

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

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



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

Background

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

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

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

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

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

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

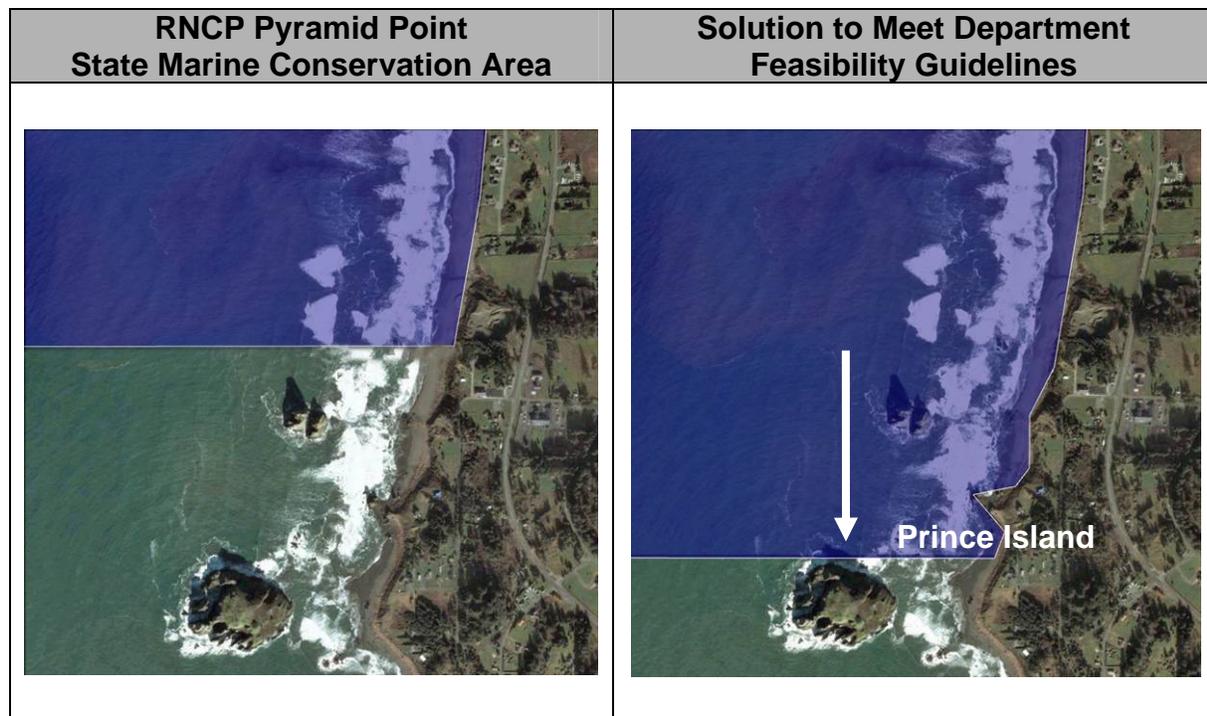
Specific MPA Geographies with Categories of Concern

Geography 1: Pyramid Point State Marine Conservation Area

Category: Boundaries

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

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



Geography 2: False Klamath Rock Seasonal Special Closure

Category: Special Closure Name

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

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

Geography 3: South Humboldt Bay State Marine Recreational Management Area

Category: Boundaries

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

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

RNCP South Humboldt Bay State Marine Recreational Management Area	Solutions to Meet Department Feasibility Guidelines
	

Geography 4: Steamboat Rock Seasonal Special Closure

Category: Special Closure Name

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

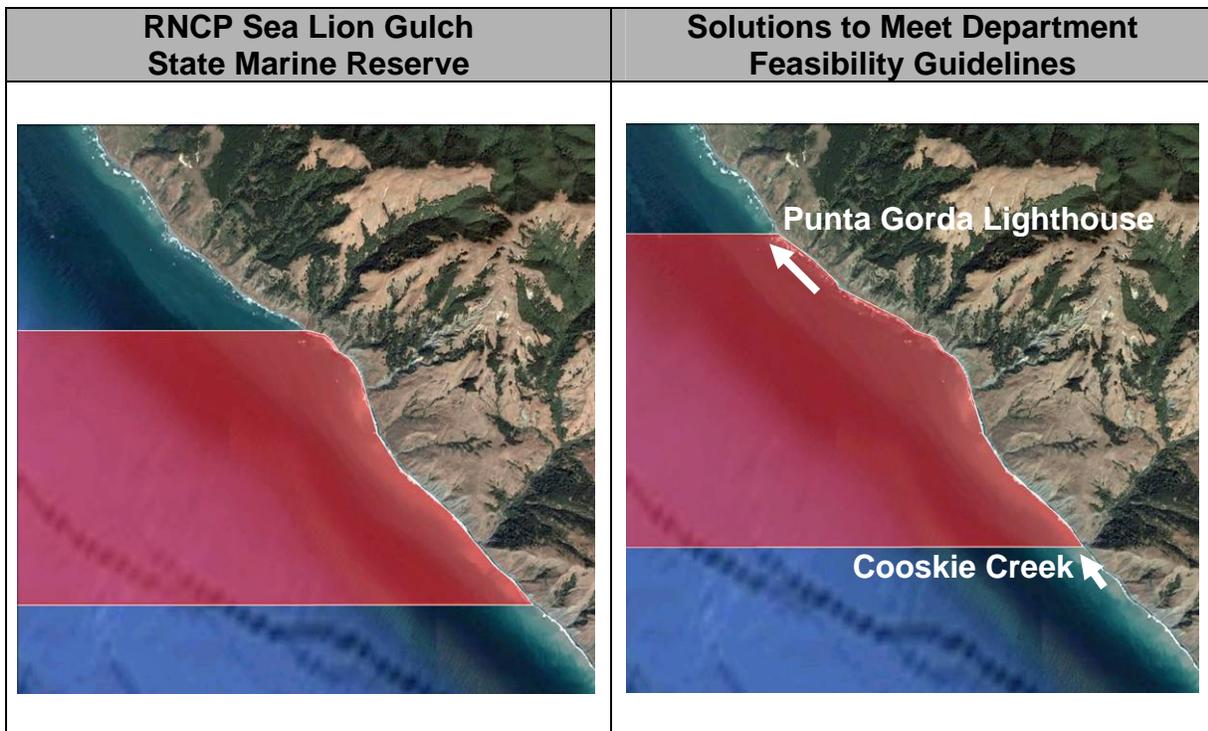
Solution to Meet Department Feasibility Guidelines: Remove the word “seasonal” from the proposed name to make it consistent with the naming convention of marine special closures statewide.

Geography 5: Sea Lion Gulch State Marine Reserve

Category: Boundaries

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

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



Geography 6: Rockport Rocks Seasonal Special Closure, Vizcaino Seasonal Special Closure

Category: Special Closure Name

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

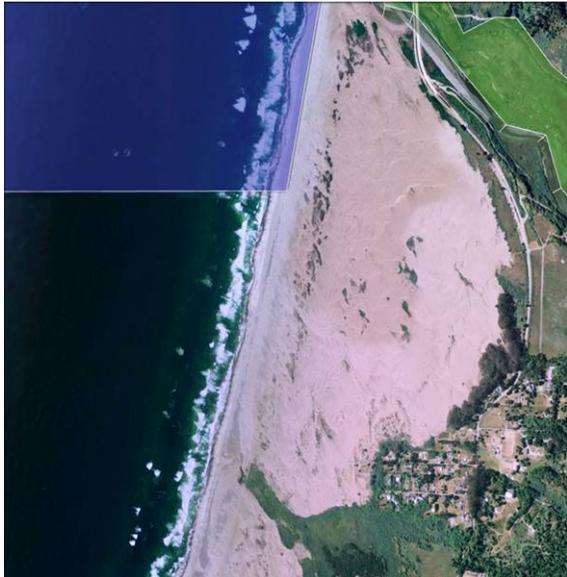
Solution to Meet Department Feasibility Guidelines: Remove the word “seasonal” from the proposed name to make it consistent with the naming convention of marine special closures statewide.

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

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

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

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

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

Geography 7, cont.

Category: MPA Naming Convention

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

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

Geography 8: Big River Estuary State Marine Park³

Category: Boundaries

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

Solutions to Meet Department Feasibility Guidelines:

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

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

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

RNCP Big River Estuary State Marine Conservation Area	Solution to Meet Department Feasibility Guidelines
	

Geography 8, cont.

Category: Permissive Take Regulations

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

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

Category: MPA Designation

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

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

Geography 9: Navarro River Estuary State Marine Recreational Management Area³

Category: Permissive Take Regulations

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

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

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

Feasibility issues regarding California Tribes and Tribal Communities

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

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

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

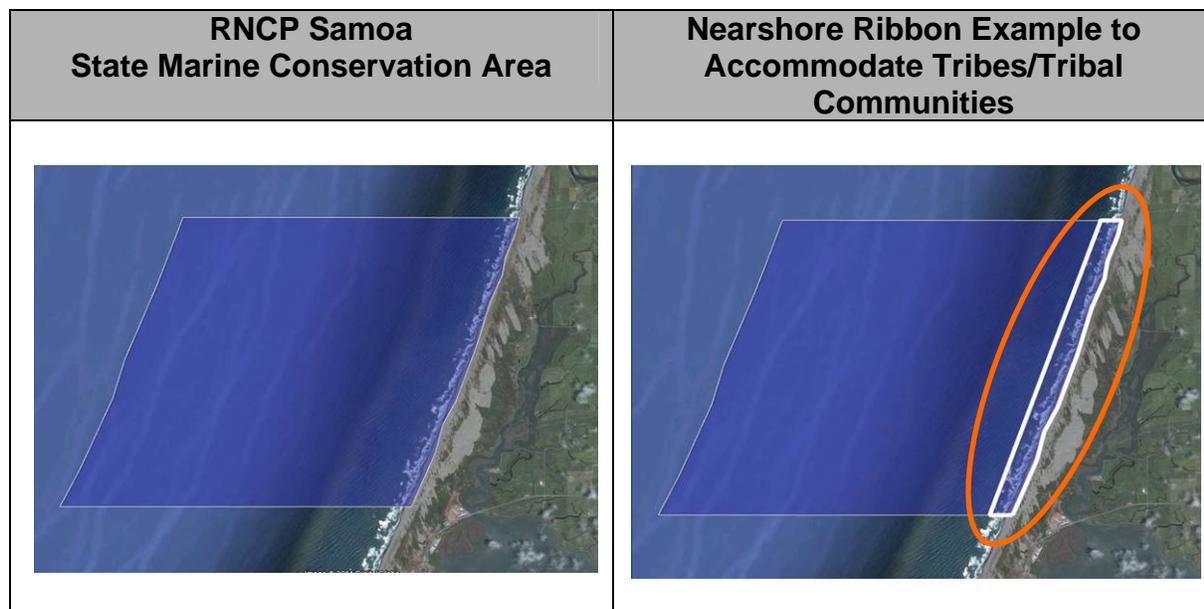
MPAs with this LOP Concern: Pyramid Point SMCA, Reading Rock SMCA, Samoa SMCA, South Humboldt Bay SMRMA, Big Flat SMCA, Vizcaino SMCA, Skip Wollenberg/Ten Mile Beach SMCA, Big River Estuary SMP, and Navarro River Estuary SMRMA.

Blue Ribbon Task Force No Exclusive Take Option – Nearshore Ribbons

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

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

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



Special Closure Access Options

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

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

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

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