

October 31, 2017

The Honorable John Laird
Secretary for Natural Resources and Chair, Ocean Protection Council
1416 Ninth St., Suite 1311
Sacramento, CA 95814

Dear Chairman Laird and Members of the Ocean Protection Council,

With respect to item #5 on the CA Ocean Protection Council's (OPC) November 1, 2017, agenda, the California State University Council on Ocean, Science & Technology (CSU COAST; www.calstate.edu/coast) encourages OPC to waive or minimize matching fund requirements.

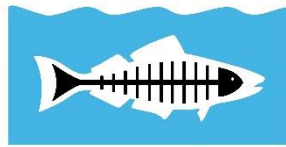
A CSU faculty member's teaching duties typically account for 80% of his/her time, while the remaining 20% time is assigned to service and student advisement. Without additional resources from the faculty member's college, s/he cannot use any part of their academic year salary as match on research proposals where cost-share is required. This puts CSU faculty members at a significant disadvantage compared to faculty members at other academic institutions where the teaching requirements are less.

Thank you for considering this issue and please let me know if you have any questions about our comments.

Sincerely,



Amy Vierra
Policy and Communications Consultant
CSU COAST



Heal the Bay



October 31, 2017

John Laird, Secretary for Natural Resources
Chair, California Ocean Protection Council
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

VIA ELECTRONIC MAIL: COPCpublic@resources.ca.gov

RE: Item 6 – OTC Interim Mitigation Funding Program

Dear Chair Laird and Ocean Protection Council Members:

On behalf of California Coastkeeper Alliance, Heal the Bay, WILDCOAST, and Surfrider Foundation, we appreciate the opportunity to provide comments on the proposed Once-Through Cooling Interim Mitigation Funding Program. Our organizations have been working with the State Water Board to protect the marine environment from the intake of seawater for more than a decade through the implementation of the Once-Through Cooling Policy.

Over the past three years we have been working with the State Water Board to ensure a proper OTC mitigation fee calculation was developed, and that each individual OTC facility was properly mitigating their ongoing impacts. Now that the State Water Board has successfully ensured ongoing OTC impacts will be properly mitigated, we have become concerned that the OPC's proposed use of OTC funding will not adequately restore the marine life lost through ongoing OTC operations. Specifically, we are concerned that the prioritization of outreach and research projects, as proposed, is not the best use of mitigation to increase marine life associated with MPAs.

CCKA is a strong supporter of California's MPA network and we are acutely aware of the importance of research and enforcement of MPAs to ensure their ongoing success. But the currently proposed Interim OTC Mitigation Funding Program is a missed opportunity to provide direct benefits to MPAs by increasing marine life associated with them.

1. *The OPC Should Ensure the OTC Mitigation Funding Program Increases Marine Life Associated with Marine Protected Areas.*

The proposed OTC Interim Mitigation Funding Program is too focused on ancillary MPA benefits. The OPC's Once-Through Cooling Mitigation Program (Program) focuses on three main components:

1. Enforcement of MPA regulations;
2. Outreach and education to improve compliance with MPA regulations; and
3. Research to determine the degree to which the MPA Network can offset OTC impacts.



We are concerned that “outreach and education” has a minimal nexus with mitigating OTC impacts. Similarly, “research to determine the degree to which the MPA Network can offset OTC impacts” will do little to restore marine life impacted by OTC operations. The OTC Policy states that “[i]t is the preference of the State Water Board that funding be provided for mitigation projects directed toward increases in marine life associated with MPAs.” We supported the State Water Board’s preference for OTC mitigation funding to be directed towards MPAs. However, we are concerned that Program components #2 and #3 will provide minimal restoration such that the ongoing OTC marine life impacts will go on unmitigated. We respectfully request the OPC reconsider the OTC Funding Program with more of a focus on projects that directly increase marine life associated with MPAs.

2. The OPC Should Prioritize Funding to Restoration Projects that Increase Marine Life Associated with Marine Protected Areas.

The OPC should redesign its Funding Program to fund restoration projects that increase marine life towards MPAs. We are troubled by the lack of opportunity within the Funding Program for restoration projects that would increase marine life associated with our MPAs. We appreciate OPC’s concerns that restoration projects will require ongoing management and that the OTC funding is not in perpetuity. However, the State Water Board’s OTC Mitigation Fee Calculation includes a 10 percent fee for ongoing management. It is important to note that this built-in 10 percent management fee is a strong indication that the State Water Board anticipated OTC funding would go towards restoration projects requiring ongoing management – not for projects like outreach and research. The OPC will be receiving \$5.4 million annually for mitigation projects, 10 percent of which comes out to a not inconsequential amount of \$540,000 for ongoing management. Ongoing management for restoration projects should not be the reason the OPC avoids projects that would more directly increase marine life associated with MPAs.

There are numerous restoration projects throughout the state that would benefit MPAs. The following projects would contribute to increased marine life productivity, improved habitat condition and ecosystem health, and bolster protection of, and benefits from, California’s network of MPAs. The OPC Science Advisory Team (SAT), in partnership with the MPA Collaborative and other stakeholders, should provide guidance to the OPC on the prioritization of specific sites and restoration projects.

Habitat restoration should be a priority for OTC funding. Habitat restoration may include kelp, eelgrass, or coastal wetlands, or could be the removal of derelict fishing gear. Kelp forests are among the most productive marine habitats off the coast of California. This biogenic habitat provides food and shelter for hundreds of species of young and adult fish and invertebrates. Kelp restoration in or between MPAs can increase the spatial extent and/or density of this habitat, providing additional feeding grounds, nursery areas, and shelter, and increasing the biomass and productivity of ecologically important marine species.

Eelgrass beds are found in bays, estuaries, and along the open, sandy coast in California. Eelgrass is important spawning habitat for a range of adult fish and invertebrates and serves as nursery habitat for young by protecting them from predation. Eelgrass restoration in or near MPAs would provide additional habitat for reproduction and early life stage survival, thus increasing marine life abundance and productivity. Eelgrass restoration is already underway in Orange County and throughout the San Francisco Bay, but these projects are critically underfunded and could benefit from OTC mitigation funding.

Oyster and green abalone restoration will also provide direct benefits to MPAs. OTC power plants can have significant impacts on shellfish populations in the vicinity of the plant. Scientifically based shellfish restoration projects that seek to enhance populations of affected shellfish in the region of the facilities’ impacts, such as abalone, could help to restore affected species. Specific oyster restoration projects can be funded in the Upper



Newport Bay and the Suisun Bay, and green abalone restoration projects can be funded throughout Orange County and Los Angeles.

Coastal wetlands, with their land-sea connection and diversity of plants and wildlife, support high levels of productivity and play a key role as nursery habitat for many marine species. Restoring coastal wetland habitats in or between MPAs will increase productivity of fish and invertebrates, improve larval connectivity, and enhance coastal water quality by filtering out sediment, nutrients, and other pollutants. Specific projects could include the Santa Clara River Estuary Restoration project, the Blanco Drain Wetland Restoration project in the Elkhorn Slough Estuary, the Aliso Creek Estuary adjacent to the Laguna Beach SMCA, and the Bolsa Chica SMCA mouth dredging.

Finally, lost or abandoned fishing gear, including monofilament, nets and traps can entangle marine life, resulting in injury or death. Lost gear can also smother or crush marine habitats. Projects that fund the removal of derelict fishing gear will protect marine life and habitats, helping improve ecosystem health and bolstering productivity.

3. The OPC Should Tailor OTC Mitigation Projects to Regional MPA Needs.

We encourage the OPC to conduct a geographic assessment of the impacts of California's OTC power plants, the ecological/restoration opportunities associated with these impacts, and to target funded activities to appropriately offset OTC impacts in the affected regions.

MPA needs vary by location. For example, projects geared towards preventing the spread of invasive species would be critical to the Los Angeles region. *Sargassum horneri* is an invasive seaweed that has been found along the coasts of southern California and the Channel Islands. It can be found in the intertidal zones to depths of 19 meters and can grow so dense that it blocks sunlight, nutrients, and substrate from native species like giant kelp. *S. horneri* has no known predators in California. Removal of this invasive algae in or near MPAs would restore natural ecosystem balance by allowing native species to recolonize and thrive, increasing chances of enhanced larval production and adult survivorship. Removal of invasive species is critical for Southern California MPAs and should be a top priority for OTC mitigation funding in that region.

What might be critical in Los Angeles might not be the case in other regions. For example, on the Central Coast, the primary threat to MPAs is nutrient runoff from land based polluted runoff. MPAs near Elkhorn Slough suffer from nutrient runoff from intensive agricultural activities upstream, while MPAs near Carmel Bay suffer from nutrient pollution associated with runoff from golf courses. Central Coast MPAs would largely benefit from "bioreactor," which are essentially super-condensed wetlands. As a very rough approximation, it might take a 10-acre wetland to treat 100 acres of farmland and it might take only 1 acre of bioreactor to treat the same 100 acres. The agricultural industry has spent extensive resources on researching the benefits of bioreactors, but it is already well understood that bioreactors are highly effective for nutrients and could possibly provide additional benefits by breaking down pesticides. Bioreactors also require minimal ongoing maintenance – periodically adding more bacteria (once a month) and more occasionally replacing the substrate (every two years).

Invasive species removal and controlling nutrient runoff are only two examples of site-specific projects that would have a direct benefit for MPAs. But we encourage the OPC to conduct regional assessments to target funded activities to appropriately offset OTC impacts. It is also critical that projects be selected based on the geographic nexus of the actual impacts of OTC operations.



4. The OPC Should Make Strategic Investments in MPA Enforcement.

We support the OPC's proposal for funding enforcement of MPA regulations. However, we fear allocating money to "enforcement of MPA regulations" without a strategic plan will result in a lost opportunity. To date, the California Department of Fish and Wildlife's (CDFW) MPA enforcement program has been hampered by resource constraints. Without a strategic application of resources to address that underlying issue with the program, we are concerned that throwing money at a new MPA enforcement program will not result in increased marine life associated with MPAs.

The OPC should use this opportunity to strategically invest in MPA enforcement through targeted funding. MPAs subjected to recurring poaching of marine life will not have the ability rebuild intact ecosystems or convey intended benefits of increased productivity, abundance, and diversity of marine life. Improved enforcement of MPA regulations increases protection of marine life within MPAs, maximizing expected ecological benefits and conservation targets. Funding additional warden positions should focus on patrolling MPA violation hot spots. The OPC should also include State Parks Rangers as MPA enforcers.

The OPC can also invest in strategic enforcement technologies. Currently, CDFW's Law Enforcement Division does not have an electronic records management system for tracking enforcement interactions. In response, the OPC could fund a statewide MPA electronic records management system to track enforcement interactions. Purchase and implementation of a statewide system would allow CDFW to collect and analyze enforcement data and identify trends, illegal hotspots, repeat violators, and compliance problem areas. This analytic capability would improve efficiency by allowing targeted warden presence, reallocating CDFW resources, and facilitate the use of other tools, such as radar and camera surveillance in identified incident hot spots.

The OPC can also fund cameras and radars to improve surveillance in targeted areas. Funding to purchase, install, and monitor cameras and/or radar in violation hot spots that overlap with (or are adjacent to) areas of OTC impacts would improve enforcement and surveillance in targeted localized areas of the coast. Cameras and radar can help improve enforcement efficiency by targeting warden presence, allowing marine life in MPAs to reproduce and thrive by minimizing poaching.

The OPC can fund more boats to increase patrols. CDFW currently has eight patrol boats and 14 skiffs that enforce state waters from Point Arena to San Diego and only two skiffs available to patrol waters north of Point Arena to the Oregon border. Providing funding for additional boats to increase patrols in compliance problem areas within or adjacent to OTC impact areas would improve enforcement and marine life protection in and around MPAs.

Finally, the OPC can fund satellite domes to provide a continuous, reliable internet connection to wardens patrolling offshore or in more remote areas where connectivity can be spotty or non-existent. Purchasing these domes for each CDFW patrol boat would improve enforcement of MPAs by allowing wardens real-time access to other wardens, dispatch, and additional information critical for recording and tracking repeat violators and violation trends.

5. The OPC Should Incorporate Mitigation Programs Best Practices into the OTC Funding Program.

Finally, we recommend that the SAT Working Group solicit input from individuals with firsthand experience in enforcement, compliance, and implementation of the MPA Master Plan. We also hope that the Working Group will incorporate key best practices or guidance gathered from the extensive national and California analysis of mitigation programs. This should include best practices identified by the 2008 Mitigation Rule and reiterated in



the RCIS program; the amount of funding needed; assurances that ongoing monitoring and maintenance of project site will occur; and implementation groups with a demonstrated track record.

CCKA is a strong supporter of California's MPA network. We are acutely aware of the importance of research and enforcement of MPAs to ensure their ongoing success. But we also want to ensure that the OPC's Interim OTC Mitigation Funding Program is not a missed opportunity to provide direct benefits to MPAs by increasing marine life associated with them. We look forward to working with the OPC to refine the currently proposed Funding Program to more strategically implement projects that will have a direct, regionally-focused benefit to those MPAs that are being impacted by the ongoing OTC operations.

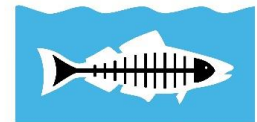
Sincerely,

Sean Bothwell, Policy Director
California Coastkeeper Alliance

Zachary Plopper, Conservation Director
WILDCOAST

Jennifer Savage, California Policy Manager
Surfrider Foundation

Sarah Sikich, Vice President
Heal the Bay



Heal the Bay



October 31, 2017

John Laird, Secretary for Natural Resources
Chair, California Ocean Protection Council
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814
Sent via email: COPCpublic@resources.ca.gov

RE: Item 4: Support revised Proposition 1 grant guidelines

Dear Secretary Laird and members of the Ocean Protection Council:

I offer these comments on behalf of California Coastkeeper Alliance (CCKA) and the undersigned organizations. Through the strategic investment of Proposition 1 and other state bond funds, California can make our marine life, communities, and ocean economy more resilient, despite a changing ocean. Projects from across the state can build on our investments in marine protected areas, or 'ocean hope spots,' to create multiple benefits such as improving water quality and protecting endangered species.

We strongly support the revised Proposition guidelines, which make the OPC Proposition 1 Grant Program stronger and better reflect current ocean health priorities. Many changes reflected in the revised Guidelines are directly responsive to comments we offered on August 21, 2015, urging OPC to make the Proposition 1 application process more accessible to disadvantaged communities, to engage diverse constituencies, and to ensure that multi-benefit projects are incentivized. We are grateful to OPC staff for being responsive to ocean constituents.

1. New Priority Issues highlighted reflect local and emerging needs regarding ocean health.

We applaud OPC for offering more clarity with respect to priority issues to incentivize the types of projects that are most needed. First, it is helpful to clearly list OPC's interest in connecting projects to marine managed areas, including the MPA network, and to areas of special biological significance (ASBS). Projects that leverage the state's ongoing investment in both networks can yield more benefits by building on science-based decisions about where to focus protection, restoration, and management efforts.

We are also happy to see the detail incorporated into the descriptions of Coastal and Ocean Water Quality Impacts issues. Reducing pollution and contaminants, including from stormwater, non-point discharges, and agricultural runoff, is called out as a priority issue area. We are also very happy to see the addition of projects to improve ability to detect and respond to Harmful Algal Blooms (HABs). HABs have emerged as a key ocean health issue in recent years, with significant implications for human health, marine life, and the fishing economy.

Likewise, we continue to support projects to address ocean acidification (OA) and hypoxia, which have become increasingly evident in California coastal waters, where we are seeing OA impacts outpace other places. We strongly support additional investment in the projects recommended by the West Coast Ocean Acidification and Hypoxia Panel Report.¹

2. Improvements to application process make it more streamlined and accessible to all communities.

It is critical that diverse organizations and entities—including those representing disadvantaged communities—have access to and are supported in obtaining Proposition 1 funding. Because small community organizations often do not have the same capacity and experience as larger entities, we had previously requested that OPC to limit time and resources associated with drafting applications. In order to accomplish this, we recommended expanding consultation opportunities outside of the formal process and to streamline the application process where possible. OPC has now removed the LOI stage from the process, which will allow for a more streamlined process for all applicants.

We also support OPC's effort to ensure that the minimum project budget amount of \$250,000 does not create a barrier to underserved communities and small organizations. The revised Guidelines include a limited number of smaller projects with a lower minimum grant amount of \$50,000 that will be made available for disadvantaged communities and pilot projects. The Guidelines also encourage small grants applicants to consult with OPC staff in advance, which can further support disadvantaged communities in accessing these grants.

The revised Guidelines also make clear a "strong preference for projects that are: innovative; demonstrate new approaches or solutions to ocean and coastal problems; employ community-based approaches; and/or address important unmet needs or gaps." Additionally, the OPC prioritizes projects benefitting disadvantaged communities, as defined by California Water Code §79505.5a: "Disadvantaged community is a community with an annual median household income that is less than 80% of the statewide annual median household income." We strongly support these additions.

3. Updated scoring criteria incentivize multi-benefit projects and projects that provide benefits to disadvantaged communities.

The revised Guidelines include revisions that better ensure that multi-benefit projects should be prioritized for Proposition 1 funding to achieve the best possible outcomes for water quality, ecosystem health, and all

¹ West Coast Ocean Acidification and Hypoxia Science Panel. *Major Findings, Recommendations, and Actions*. April 2016. Available here: <http://westcoastoah.org/wp-content/uploads/2016/04/OAH-Panel-Key-Findings-Recommendations-and-Actions-4.4.16-FINAL.pdf>.

Californians. The revised Guidelines better reflect the full spectrum of multiple benefits listed by referencing the issues described in the OPC Priority Issues chart, and now awards a greater number of points for projects that afford multiple benefits. We also support OPC's offering points for projects that utilize green infrastructure, natural systems, or systems that mimic natural systems, which will enhance natural resilience along the coast and in the ocean environment.

We strongly support OPC's inclusion of points for projects that benefit disadvantaged communities, as described above.

Sincerely,



Sara Aminzadeh, Executive Director
California Coastkeeper Alliance

/s/

Jonathan Nelson, Policy Director
Community Water Center



Phoebe Seaton, Co-Founder & Co-Director
Leadership Counsel for Justice & Accountability



Jennifer Clary, Water Programs Manager
Clean Water Action



Colin Bailey, Executive Director
Environmental Justice Coalition for Water



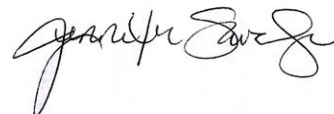
Marce Gutiérrez-Graudiņš, Founder / Director
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Sarah Sikich, Vice President
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Elizabeth Murdock, Pacific Ocean Initiative
Natural Resources Defense Council



Jennifer Savage, California Policy Manager
Surfrider Foundation