



Yurok Tribe MLPA and Marine



Resource Plan

Factual Record of Marine Resource Use

Presented to the
California Fish & Game
Commission

September 15, 2011



YUROK TRIBE

190 Klamath Boulevard • Post Office Box 1027 • Klamath, CA 95548

California Fish and Game Commission
1416 Ninth Street, Suite 1320
Sacramento, CA. 94244-2090
(916) 653-4899
fgc@fcg.ca.gov

Dear Commissioners:

The Yurok Tribe is pleased to present to the Commission a response to Option I, as presented by the June 29, 2011 joint report prepared by the California Department of Fish and Game and the Marine Life Protection Act initiative staff. Our request is that you adopt Option I and concur with the implementation of the MLPA with the Yurok marine Resource Plan. We further request that you adopt as the preferred CEQA project a SMCA designation for Redding Rock, an area which holds tremendous religious value to Yuroks.

The Yurok Tribe has provided as an integral part of our proposal a mutual reservation of rights so as to protect the legal rights of the Tribe, the State of California and the Commission. Our plan is non-exclusive, allowing others to also use the resources.

The Tribe outlines our capacity from a legislative, judicial, law enforcement, and scientific standpoint to effectively carry out the Marine Life Protection Act (MLPA). It is our belief that by working together we can more efficiently enforce and improve the quantity and quality of science to provide better management to the protection of marine resources, and still allow the Yurok ceremonial, religious, cultural, and non-commercial subsistence harvesting to continue as it has since time immemorial. The sea harvest is cherished and the protection of natural resources is considered a sacred duty.



The Yurok Tribe comes to our State MLPA task with years of work on a Tribal Marine Resources Plan and Federal Marine Planning with NOAA. We are hoping to be able to present in the near future the NOAA fish survey conducted at the request of the Yurok Tribe in the Marine environment offshore from the mouth of the Klamath River.

The Tribal presentation extensively documents traditional Marine uses from the past to the present. Such uses have been consistently noted by first contact Europeans, prior Fish and Game publications, academia, and the extensive knowledge and history derived from Yurok people and Tribal experts. Marine harvesting has been practiced from time immemorial and is ongoing to the present.

The Yurok Tribe recognizes that the adoption of Option I and a concurrence in our MLPA and Marine Resource Plan is just the first step and that many other proceedings will be required in order to go forward. The MLPA is just a portion of a larger ongoing administrative, regulatory, and legislative process for both the Commission and the Tribe.

A careful review of the evidence will show substantial, un-refuted expert evidence supporting each and every Yurok position.

Respectfully submitted,

A handwritten signature in black ink that reads "Marjorie Buckskin". The signature is written in a cursive style with a long horizontal line extending to the right from the end of the name.

Marjorie Buckskin
Vice-Chairperson, Yurok Tribe

Enclosure: Yurok Option One Marine Life Protection Act Plan

Cc: Sonke Mastrup, Executive Director
Jon K. Fischer, Deputy Executive Director, Regulations and Policy
Adriana Shea, Deputy Executive Director, External Affairs and Special Advisor to the
Commissioners

Yurok Tribe
MLPA and Marine Resource Plan - Factual Record of Marine Resource Use
Submission to the California Fish and Game Commission
August 29, 2011

INTRODUCTION

On June 29, 2011, the California Fish & Game Commission moved, on a 4-1 vote, to adopt Tribal Option 1, as presented by the June 9, 2011 joint report prepared by the California Department of Fish & Game and the Marine Life Protection Act Initiative staff.

The Commission adopted Tribal Option 1 as the preferred alternative within the North Coast Study Region, to allow tribal gathering to continue within proposed State Marine Conservation Areas (SMCAs) by federally recognized tribes who, within sixty (60) days, submitted a factual record with sufficient documentation confirming current or historical use within the proposed SMCAs.

The Yurok Tribe requests the Commission to adopt option one based upon the following legal, factual and historical record submitted on behalf of the Yurok Tribe. Adoption would be for concurrence with the Yurok MLPA Marine Resources plan which provides for a non-commercial non-exclusive right of the Yurok Tribe to continue traditional, ceremonial, religious, and cultural harvesting as has been practiced continuously for 10,000 plus years or time immemorial.

YUROK RIGHTS

It has come to the attention of the Yurok Tribe that the Commission is concerned about recognizing Native American rights. The Yurok Tribe has the same concern about not recognizing state rights. There are two basic approaches to this issue that have been successfully used in the past. One is a recital such as is contained in California Fish and Game Code 16500 which outlines the nature of the legal dispute and the mutual goal of protecting and preserving the environment.

In many cases, the State of California and California Indian Tribes have differed in their respective views of the nature and extent of state versus tribal jurisdiction in areas where Indians have historically fished. Despite these frequent and often bitter disputes, both The state and the tribes seek, as their mutual goal, the protection and preservation of the Fish resource. This division is an attempt to provide a legal mechanism, other than protracted and expensive litigation over unresolved legal issues, for achieving that mutual goal on the Klamath River. California Fish and Game Code Section 16500 (d)

A key part of the Yurok Submittal will be to paraphrase Fish and Game Code 16500 laying out the different legal contentions. It is important that the Fish and Game Commission adopt this language. See proposed adoption language to go with the submittal.¹

¹ In many cases, the State of California and California Indian Tribes have differed in their respective views of the nature and extent of state versus tribal jurisdiction in areas where Indians have historically harvested marine resources. Despite these frequent and often bitter disputes, both The STATE and the TRIBES see, as their mutual goal, the protection and preservation of marine resources. This approval is an attempt to provide a legal mechanism, other than protracted and expensive litigation over unresolved legal issues, for achieving the mutual goal of protecting the marine environment and carrying out the mandates of the Marine Life Protection Act.

MUTUAL RESERVATION OF RIGHTS: Our second approach is a specific mutual reservation of rights. That is to say that both the Tribe and the State of California reserve the right to assert any and all legal jurisdictional arguments in the future. It is important that the Fish and Game Commission adopt this mutually protective language as part of any approval process.²

FINDINGS:

- No scientific evidence has been found showing harm to the marine environment by Yurok Tribal members within Yurok Ancestral Territory. None was found by the Marine Life Protection Act Initiative (MLPAI) and none has been introduced before the Fish and Game Commission.
- Numerous surveys conducted over the years by third parties such as the Redwood National and State Parks in areas of traditional and ongoing harvesting have found no damage despite ten thousand (10,000) plus years of harvesting.
- The Yurok Tribe reserves all legal and political rights.

NON AFFECT OF THE JURISDICTION OF OTHER TRIBES

The 60-day time period provided by the Fish and Game Commission may be insufficient for some Tribes. It is the understanding of the Yurok Tribe that the requested time line for Tribal proposals does not affect the right of non-submitting Tribes to approach the Commission in the future. This understanding is consistent with the Kashia Band of Pomo Indians precedent of submitting for emergency regulations after the MLPA was already adopted.

OVERLAPPING TERRITORY AND THE INTERRELATEDNESS OF NORTH COAST TRIBES

This application for a non-exclusive right to harvest may overlap with other eligible Tribes. The boundaries provided delineating ancestral and/or aboriginal lands and waters by each California Tribe shall be understood as defined in the document of the respective Tribe. However, it must also be recognized that there was always and continues to be traditional subsistence, ceremonial, and customary uses that may be inter-tribal and intra-tribal within a specific geography beyond and/or within those defined boundaries. This may be based on ownership, gathering, hunting, and/or harvesting rights obtained through permission, heredity, marriage, trade, gambling, dowry, need for resource, etc... Furthermore, there are areas shared for ceremonial, trade, and other customary purposes. Within the North Coast Study Region, there is a wealth of connections intertwined between California Tribes, Tribal communities, and individual Indians that is both familial and evident in shared cultural traits. For fishing, some of the similarities in technique and stewardship may be seen in the detailed report prepared by Kroeber and Barrett (1960) specific to northwestern California.

It is also understood that there are certainly areas of geographic overlap identified among California Tribes. This is a result of relationships described above, as well as the individual history unique to each Tribe post-contact. The assertion, negotiation and claims made by each California Tribe of their respective ancestral and/or aboriginal lands and waters is a matter for California Tribes to resolve among ourselves.

² Mutual Reservation of Rights: Nothing in this approval is intended or shall be construed to affect or limit the authority or obligation of the State of California and the Yurok Tribe to fulfill their constitutional, statutory, and regulatory responsibilities or compliance with any judicial decision. Nothing in this approval shall be interpreted to require the State of California or the Yurok Tribe to implement any action which is not authorized by Applicable Law or where sufficient funds have not been appropriated for that purposes by the State Legislature or the Tribal Council. The State of California and the Yurok Tribe mutually reserve any and all legal rights such as they may exist over coastal marine resources and reserve the right to assert such rights in any legal or administrative proceeding of whatever nature. Nothing in this approval is intended or shall be construed to modify or prejudice the application of the National Environmental Policy Act, (NPA), California Environmental Quality Act (CEQA) or Yurok Tribal environmental reviews. Nothing in the approval of the Yurok Tribal Request is intended to be, or shall be construed as a waiver of sovereign immunity by the State of California or the Yurok Tribe.

This is not a matter for the State of California to broach in any manner; nor is it necessary to address or resolve in order to move forward on legislative, administrative, and/or regulatory solutions between California Tribes and the State in the MLPA process. Rather, this is and will continue to be a matter for resolution between California Tribes, Tribal communities, and individual Indians on into the future.

FEDERAL ESA

The MLPA plan submitted by the Yurok Tribe requires full and complete compliance with the Federal Endangered Species Act (16 USC Sec. 1531).

APPLICABLE STATE LAW: As noted in the reservation of rights the Fish and Game Commission will not be asked to implement any portion of the Yurok MLPA Marine plan contrary to state law.

PHASES OF IMPLIMENTATION

The Yurok Tribe plan to incorporate MLPA and our Marine Resource Plan must be implemented in stages as a Memorandum of Understanding (MOU) is negotiated, various State regulations are changed, scientific experiments are approved, and in some cases legislation is enacted. For example there is no provision for the recreational/Native American take of barnacles in current Fish and Game regulations. Only the commercial harvest of barnacles is allowed. The harvest of barnacles will require a future change in the regulations by the Fish and Game Commission based on a subsequent public hearing and CEQA analysis. For further example, any substitution of a Tribal license for a State license cannot be agreed to by the Fish and Game Commission until such time as there is a legislative amendment. Therefore it is understood that the Yurok MLPA and Marine Resource Plan will be implemented in stages as provided for by applicable federal and State law. It is further understood, that scientific surveys may affect the desired implementation and necessitate adaptive management changes.

The proposed Yurok MLPA Marine Resource Plan is consistent with the California MLPA Act, the Federal Marine Sanctuaries Act, President Obama’s executive order for the inclusion of Tribes, and with the United Nations Declaration on the Rights of Indigenous Peoples (MLPAI 1999:1, United Nations). The Yurok Tribe acknowledges the California Fish and Game Commission is operating in good faith in their adoption of Option 1, incorporating a Tribal Use category. The Yurok Tribe is also operating in good faith by continuing to follow the bureaucratic channels of the California Fish and Game Commission and Resource Agency. Traditional Yurok harvesting and conservation practices are not limited to MPA boundaries. The Yurok Tribe will seek a legislative fix to the Marine Life Protection Act which decriminalizes traditional Yurok of Coastal marine resources within the entirety of Yurok Ancestral Territory. This will include addressing inconsistent regulations and incomplete formal consultative agreements within State agencies.

“Our people have always lived on this sacred and wondrous land along the Pacific Coast and inland on the Klamath River, since the Spirit People made things ready for us and the Creator placed us here. From the beginning, we have followed all the laws of the Creator, which became the whole fabric of our tribal sovereignty... We never waste and use every bit of the salmon, deer, elk, sturgeon, eels, seaweed, mussels, candle fish, otters, sea lions, seals, whales and other ocean and river animals. We also have practiced our stewardship of the land...”

—Preamble, Yurok Constitution

TRIBE’S CURRENT STATUS AND GOVERNING CAPACITY

The Yurok Tribe is a federally recognized tribe, eligible for funding and services from the Bureau of Indian Affairs by virtue of their status as an Indian tribe." Federal Register, Vol. 75, No. 190, p. 60813, Oct. 1, 2010. As a self-governance Tribe, we remain on the lands and waters where our ancestors have survived since *Noohl Hee-Kon* (the beginning). Our lifeway and identity are inextricably tied to this place. The Yurok Tribe is federally-recognized as a separate and independent sovereign nation within the territorial boundaries of the United States. The sovereignty of the Tribe is inherent and is both extra-constitutional and pre-constitutional in regards to the United States, and certainly California.

Traditional Yurok law is woven into the Constitution, which mandates the Council to “[p]reserve forever the survival of our tribe and protect it from the forces which may threaten its existence; uphold and protect our tribal sovereignty which has existed from time immemorial and which remains undiminished; reclaim the tribal land base...; preserve and promote our culture, language, and religious beliefs and practices, and pass them on to our children, our grandchildren, and to their children and grandchildren on, forever; provide for the health, education, economy, and social wellbeing of our members and future members; restore, enhance, and manage the tribal fishery, tribal water rights, tribal forests, and all other natural resources; and insure peace, harmony, and protection of individual human rights among our members and among others who may come within the jurisdiction of our tribal government” (Yurok Tribe 1993).

The Yurok Tribe has over 5,500 members and is a large acreage natural resource Tribe. The Yurok Reservation extends for a mile on each side of the Klamath River from the Pacific Ocean to just upstream of the confluence of the Klamath and Trinity Rivers. The entirety of Ancestral Territory for us is within the North Coast Study Region, as defined by the State of California’s Marine Life Protection Act Initiative (MLPAI).

POLICE AND COUTE CAPACITY

The Yurok Tribe Public Safety Department consists of the Yurok Tribal Police Chief, five sworn officers, six non-sworn game wardens and a police records specialist. Our police officers are cross deputized with the Sherriff departments of both Humboldt and Del Norte counties. All sworn officers are P.O.S.T. certified by the Commission on Peace Officer Standards and Training for the State of California. The Tribe owns three patrol vessels for patrolling the Klamath River. Approximately 60% of Yurok Public Safety officer time is spent enforcing Fish and Game Regulations. Our police force takes special pride in providing successful rescue to the numerous tourists, sport fisherman and Tribal members as they were swept out to sea by the powerful currents.

Yurok’s capacity also includes the expertise of Charles Henry, Tribal Prosecutor for fish and game violations, (CSB 096462) a member of the California Bar since 1980 specializing in criminal law and Federal Indian law, with experience as Deputy Marshal with the County of Ventura and as Superior Court Judge for the County of Siskiyou. Last year the Yurok Tribe Court facilitated over thirty-seven Fish and Game citations, presided over by Judge Abby Abinanti, Yurok Tribal member and California Judge holding necessary conflict of interest waivers from the California Judicial Council.

CULTURAL CAPACITY

The Yurok Tribe is the first tribe in the state of California to be sign an agreement with the National Park Service assuming the State Historic Preservation Office functions as a Tribal Historic Preservation Officer (THPO). The agreement was signed in August 1996..The THPO has signatory authority for all compliance with the National Historic Preservation Act on all lands within the Reservation Boundary, and comment ability on projects within Yurok Ancestral Territory. In conjunction with the THPO, the Yurok Tribe Cultural Committee was formed to advise the THPO and the Yurok Tribal Council on cultural matters and is the body within the Tribe for formal Section 106 Consultation for the National Historic Preservation Act (NHPA).

SCIENTIFIC CAPACITY

The Yurok Fisheries Department is acknowledged to be the largest, most knowledgeable and experienced team of fish biologists on the North Coast, employing over seventy (70) staff member to fishery and water quality issues comprised of four divisions: Harvest Management, Lower Klamath, Trinity River and the Klamath River. The Yurok Fisheries has taken a leadership role in research and restoration efforts throughout the Klamath Basin including the agreements to remove the lower four dams on the main stem. Additionally, the Yurok Tribe’s Environmental Program retains eight professionally trained

employees and seven technicians working full time on natural resource issues and assume EPA regulatory and monitoring responsibility for the Yurok Reservation. Currently, Yurok is independently conducting research on Eulachon and Mussel toxicity within the marine environment. These and other studies will provide an excellent starting point to develop a well-rounded baseline for a data-driven Yurok Marine Resource Management Program.

In summary, the Yurok Tribe has a demonstrated judicial, enforcement, and scientific capacity to manage marine resources pursuant to a marine resources plan. Such an approach will provide additional capabilities and will flesh out the State of California's marine resource management effort. The net result will be a stronger, more complete, network of environmentally protected marine resources. Such an approach is consistent with the goals, intent, and particulars of the Marine Life Protection Act.

RECENT MARINE RESOURCE PLANNING AND RESEARCH EFFORTS OF THE YUROK TRIBE

Approximately five years ago, the Yurok Tribe approached the Washington D.C. National Oceanic and Atmospheric Administration (NOAA) Fisheries Office in order to participate and initiate a Federal Marine Resources Planning effort. These meeting resulted in the NOAA ship sending out the experimental Scientific Research Vessel (SRV) September 25-October 6, 2008 to conduct a species survey off of the mouth of the Klamath River.

The Klamath River Delta has been identified as a biologically significant area for researcher. Data collected will help support the Yurok Tribe's interest in a National Marine Sanctuary, in affiliation with our Tribal Park concept³.

Josh Strange, a Yurok scientist participated significantly with NOAA on the species survey. This study will be followed up with additional species survey studies in future years to add to the original data base. We were disappointed that we were unable to coordinate our efforts with those of the Marine Life Protection Act.

To build from our in-river fisheries efforts, Yurok has incorporated a marine science element to our research. Telemetry Sturgeon studies were conducted in 2009 and 2010⁴ with telemetry counters being placed in the river. Sturgeon who leave one River and travel on a regular basis through the marine environment to other rivers can be accurately tracked through acoustic receivers. We are working with other scientists in other rivers to track Sturgeon first tagged in the Klamath River to other locations along the West Coast. Our telemeters record tagged Sturgeon from other rivers. This will result in far more accurate marine migration data for Sturgeon than is currently available. The Yurok Tribe is in the third year of a study testing seaweed, mussels, marine mammal and whale carcasses for toxicants ranging from pesticides, heavy, metals, toxic algae, and other contaminants. The Tribe has surveyed mussel beds within Yurok Ancestral Territory and has determined that there is an abundance of mussel species in the rocky intertidal zone of traditional Yurok gathering areas (Fluharty 2010).

The Yurok Tribe has also submitted a number of scientific studies conducted by Redwood National and State Parks, Humboldt State University which show abundant levels abundant species diversity in the rocky intertidal area (Mulligan, Borgeld and Lanlois). This is with ten thousand (10,000) years plus of Native American stewardship harvesting. This science clearly shows no harm in the marine environment from traditional take.

These comprehensive reports give an overview of inventory, monitoring and tide pool fish surveys conducted in the rock intertidal zone and sandy beach areas at sites including Enderts Beach, Point St. George, False Klamath Cove and Damnation Creek. Study aimed at replicating the techniques of Milton

³ Habitat Characterization of the Klamath River Plume, September 25-October 6, 2008, NOAA West Coast Region, Office of National Marine Sanctuaries

⁴ Yurok Tribal website, fisheries, reports and publications. www.yuroktribe.org

Boyd and DeMartini in the 1970s to show time lapse comparison data. All study sites are near traditional Yurok village sites and customary fishing grounds currently harvested. All study results show abundance and “high and stable” rock coverage of mussels (*Mytilus californianus*) and corresponded to increases in the percent cover of barnacles (*Chthamalus dalli/Balanus glandula*) (Mulligan: 10-106).

The Tribe is looking forward to conducting an aerial survey of the intertidal reaches of Yurok Ancestral territory at a minus one or greater low tide during the safe season to harvest. Such ideal harvest conditions only occur a few times a year and are predicted to be increased harvest days. The aerial photographs will provide photographic evidence as to harvesting levels and an aerial survey of existing mussel beds themselves. High use areas can be targeted for follow-up site surveys. Further, the Tribe is seeking funds for an aggressive species survey program both in and outside the boundaries of any Marine Protected Area designations. The Yurok Tribe believes coordinating these efforts with Federal and State Marine initiatives will provide the highest level of valuable management information.

IDENTIFICATION CARD SYSTEM

The Yurok Tribe currently issues identification cards to our tribal members. We are planning to adopt a Marine Resource Ordinance which is comparable to the existing identification card system of our in-river fishery regulatory system.



An identification number indicates the identification number assigned by the Yurok Tribe Enrollment Department. Identification protocols are spelled out in the Yurok Tribal Fishing Rights Ordinance, Section 4 Definitions:

For purposes of this Ordinance, an eligible fisher pursuant to Section 5 of this ordinance shall obtain a Yurok Tribal identification card and have such card on his/her person while exercising any fishing rights or transporting fish taken on the Yurok Reservation....PENALTY: That person shall be punished by a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or forfeiture of fish or fishing gear, or shall suffer sixty days suspension of fishing rights or any combination of the above” (Yurok Tribal Fishing Rights Ordinance, Section 5 [a]).

With these qualifications, the Yurok Tribe is uniquely positioned to guide marine protection efforts on the North Coast. Working cooperatively with a coalition of North Coast Tribes, NOAA, and local agencies, information may be properly gathered, in accordance with traditional law and management practice, to inform and improve marine protection and research for our region.

HISTORICAL AND ONGOING CEREMONIAL, RELIGIOUS, CEREMONIAL AND SUBSISTENCE HARVESTING IN YUROK COUNTY

Although today we are most commonly known and referred to as “Yurok” this term is what our neighbors, the Karuk up the Klamath River, called those downriver of them. When early non-Indian settlers passed through Karuk lands, they asked who the people downriver were and the Karuk name for us was used and has sustained. Traditionally when we refer to ourselves generally we say *Oohl*, meaning the people. When we reference people from downriver on the Klamath we call them *Pue-lik-lo’*, those on the upper Klamath and Trinity are *Pey-cheek-lo’*, and on the coast *Ner-‘er-ner’*. Today we are most commonly known and refer to ourselves collectively as Yurok (Yurok Tribe:2009).

The Ancestral Lands of the Yurok Tribe extend continuously for eighty-three (83) miles along the Pacific Ocean coast (including usual and customary offshore fishing areas) from Damnation Creek, its northern border, to the southern boundary of the Little River drainage basin, and upstream forty-five miles along the Klamath River as well as the ceremonial high country and trails. Our Ancestral Lands include all submerged lands, lagoons, and the beds, banks, and waters of all the tributaries within the territory just described, comprising approximately seven and a half percent (7.5%) of the California coastline, and off this coastline west to the horizon. Also included within the Ancestral Lands are shared interests with other tribes in usual and customary hunting, fishing, and gathering sites (Yurok Tribe 1993, 2010). [See MPA-Ancestral Gathering Grounds Overlay Map]

Environments within this cultural geography include marine, coastal, riverine, estuarine, lagoon, forestlands (redwood, fir, oak, cedar, spruce, and pine), prairielands, and high mountains. This cultural geography, which includes the natural resources, is the cultural landscape of the Yurok and we have a traditional responsibility and aboriginal right to manage and utilize these places and resources, which has never been relinquished.

Yurok have inhabited their ancestral lands from time immemorial, shaping the landscape by our way of management-the use of fire and subsistence harvest methods. We continue to harvest and use the bountiful resources found inland and along the coast. Yurok culture, although severely affected by history, remains intact through the persistence and strength of our elders and their teachings to respect the land and all of the creatures and plants equally, regardless of size, number, or importance. At first contact there were just over seventy (70) villages in Yurok Ancestral Territory, eighteen (18) along the coast. This does not include at least 5 ‘suburbs’ of the 18 coastal villages. TT Waterman estimates between 2500 and 3000 Yurok were living in these seventy villages. A rough estimate of those living along the coast would be 25% of the total, so between 625 and 750 Yurok lived along the coast and lived almost entirely off the resources. The coastal resources were highly valued by inland Yurok and other neighboring tribes, and so were traded inland, far beyond Yurok Ancestral Territory.

Using the numbers above, it is likely that impact to resources in pre-contact times were much higher, due to the sheer number of events (daily gathering) times the number of people, compared to the amount of people who gather today times the number of events.

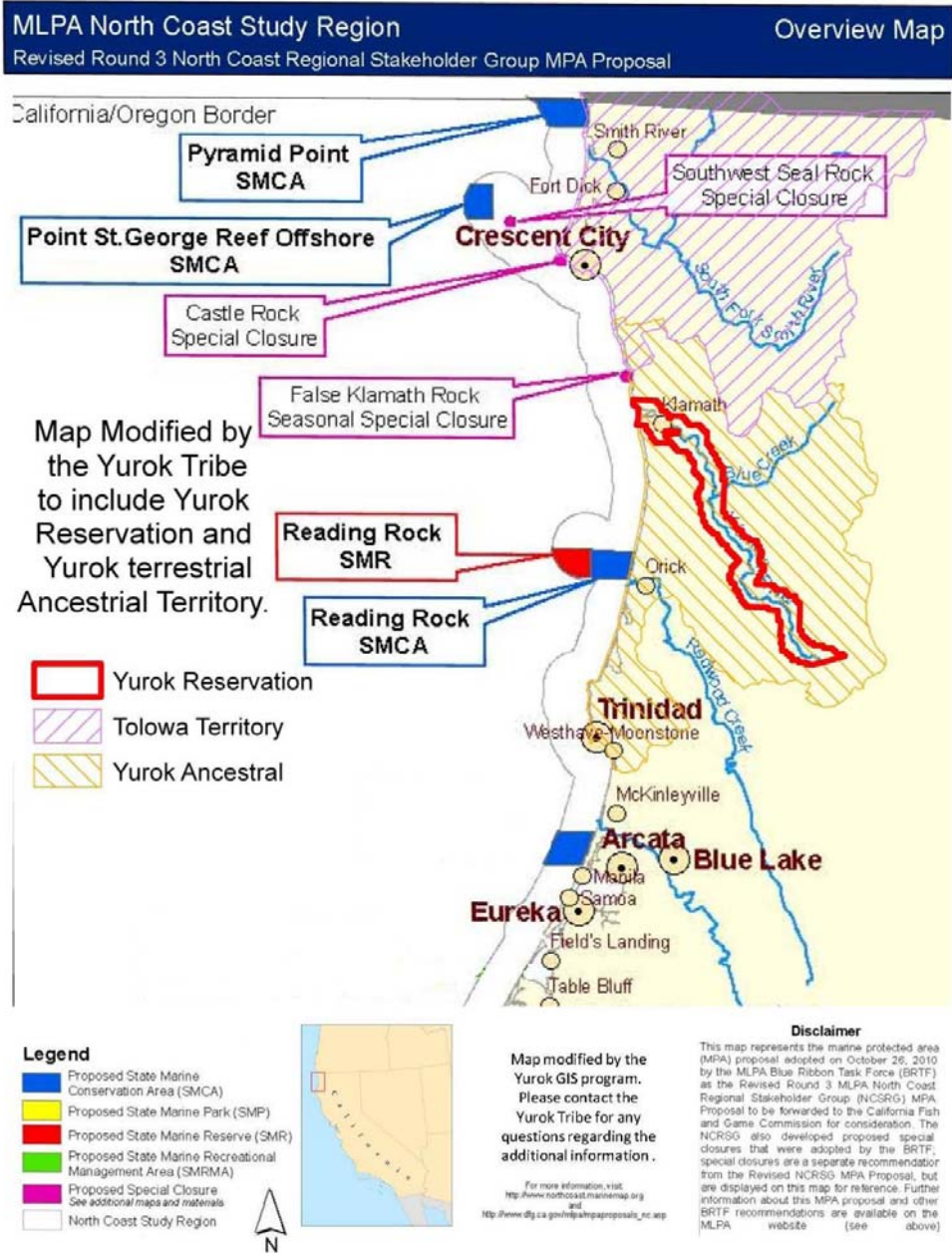


Figure 2- Proposed Marine Protected Areas (MPAs) within Yurok Ancestral Territory and Traditional Fishing Grounds

The entirety of Yurok Ancestral territory lies within the area described as the North Coast Study Region by the Marine Life Protection Act Initiative (MLPAI). This includes, but is in no way limited to the Marine Protected Areas and Special Closures as follows:

- Pyramid Point SMCA
- Point St. George SMCA
- Southwest Seal Rock Special Closure
- Castle Rock Special Closure
- False Klamath Cove Special Closure
- Reading Rock SMCA/SMR

DOCUMENTATION OF TRIBAL USES AND STEWARDSHIP PRACTICES

Yurok people have existed as an intrinsic part of the marine environment since time immemorial. Our people are known as great fisherman, eelers, basket weavers, canoe makers, storytellers, singers, dancers, healers and strong medicine people. Over the course of this 10,000 plus year experience intimately linked adaptive management practices have been developed to mirror the natural life cycles of this unique marine environment now recognized by Western society as the North Coast of California. These traditional management practices, reflected in prayer and incorporated in everyday life activity, gave protection to resources with an “elaborate system of rights assuming the force of law” (Kroeber(c):3).

Yurok’s innate stewardship relationship with the Coastal marine environment is reflected in many of the anthropological notes recorded by Alfred Kroeber in his interviews with Ann of Espau about Thunder and Lightning spirit beings:

He kept sinking it: every little while there would be an earthquake, then another earthquake, and another earthquake: this is what he was doing. And then the water would fill those depressed places, the water coming from the mountains, at Osig. “This is what human beings will thrive on,” said Earthquake. “For they would have no subsistence if there were nothing for the creatures (of the sea) to live in. For that is where they will obtain what they will subsist on, when this prairie has become water, this stretch that was prairie: there will be ocean there.” ...And they saw that the creatures that were to serve as food really swarmed in this water. They saw seals, they look as if thrown in by handfuls swimming toward shore. (Kroeber(A): 452-467)

This passage tells of how the ocean and those that live within it came to exist for Yurok people. From the time of creation, specific purpose was given to the environment coupled with strict protocol for engaging in religious, ceremonial and cultural subsistence activities.

THE POWER OF PRAYER: INTEGRAL TO SUSTAINED SUBSISTENCE GATHERING

Yurok religion provides the bind between the individual and community in relation to the environment that one lives. A Yurok individual in traditional Yurok “society is but one among the great many counterpoints simultaneously tending toward wholeness, or balance, that constitute the process” (Buckley:19). A traditional Yurok believed in prayer to the extent that prayer was offered for almost all things. A person paddling a canoe had prayer songs to calm the water, or wind. An individual walking along a trail had ‘resting’ places where prayer was offered. Songs that are sung during ceremony are a prayer offered by the singer of the song, and this is so for all ceremony. The traditional Yurok believed that once you stepped outside in the morning, they were really not stepping outside, but into their church. A prayer of thanks was given for that ability each and every day.

The gathering of food was a daily function, as the only methods of preservation were to dry or smoke the food, and even then, it didn’t keep long. Prayer was an integral part of food gathering. Each and every time food was gathered, a prayer of thanks was offered for the life given up, and the life that was to be sustained by the food item gathered. This is why Yurok do not offer a prayer for food before a meal, as Yurok belief is that a properly gathered food has already been prayed over, and it is not necessary to do so again. This is not to say Yurok will not, or do not pray before a meal. If you listen, the prayer will be for those that have prepared the meal, or those eating the meal, and not the meal itself (McConnell).

As cited extensively in the 1932 California Fish and Game publication "Conservation of Wild Life Through Education," the Department recognized that Yurok food supply was regarded as the gift of the Creator, and the taking of fish was a solemn and prayerful undertaking, governed by very strict formulae."

" the Department recognized that Yurok food supply was regarded as the gift of the Creator, and the taking of fish was a solemn and prayerful undertaking, governed by very strict formulae."

...

To destroy wildlife for any other reason than to meet his need of food would have been as ridiculous a procedure to the Indian as if we entered our own gardens or went among our own herds and destroyed for the sheer enjoyment of our prowess as destroyers (Roberts:286).

...

In contrast to the white man's idea of sportsmanship, the Indian killed only what he needed for food, and he wasted no edible parts of the game taken by him (285).

...

Anyone who caught more fish or killed more game than he or his family could use shared it with those who were less fortunate. To the Indian, hunting was not a sport; it was a means of obtaining his food supply, and the killing of wild life was limited to his necessity for sustenance. To destroy this supply meant nothing short of self-destruction (286).

These quotations for Fish and Game publications clearly show the State of California's previous recognition of Yurok's sustainable resource management expertise.

YUROK OCEANGOING CANOES: A SEAFARING CULTURE

The North Coast is well known for our "rugged, often mountainous, exposed coastline of northern California, with its many rocky headlands and outlying islets, is well known for its rough seas.(Hudson 270)

To navigate the formidable marine environment, Yurok utilized ocean-going dugout redwood canoes, known for their symmetry, elegance and sturdy design, "made to withstand the battering of ocean waves and scraping of river bottoms" (Margolin 4).

According to Yurok master canoe builders, the use of ocean going canoes was an integral part of Yurok culture and ceremony. Canoes have been used to reach far off locations for food resources and for religious purposes. Rocks off from Patrick's Point, Redding Rock and off Klamath Cove and Wilson Creek were accessed by Yurok people for food resources such as mussels, birds and sea lions and seal (Lara 2011). Contemporary accounts by Yurok elders recount a vibrant trade network between coastal towns.

*My father's stepfather had a canoe and they used to go to Crescent City. He'd hire Indians, he was an Englishman, he'd hire Indians to go out and get supplies in Crescent City and bring them back... It's one of those stories that was written about *Miles. And he used to come in at DeMartin's Beach also when they couldn't come in the mouth, that's where they came in. And he hired people, they were bigger canoes and they were build a little bit different because of the bow in the front was covered some way so that the water, when it was rough, you know, kept out of it.
-Interviewee Indexed (I)*

This mobility allowed Yurok people to trade and access fishing and gathering grounds as far north at the Oregon Border and as far south as Fort Bragg (Sloan 2007). Offshore rocks and fishing grounds traditionally owned by Yurok families, such as Redding Rock, "an isolated crag six miles off-shore." Access to hunting grounds was regulated by a complex system of decent, reciprocity and inheritance, dissimilar to Western notions of "private" property, in that property is of a definite and limited groups with each "owner" having right to part or share in the returns (Waterman:219-221, Kroeber:182-183, 191-193).

TRADITIONAL CULTURAL PROPERTIES IN THE YUOK CULTURAL LANDSCAPE

Within the cultural landscape of Yurok Ancestral Territory there are numerous potentially eligible Traditional Cultural Properties under the National Historic Preservation Act (P.L. 89-665; 16 U.S.C. 470 *et seq*), many of which have been identified contiguously along the entire coast and waters of Ancestral Territory (Yurok Tribe 2009a). Full evaluation and consideration of these potentially eligible historic properties must occur in the environmental review process when implementing the MLPA in order to thoroughly consider impacts to cultural resources, as required by law.

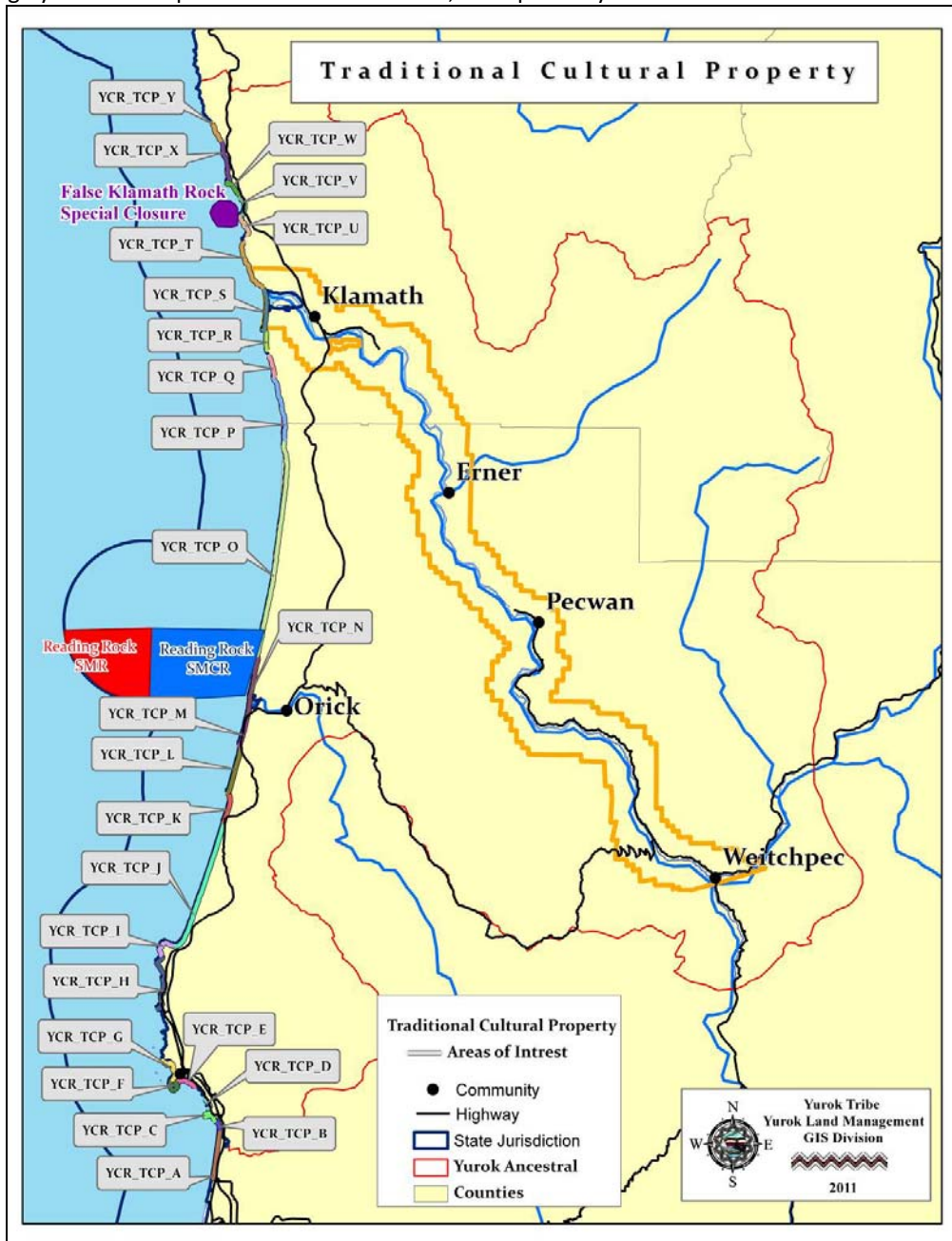


Figure 3: Yurok Traditional Cultural Properties (TCPs) in relation to Proposed Marine Protected Areas within the immediate

The Yurok Tribe has established areas within the Yurok ancestral territory as traditional cultural properties (TCP) potentially eligible for the National Register of Historic Properties. Areas within the Yurok coastal landscape are unique to the Yurok Tribe and the Tribe attaches traditional religious and cultural importance to these places. These areas may be eligible for the National Register and must be evaluated by the Tribe.

A Traditional Cultural Property is any place-a site, structure, a district made up of multiple sites or structures, a landscape....to which a living community ascribes cultural significance that is rooted in the group's traditions and history. TCP's are most often found eligible under criterion "A", for association with significant patterns of events in the traditional history and culture of the group that ascribes value to them (First Salmon 6). The Yurok Tribe's traditional regulation of harvest and take, in itself a form of traditional cultural property, is an overt governmental regulation should be taken into account in the current day discussion.

YUROK LANGUAGE

Language is an instrument by which people describe and define the realities of their world. Yurok language illustrates the intimate relationship that our people have with the marine environment.

Yurok Word/Phrase	English Translation
Tey-wo-lew	the coast
Hee-woh	across the ocean
Laa-peesh-kah	along the seashore
Merr	seabird
Teyw-kwer'	place where young seals are clubbed
E'yeh-kwoh	sealion (e'yeh is the short form)
Chey-ge'-loh-sek	I gather seaweed
Loo-geen	fish dam
Pee'-eeh	Mussels
Pee'eeh-yek'	I gather pee'-eeh
Per'-erk	dried pee'-eeh
Wey-no'-o-mok-see'hl	to be a particular season
Yerr'-ner'	Barnacle, shell of shellfish
Keech eyeh 'kwoh wee'	he turned in to a sea lion

TRIBE'S CURRENT TRADITIONAL PRACTICES WITHIN AND OUTSIDE THE SPECIFIC SMCA

Resources Gathered

During the MLPAL process Initiative staff compiled a list of species harvested by California Tribes and Tribal Communities in the North Coast Region (California MLPAL 2010). This list, as most ethnographic information compiled externally by anthropologists, is incomplete. For purposes of building a factual record of categories of species traditionally taken by Yuroks are as follows:

- Fin Fish
- Marine Plants
- Invertebrates
- Pinnipeds
- Marine Mammals
- Marine Birds
- Shells

(Currently take of pinnipeds, marine mammals and other species are restricted pursuant the Endangered Species Act and other applicable laws).

A. Redding Rock (Sek-kwo-nar)

Reading Rock, as it is known to the non-Yurok world, is a place of immense religious, cultural and historical important to Ner'-er'-ner who come from coastal villages of Chah-pek, Her-werw, Cho-kwee, Pa-ar, O slookw, Key-kem, O pyuu-wey, Peen-pey, and Sue-megg. (Sloan 2007) There are ancient creation stories that involve Redding Rock which include how abalone came to be used by primarily Yurok women and used on traditional dresses worn in ceremonies such as the Yurok Brush Dance, Jump Dance, Flower Dance and Fish Dam.

According to Yurok elders, the use of Redding Rock was primarily for food and religious purposes. It is critical today like it was years ago to harvest resources from Redding Rock for subsistence purposes (Lara, 2011). This has been done in recent years as it was done in the past back in the days prior to non-Indian contact. Today, Yurok fisherman use Redding Rock for harvesting birds for ceremonial regalia (Lara 2011). Many Yurok from riverside villages, for example, owned shares in the sea-lion hunting at Reading Rock (Kroeber(c):3)

B. FALSE KLAMATH ROCK SPEICAL CLOSURE, ER'HLER-GER', 'O MEN 'WE-ROY

Er'Hler-ger', or False Klamath Rock, is a significant location for Yurok people, most specifically the village of 'Omen, or what is known today as False Klamath Cove near the mouth of Wilson Creek. Yurok history in relation to False Klamath Rock dates back to the time of its creation:

The youngest of five brothers became transformed into a supernatural being and took up his abode in this rock ['R Hlrgr']. He has a pipe, of mysterious powers, which he keeps in a pipe-case of weasel skin. This latter 'becomes alive' and runs about the country, and occasionally enters houses where people are eating ... It may be recognized as the supernatural animal by a white stripe across its nose, and a short tail. The owner of the pipe said long ago when he went into the rock that if people looked at the rock and cried, they would get many woodpecker heads (chii's) (Yurok Language Project:YG230).

From that time Yuroks braved the powerful ocean currents to access this gathering site and the surrounding cove, now referred to as Wilson Creek. In contemporary times, sea going canoes would launch from this area to transport individuals and cargo to neighboring towns.

We've got mussels at Wilson Creek and...down below the mouth of the river. We've gone down there in a boat....We went from Requa, or Crescent City in a boat and got mussels on rocks offshore and they had to be at low tide (Sloan: Index I).

Today, Yurok people harvest coastal resources at False Klamath Rock and at Wilson Creek as was done back in the days prior to non-Indian contact (Lara 2011).

C. Southwest Seal Rock (Special Closure)

Southwest Seal Rock is an ancient pinniped hunting location for both the Yurok and Tolowa. Located along the seaward trade route between Klamath and Crescent City area, offshore rocks were accessed on days of calm sea (Gould: 11-30).

<i>Kee lahchue' so Ko-pey.</i>	They are making a voyage to Crescent City. (Yurok Language Project)
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D. Point St. George Reef Offshore SMCA, (Ko-pey)

In ancient times the areas within present day Crescent City were used to gather for subsistence and ceremonial regalia. This practice continues today. According to Yurok elders a specific type of clam shell is found at Point St George and under the right circumstance (under Yurok tradition) one can harvest dentallium (Lara 2011). Accounts by Yurok elders tell of these subsistence activities:

We gathered [our] seaweeds, usually we got ours from Crescent City from different people. People would gather up there and they would send some to my mother with her friends or my grandmother's friends. But they always sent us seaweeds and they would send basket materials and stuff that they couldn't get (Sloan C).

There are certain times to gather the mussels too. You know, you can't gather mussels in the summer time because they got a lot of toxin, what you call the Red Time and it's very, very dangerous to eat mussels there...But anyway, but this is where some of my ancestors used to gather and that's at Patrick's Point (Sloan 2007: C).

E. Pyramid Point SMCA (Hee-neg)

Pyramid Point, known to the Tolowa as *Tr'uu'luu'k'wvt*, is known to Yuroks as *Hee-neg*. Yurok's used this area, under traditional inter-tribal use agreements, to gather many traditional food staples including fin fish and marine plants.

HEALTH IMPLICATIONS OF LIMITING ACCESS TO TRADITIONAL FOODS

Prior to non-Indian contact the Yurok diet consisted of locally grown foods as well as the use of traditional plants for healing, making medicine for ceremony and religious activities (Lara 2011). After contact with non-Indians the rate of disease and health related problems increased significantly. Native Americans are now at the greatest risk for diabetes than any other population in the United States. According to the American Diabetes Association, American Indians and Alaskan Natives are 2.2 times more likely to have Type II Diabetes than non-Hispanic whites (1). Diabetes diagnosis brings costly complications which include blindness, amputations of lower extremities, kidney failure, cardiovascular disease, decreased quality of life and premature death (2).

Current dietary choices of Native American people are the result of systematic loss of culture, historical trauma stemming from systematic genocide, forced removal, and assimilation policies of the United States government which forced Native Americans to become dependent upon government rations and food programs. Other contributing factors to the extreme rates of diabetes in Native communities are the high rates of poverty, low education levels, lack of resources, facilities and equipment and lack of access to nutritious foods.

Direct access to a traditional food source is essential to the health, safety and survival of Native American communities. Utilizing traditional knowledge and lifestyles can influence positive change in Native American communities. Regular engagement in traditional gathering provides necessary physical activity and access to nourishing foods like seaweed, mussels, barnacles and surf fish (Ferreira).

The limitation and prohibition of traditional tribal uses of marine resources by the State of California will further contribute to the declining health of Native American populations by denying access to a reliable healthy traditional food source.

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Affidavit of:

For Presentation to the California Fish and Game Commission;

I, Francis Marks Lara, am above the age of 18, and live at 1206 Olympia Way in the State of California, a Yurok elder from the village of Tshahpek, make oath and say as follows:

That I identify myself as a ner-er-ner (coastal Indian) and Pue-lek-loh (down-river Indian) and am presently a Yurok Tribal Member with all rights and privileges granted under the Yurok Tribe Constitution, approved on November 24, 1993.

From the time I was a young child to present day I have been raised to understand the traditional way of harvesting marine resources and can attest to the fact that there are traditional ways of understanding the environment. I was taught by my elders how to use the ocean tides, plants and animals to know when it is time to harvest and when to stop harvesting. I was raised in a Yurok household which included my younger brother, grandmother and grandfather and we utilized traditional coastal resources to survive.

I can attest to the fact that Yurok people have utilized Redding Rock through the use of ocean-going canoes from the villages of Tshahpek, Owr-reckw, and Cho-kwee. As a Yurok Indian I want to have open access for Yurok Indians at Redding Rock in the traditional sacred and religious way that it was intended by Creator.

Lastly, I can attest to the fact that Yurok Indians have used other gathering places along the coast such as Freshwater lagoon beach (Owr-reckw), Patrick's Point (Sumeeg), Gold Bluffs (Espau), Klamath Cove (Omen) and at Wilson Creek (O men-Hippeur) and we continue to use these places as gathering spots for coastal resources.

I swear under criminal penalty that all information in this declaration is personally known to me and is true and correct to the best of my knowledge and belief.

Signed, Dated and Sworn:

By the above named Deponent Francis Marks Lara, at 1206 Olympia Way in the State of California, signature of deponent the 22nd of August, 2011, before me Frank M. Lara.

Affidavit of:

For Presentation to the California Fish and Game Commission;

I, Walter James Lara, Sr., am above the age of 18, and live at P.O. Box 483, Hoopa, in the State of California, a Yurok elder from the village of Chah-pek-w, make oath and say as follows:

That I identify myself as a ner-er-ner and a-sa-a-ges Indian and am presently a Yurok Tribal Member with all rights and privileges granted under the Yurok Tribe Constitution, approved on November 24, 1993.

I can attest to the fact that I was born in Orick, California in February 10, 1935. I was raised on Orick beach and learned to harvest all different coastal resources important to my family and tribe. My family operated a fish camp on Orick beach. People from all over came to this camp for food. The areas we harvested included Orick (Owr-rekw), Stone Lagoon (Chah-pek-w), Patrick's Point, Gold Bluffs, Gate Point, Redding Rock (Sey-kwo-noi), False Klamath Cove and many others up and down the coast, which included areas in Humboldt Bay, on up to rocks and along the beaches in Crescent City, California and Oregon. Yurok people have extensive trade with other tribal groups and this has been on-going and continuous.

I further attest to the fact that as I continue to harvest coastal resources today regardless of the various state and federal laws that have tried to stop me from gathering coastal resources. I gather coastal resources at different locations always rotating gathering sites so as to not over harvest in one area.

Finally, I attest to the fact that Redding Rock (Sey-kwo-noi) is a highly significant place for Yurok people for gathering reasons, and for spiritual and religious purposes. There are Yurok creation stories that include Redding Rock (Sey-kwo-noi) and the Rock is important to how Yurok canoes are constructed to this day. Also, important to Yurok is the Freshwater lagoon beach and associated rock which is used for cultural training.

I swear under criminal penalty that all information in this declaration is personally known to me and is true and correct to the best of my knowledge and belief.

Signed, Dated, Sworn:

By the above-named Deponent Walter James Lara, Sr. at P.O. Box 483, Hoopa, in the State of California
signature of deponent the 25th of August, 2011, before me 