California Marine Life Protection Act Initiative
Actions of the MLPA Blue Ribbon Task Force Taken on May 19, 2009 with Regard to Military Use Areas and Pending Military Closures

May 19, 2009

Given input received from the public, stakeholders, the California Department of Fish and Game, MLPA Initiative staff, the MLPA Master Plan Science Advisory Team (SAT), and the U.S. Department of Defense, regarding how military activities may affect the ability of pending military closures or proposed MPAs in military use areas to meet the ecological goals of the MLPA, the MLPA Blue Ribbon Task Force (BRTF) took the following actions:

1. A motion to include Area G at San Clemente Island in all MPA proposals for the MLPA South Coast Study Region and consider it as contributing to the ecological goals of an MPA network.

2. A motion to include Wilson Cove at San Clemente Island in any MPA proposals for the MLPA South Coast Study Region at the discretion of stakeholders and, if included in an MPA proposal, consider it as contributing to the ecological goals of an MPA network.

3. A motion to include Area Alpha at San Nicolas Island in any MPA proposals for the MLPA South Coast Study Region at the discretion of stakeholders and, if included in an MPA proposal, consider it as contributing to the ecological goals of an MPA network.

4. A motion to allow additional MPAs or special closures at San Clemente Island in any MPA proposal for the MLPA South Coast Study Region, at the discretion of stakeholders, was *rejected*; hence, the BRTF will not allow any MPAs or special closures at San Clemente Island.

5. A motion to allow additional MPAs or special closures at San Nicolas Island in any MPA proposal for the MLPA South Coast Study Region, at the discretion of stakeholders, was *rejected*; hence, the BRTF will not allow MPAs or special closures at San Nicolas Island.

6. A motion to allow MPAs or special closures at Begg Rock to be included in any MPA proposal for the MLPA South Coast Study Region at the discretion of stakeholders.

7. A motion to allow MPAs or special closures on the mainland in military use areas to be included in any MPA proposal for the MLPA South Coast Study Region, at the discretion of stakeholders.

8. A motion that no decision is being made regarding whether some or all of the pending military closures be recommended as state MPAs. Such a decision will be contingent upon further discussion with DoD and resolution of a number of administrative issues including access, responsibility and costs for scientific monitoring; access for enforcement purposes; and the adequacy of enforcement of pending military closures under federal law as compared to enforcement of MPAs under state law. The monitoring and enforcement efforts in these areas must be equivalent to what the state is doing with regard to non-military, state MPAs. While these administrative issues still need to be resolved, they will in no way affect or delay the SCRSG from moving forward with its MPA design responsibilities.

9. A motion that, for evaluation purposes, pending military closures will not be given an official MPA designation. Instead, pending military closures will be evaluated under a new, stand-alone category entitled, "Military Closure" that helps meet the goals of the MLPA. This new category will be depicted in a separate category from MPA designations in all evaluation materials and not be grouped with any state MPA classifications. The results from the eight anticipated SAT evaluations will be conducted in the following manner:
    - Habitat representation – include contributions of Military Closures to the overall percentage of habitats captured within MPAs proposed for the study region
    - Habitat replication – include habitats sufficiently captured within Military Closures as replicates for the study region
    - MPA spacing – a spacing analysis is not conducted by the SAT at any islands
    - MPA size – include the size of Military Closures in the MPA size analysis
    - Bioeconomic modeling – include Military Closures in the bioeconomic modeling analysis
    - Benefits to marine birds and mammals – include potential benefits to birds and mammals from the Military Closures
    - Evaluation of potential impacts to commercial and recreational fisheries – include potential impacts to fisheries in the Military Closures
    - Water quality – include water quality concerns within Military Closures

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10. A motion that, consistent with the April 1, 2009 policy memorandum from J. Michael Harty, these decisions reflect a number of circumstances which, taken together, create a unique policy and legal situation that does not apply to other types of closures in state waters and, therefore, does not create a precedent:
    - DoD's national security concerns;
    - In order to meet the basic scientific MPA design guidelines, the consequence of not including the pending military closures at San Clemente Island in the network of MPAs would be to require relatively much greater MPA coverage at Catalina Island where potential, negative economic impacts would be higher;
    - The pending military closures do not allow fishing and, in two cases, no access other than to facilitate safe transit;
    - The pending military closures are impacted by comparatively lower levels of military activity likely to result in take or habitat damage;
    - DoD acts in the capacity of a natural resources trustee at these islands and has devoted significant assets to environmental protection;
    - Military operations take place under approved environmental impact statements that, although not permanent, require significant public input to alter and help ensure that pending military closures will continue to contribute to the ecological goals of the act.; and

- The state's limited ability to regulate military activities.

11. A motion that, as with any interests represented in SCRSG deliberations, it will be important for SCRSG members and proponents of external proposals to continue to strive to address the interests of DoD in military use areas on the mainland. However, the presence of a military use area on the mainland does not necessarily preclude the proposal of an MPA in that area, depending upon the impact of military activities in the area. Stakeholders should use information developed by the SAT regarding the impact of various military activities combined with their best judgment about which areas are or are not appropriate for MPA designation.

12. The BRTF directs staff to implement the elements in this motion and to continue to work closely with military representatives to bring into the MLPA Initiative planning process the best readily available information about military use areas in the MLPA South Coast Study Region.