includes natural resources or places of cultural interest and traditional use to California Native Americans, would Indian people be able to use those resources or places?**

Depending on the type of MPA designation, Native American uses of resources and access to places may be restricted.

The Marine Managed Areas Improvement Act (*Public Resources Code, Section 36710*) states that within a state marine reserve (SMR), “it is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource, except under a permit or specific authorization from a managing agency for research, restoration, or monitoring purposes. While, to the extent feasible, the area shall be open to the public for managed enjoyment and study, the area shall be maintained to the extent practicable in an undisturbed and unpolluted state. Access and use for activities such as walking, swimming, boating, and diving may be restricted to protect marine resources. Research, restoration, and monitoring may be permitted by the managing agency. Educational activities and other forms of nonconsumptive human use may be permitted by the designating entity or managing agency in a manner consistent with the protection of all marine resources.” Any use or access that is granted cannot be discriminatory, meaning that use and access cannot be restricted to any one user group.

There are two other types of marine protected areas, namely state marine parks (SMPs) and state marine conservation areas (SMCAs), that do allow restricted recreational and/or commercial extraction. These two designations could be used to allow resource use or access to California Natives. However, it should be noted that this use or access is not exclusive of Native Americans but rather available to all user groups.

Depending on the type of MPA, it may be possible for Native Americans to obtain approval for specific types of cultural use in MPAs. For instance, extraction of particular mineral resources in state marine parks (SMPs) may be possible. A permit or lease would be required from the California State Lands Commission and may also be required from the California Department of Parks and Recreation.

The Department of Fish and Game does not have a permitting process directed specifically to Native Americans.

## **8. What is the impact of MPAs on cultural resources, including submerged village sites?**

The Marine Life Protection Act (MLPA) applies only to state waters up to the mean high tide line; the MLPA does not apply to resources lying above the mean high tide line, including cultural resources. MPAs that are created under the MLPA are not directed primarily toward protection of cultural resources. However, designation of a state marine reserve, a state marine conservation area, or a state marine park may have the secondary effect of indirectly protecting cultural resources.

Submerged cultural resources, including submerged village sites, are under the jurisdiction of the California State Lands Commission. The California State Lands Commission administers the Shipwreck and Historic Maritime Resources Program under Public Resources Code sections 6309, 6313, and 6314. Submerged village sites are protected by these statutes from unauthorized activities that result in removal of artifacts or damage to the site.

Permits for excavation may be authorized when the activity is justified by an education, scientific, or cultural purpose, or the need to protect the integrity of the site or the resource. The California State Lands Commission may also consider leasing a submerged area that includes cultural resources for their management and protection, but this would take place external to the MLPA process.

Outside of the jurisdiction of the MLPA, there is a type of marine managed area that can be designated by the California Park and Recreation Commission to protect submerged cultural resources—a state marine cultural preservation area. As defined in the Marine Managed Areas Improvement Act (Public Resources Code, sections 36700-36900), a state marine cultural preservation area is a “nonterrestrial marine or estuarine area designated so the managing agency may preserve cultural objects or sites of historical, archaeological, or scientific interest in marine areas.” In a state marine cultural preservation area, “it is unlawful to damage, take, or possess any cultural marine resource. Complete integrity of the cultural resources shall be sought, and no structure or improvements that conflict with that integrity shall be permitted. No other use is restricted.”

Native Americans interested in protecting cultural resources may consider working with the California Department of Parks and Recreation to pursue designation of state marine cultural preservation areas, but this would take place external to the MLPA process.

## **9. How can I be involved in the MLPA South Coast MPA planning process? Is there a deadline? Besides the MLPA South Coast Tribal Forum, what other support can I expect?**

There are a variety of ways California Natives can be involved in the planning process:

### Stay Informed

- Visit the MLPA website at [www.dfg.ca.gov/mlpa](http://www.dfg.ca.gov/mlpa)
- Sign up on the MLPA Initiative listserv at [http://www.dfg.ca.gov/mlpa/maillinglist\\_sc.asp](http://www.dfg.ca.gov/mlpa/maillinglist_sc.asp)

- View live webcasts of meetings as they take place ([www.cal-span.org/](http://www.cal-span.org/)) or archived versions of the meetings on the MLPA website ([www.dfg.ca.gov/mlpa/meetings\\_sc.asp](http://www.dfg.ca.gov/mlpa/meetings_sc.asp))

#### Provide Input

- Contact a member of the MLPA South Coast Regional Stakeholder Group to express your interests and views.
- Provide verbal comment in person at task force, science advisory team, regional stakeholder group, and California Fish and Game Commission meetings
- Submit feedback on documents for public comment available on the MLPA website
- Submit comments, ideas and suggestions via email or regular mail:
  - Email: [MLPAComments@resources.ca.gov](mailto:MLPAComments@resources.ca.gov)
  - Mail: Marine Life Protection Act Initiative  
c/o California Natural Resources Agency  
1416 Ninth Street, Suite 1311  
Sacramento, CA 95814
  - Fax: 916.653.8102, Attn: MLPA Initiative

#### Attend Upcoming Public Meetings

All MLPA Initiative meetings are open to the public and are announced via the MLPA Initiative mailing list; meeting agendas and materials are posted to the MLPA website as they become available. Visit the MLPA website and learn more about how these groups interact and contribute to the process.

#### Participate at the MLPA South Coast Tribal Forums

- Connect with other interested California Natives
- Provide direct input on MPA proposals
- Receive basic training in MarineMap, an online mapping tool used to view data layers and/or develop MPA proposals
- Meet with SCRSG members, MLPA Initiative staff, and California Department of Fish and Game and California Department of Parks and Recreation representatives

#### **10. Can I become a member of the MLPA South Coast Regional Stakeholder Group (SCRSG)? How else can I provide input, since no other members of my tribe are on the SCRSG?**

In September 2008, the director of the California Department of Fish and Game and the chair of the MLPA Blue Ribbon Task Force appointed a sixty-four-member SCRSG. Currently, there are two tribal representatives on the SCRSG: Louie Guassac (Kumeyaay) and Roberta Cordero (Chumash). While the opportunity to become a member of the SCRSG is closed, both SCRSG tribal members are charged with involving their immediate tribes as well as reaching out beyond their tribal affiliations in an effort to be inclusive of all California Natives in the south coast region. You are encouraged to work with Louie and Roberta to ensure that your opinions, thoughts and concerns are voiced through the MLPA Initiative process.

## Appendix C

**South Coast Tribal Forum Agenda**

**Dates:** Friday, February 27, 2009 and  
Saturday, February 28, 2009

**Location:** Temescal Gateway Park, 15601 Sunset Blvd., Pacific Palisades, CA 90272

The MLPA Tribal Forum is a one-day event that will be held twice in late February 2009: on Friday, February 27, 2009, and again on Saturday, February 28, 2009. Participants are welcomed and encouraged to participate on either day or on both days for added value.

**Forum Objectives**

1. Provide information about the California Marine Life Protection Act (MLPA), the MLPA Initiative, and the process to interested tribal members in southern California.
2. Initiate steps for tribal participation in the MLPA Initiative process, and determine best ways for tribes to share information on tribal-ocean relationships and current and traditional ocean uses.

**Agenda (the agenda for February 27 and February 28 is identical)**

*8:00 – 9:00 AM Check In and Assemble*

9:00 – 9:15 Tribal Invocation

9:15 – 9:45 Welcome, Introductions, and Review of Forum Objectives, Agenda, and Ground Rules

9:45 -11:00 MLPA Presentations and Discussion

- Introduction to the MLPA and the MLPA Initiative
- Role of tribal members on the SCRSG
- Role of state government
- Public outreach and involvement

*11:00 – 11:15 Break*

11:15 – 12:15 PM Continue: MLPA Presentations and Discussion

*12:15 – 1:15 Lunch*

1:15 – 2:30 Breakout Session: Information Sharing on Tribal-Ocean Relationships and

Current and Traditional Ocean Uses

*2:30-2:45 Break*

2:45 – 4:00 Discuss Opportunities for Tribal Participation: Beyond the Forum

4:00 – 4:45 Breakout Groups Report Back; Discuss and Confirm Next Steps

4:45 – 5:00 Formal Closing Ceremony and ADJOURN

5:00 – 6:00 MarineMap Overview and Training Opportunity

6:00 – 7:30 PM Dinner (both Friday, February 27 and Saturday, February 28, 2009)

## Appendix D

## Appendix E

**MEMORANDUM**

**Date:** March 13, 2009  
**To:** MLPA Intertribal Group  
**From:** Kelly Sayce and Eric Poncelet, MLPA Initiative  
**Re:** MLPA South Coast Tribal Forum Next Steps  
**Cc:** Ken Wiseman, Executive Director, MLPA Initiative  
Sonke Mastrup, Deputy Director, DFG  
Don Benninghoven, Chair, MLPA Blue Ribbon Task Force  
Becky Ota, Acting Marine Habitat Conservation Program  
Manager, DFG  
Pamela Griggs, Legal Council, State Lands Commission  
MLPA Tribal Steering Committee

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Dear MLPA Intertribal Group,

On behalf of the Marine Life Protection Act (MLPA) Initiative, we would like to thank you all for your involvement and participation in the February 27-28, 2009 MLPA South Coast Tribal Forums. This memo summarizes key outcomes of the two forums, provides information requested by forum participants, and outlines next steps as we enter into Round 1 of the marine protected area (MPA) planning process. Initiative staff is also preparing a more detailed summary report of the forums that should be completed within the next few weeks.

**Key Outcomes of Tribal Forums**

The following key outcomes were presented to the MLPA South Coast Regional Stakeholder Group on March 3 & 4.

*Participants established Intertribal Group*

- Participants at the February 28, 2009 forum established an 'Intertribal Group'. This group will be inclusive of all forum participants, and is open as well to California Natives who did not attend either forum.
  - The Intertribal Group will coordinate to ensure continued engagement of California Natives in the MLPA Initiative process. Key tasks include reviewing, discussing, and providing input on Rounds 1-3 MPA arrays and proposals, as well as potentially developing individual MPA options.
  - This group will also conduct outreach within the south coast study region to make certain all California Natives have an opportunity to participate in the process.

*Participants committed to share information and gather input from non-forum participants*

- Participants agreed to bring information gathered during the Tribal Forums, including the creation of the Intertribal Group, to their communities for additional input and guidance.

- Participants agreed to discuss issues of confidentiality with their own tribal governments and communities. A key issue concerns what types of information are appropriate to share with the MLPA Initiative.

*Key information was presented to forum participants*

- Several key documents were distributed at the Tribal Forums:
  - A 'Frequently Asked Questions' (FAQ) document was developed for the forums in response to questions gathered during pre-forum outreach events.
  - An existing California State Parks policy on consultation with California Natives was distributed at both forums.
  - Summary of ways California Natives can be involved in the MLPA Initiative. This document included key email and website addresses as well as a list of future MLPA Initiative meeting dates. *This document is attached to the bottom of this memo.*

**These documents will be available on the MLPA Initiative website in the coming weeks. A separate email announcing the posting of these materials will be sent to the listserv.**

*Participants began building relationships with state officials and MLPA Initiative*

- The forums provided an important opportunity for California Natives to build relationships with state representatives, particularly with California Department of Fish and Game (Deputy Director, Sonke Mastrup) and California State Parks (Kevin Flemming), which can continue to grow far beyond the timeline of the MLPA Initiative.
- The forums also created a foundation for involving California Natives in the MLPA Initiative process, which will be built upon as the MLPA Initiative moves through the south coast process and into the north coast.

**List of Key Materials Requested**

Forum participants requested copies of the several key documents. These documents are listed below and can be found and downloaded at the following websites:

- Public Resources Code
  - MLPA - <http://www.dfg.ca.gov/mlpa/pdfs/revisedmp0108a.pdf>
  - MMAIA - <http://www.dfg.ca.gov/mlpa/pdfs/revisedmp0108b.pdf>
- Draft MLPA Initiative Master Plan
  - <http://www.dfg.ca.gov/mlpa/masterplan.asp>
  - <http://www.dfg.ca.gov/mlpa/pdfs/revisedmp0108.pdf>
- MLPA South Coast Study Regional Profile
  - <http://www.dfg.ca.gov/mlpa/scprofile.asp>
- California Department of Fish and Game Feasibility Criteria and Evaluation Components for Marine Protected Area Proposals
  - [http://www.dfg.ca.gov/mlpa/pdfs/agenda\\_111808n.pdf](http://www.dfg.ca.gov/mlpa/pdfs/agenda_111808n.pdf)
- MLPA Master Plan Science Advisory Team (SAT) List of Species Likely to Benefit
  - [http://www.dfg.ca.gov/mlpa/pdfs/agenda\\_022409o2.pdf](http://www.dfg.ca.gov/mlpa/pdfs/agenda_022409o2.pdf)

Additional documents can also be made available upon request.

**Request for hard copy maps**

Several participants also requested hard copy maps of the draft MPA arrays and proposals as these are produced.

***If you are interested in receiving hard copy maps, please respond to this email. We will need your mailing addresses.***

**Instructions for Getting an Account on MarineMap**

Several forum participants expressed interest in obtaining an account on MarineMap. To do so, please contact Chris Macdonald:

Chris Macdonald, MLPA Initiative GIS Team

Email: [macdonald@msi.ucsb.edu](mailto:macdonald@msi.ucsb.edu)

Phone: 805-455-2936

**Establishment of an Intertribal Group Listserv**

All participants of the Tribal Forums will be automatically added to the Intertribal Group mailing list.

To email the entire list, use the following email address:

[MLPAIntertribal@lists.ceres.ca.gov](mailto:MLPAIntertribal@lists.ceres.ca.gov)

To subscribe, unsubscribe, or change list options please visit:

<https://lists.ceres.ca.gov/cgi-bin/mailman/listinfo/mlpaintertribal>

IMPORTANT NOTE: When responding to an email, please remember when you hit 'reply', your message will automatically be sent to the entire list. If you would like to respond to only the sender, hit 'reply' and then delete [MLPAIntertribal@lists.ceres.ca.gov](mailto:MLPAIntertribal@lists.ceres.ca.gov) and enter in the individual email.

IMPORTANT NOTE: The listserv is primarily intended for coordination purposes. Please refrain from sending or sharing information that might be perceived as confidential.

Amy Padilla, the MLPA Initiative office administrator, will moderate the Intertribal Group listserv.

**Establishment of a Tribal Forum Contact List**

Many tribal forum participants expressed interest in obtaining a contact list of everyone who participated in the Tribal Forums. We would like to make this contact list available via the listserv but recognize that not everyone may want to have their contact information made available.

***Please notify us by Friday, March 20 if you would NOT like to be included in the contact list. Otherwise, we will go ahead and include your contact information on the list.***

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## **Recap of Intertribal Group Schedule for Providing Input on draft MPA Arrays**

### *March 12-17*

- Set up Intertribal Group listserv
- Finalize all MarineMap accounts

### *Week of March 16*

- Begin review Round 1 MPA draft arrays

### *April 11*

- Intertribal Group meets to discuss Round 1 draft MPA arrays and develop initial comments
- Circulate initial comments to other California Natives via community events

### *April 18*

- Integrate feedback from California Natives and re-circulate for input

### *April 25*

- Finalize feedback and compile final comments

### *May 7*

- Submit comments to MLPA Initiative (through SCRSG tribal members or via [MLPAcomment@resources.ca.gov](mailto:MLPAcomment@resources.ca.gov))

**There are a variety of ways California Natives can be involved in the MLPA Initiative planning process:**

### **Stay Informed**

- Visit the MLPA website at [www.dfg.ca.gov/mlpa](http://www.dfg.ca.gov/mlpa)
- Sign up on the MLPA Initiative Listserv at [http://www.dfg.ca.gov/mlpa/maillinglist\\_sc.asp](http://www.dfg.ca.gov/mlpa/maillinglist_sc.asp).
- View live webcasts of meetings as they take place ([www.cal-span.org](http://www.cal-span.org)) or archived versions of the meetings on the MLPA website ([www.dfg.ca.gov/mlpa/meetings\\_sc.asp](http://www.dfg.ca.gov/mlpa/meetings_sc.asp))

### **Provide Input**

- **Contact a member of the MLPA South Coast Regional Stakeholder Group** to express your interests and views (see Attachment 3 for a list of the MLPA SCRSG members).
- **Submit feedback on marine protected area (MPA) arrays and proposals (eg. How might a proposed MPA location, shape, and/or objective(s) impact how California Natives use/have used coastal resources?).**

MPA design options developed by the MLPA South Coast Regional Stakeholder Group over the next eight months will be viewable by the public at the end of each of the three rounds once the MPA design has been completed. **California Natives are encouraged to comment on MPA draft arrays (Round 1), draft proposals (Round 2) and final draft proposals (Round 3) at the following general meetings and public workshops:**

Round 1

March 3-4 South Coast Regional Stakeholder Group  
Hilton Long Beach & Executive Meeting Center  
701 West Ocean Blvd.  
Long Beach, CA 90831

Round 2

May 21 South Coast Regional Stakeholder Group  
Goleta/Santa Barbara area

Public Workshops – Review of Round 2 draft proposals  
June 29, 30 & July 1, 7, 8, 9  
Locations TBD throughout south coast study region

Round 3

September 10 South Coast Regional Stakeholder Group  
Santa Monica/Los Angeles area

- Submit written comments, ideas and suggestions via email or regular mail  
Email: [MLPAComments@resources.ca.gov](mailto:MLPAComments@resources.ca.gov)  
Mail: Marine Life Protection Act Initiative  
c/o California Resources Agency  
1416 Ninth Street, Suite 1311  
Sacramento, CA 95814  
Fax: 916.653.8102, Attn: MLPA Initiative

**Attend Upcoming Public Meetings**

All MLPA Initiative meetings are open to the public and are announced via the MLPA Initiative mailing list; meeting agendas and materials are posted to the MLPA website as they become available. Visit the MLPA website (<http://www.mlpa.dfg.ca.gov/meetings.asp>) and learn more about how these different groups interact and contribute to the planning process.

- Provide **verbal comment** in person at blue ribbon task force, science advisory team, south coast regional stakeholder group, and California Fish and Game Commission meetings

**Upcoming Meetings (South Coast Study Region)**

View or listen to MLPA Initiative meetings in real time via Internet webcasting <http://www.cal-span.org/>

View of listed to archived MLPA Meetings - <http://www.dfg.ca.gov/mlpa/meetings.asp>

***MLPA Blue Ribbon Task Force***

**April 15-16, 2009**

April 15: 9:30 a.m. – 5:30 p.m.

April 16: 8:30 a.m. – 4:00 p.m.

Laguna Beach

**June 4, 2009**  
Conference Call

**July 28-29, 2009**  
July 28: 9:30 a.m. – 5:30 p.m.  
July 29: 8:30 a.m. – 4:00 p.m.  
*Santa Monica*

***MLPA Master Science Advisory Team***

**April 1 and April 3, 2009**  
April 1: 9:30 a.m. – 5:30 p.m.  
*Los Angeles*  
April 3: Conference call

**May 5, 2009**  
9:30 a.m. – 5:30 p.m.  
*Los Angeles*

***MLPA South Coast Regional Stakeholder Group***

**April 28-29, 2009**  
April 29: Work Session\*  
Location to be determined  
*Oxnard*

**May 20-21, 2009**  
May 20: Work Session\*  
*Huntington Beach*

**October 20-22, 2009**  
October 20: 1:30-5:30 p.m.  
October 21: 8:30 a.m. – 5:30 p.m.  
October 22: 8:30 a.m. – 3:00 p.m.  
*Long Beach*

**December 10, 2009**  
Joint meeting with California Fish and Game Commission. Location to be determined.

**June 18, 2009**  
9:30 a.m. – 5:30 p.m.  
*Los Angeles*

**October 6, 2009**  
9:30 a.m. – 5:30 p.m.  
Joint meeting with the Master Plan Science Advisory Team for the MLPA North Coast Study Region. Location to be determined.

**August 4-5, 2009**  
August 5: Work Session\*  
*Oceanside/Carlsbad*

**September 9-10, 2009**  
September 9: Work Session\*  
*Los Angeles*

\*Work sessions are not videotaped and do not include a formal public comment period; members of the public are welcome to attend as observers.