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September 9, 2011

The Honorable 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: opc.comments@scc.ca.gov

Re: Comments on Ocean Protection Council Draft Strategic Action Plan (2012-2017)

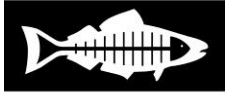
Dear Chair Laird and Ocean Protection Council Members:

On behalf of Heal the Bay, a nonprofit organization with over 13,000 members dedicated to making southern California's coastal waters and watersheds, safe, healthy and clean, I submit the following comments on the Ocean Protection Council's 2012-17 Draft Strategic Action Plan (Draft Plan). Heal the Bay has actively participated in the development, establishment, and implementation of Ocean Protection Council (OPC) plans and policies since its inception. We appreciate the opportunity to provide comments related to OPC strategic planning for the next five years.

Heal the Bay believes that the OPC must show strong leadership to achieve its mission of ensuring that California maintains healthy, resilient, and productive ocean and coastal ecosystems for the benefit of current and future generations. We applaud the OPC for recommending policy direction on important issues over the past five years, including marine debris prevention and reduction, sustainable seafood policy development, marine protected area research, and minimizing environmental impacts of once-through cooling at coastal power plants. Although we believe that the OPC policy recommendations on several coastal and ocean issues have been strong, we recommend that in the next five years the OPC place a deeper focus on action and achievement of its policy recommendations. As such, the Draft Plan should go further in defining a role for the OPC as advocate for the ocean, and leader in its protection and restoration – rather than primarily facilitator and support system for existing agency initiatives. Our specific recommendations are outlined below.

The OPC should support key ocean and coastal protection legislation in California

One of the areas the OPC can improve by taking stronger action is in the legislative arena. Although the OPC has supported some legislation over the past five years, like the sustainable seafood policy related bills, it has not taken a position on several other pieces of legislation directly linked to OPC policy positions. For example, the state legislature has considered several bills over the past few years that are consistent with the OPC marine debris prevention and



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reduction resolution and associated implementation plan, including AB 1998 (a bill authored by Assemblymember Brownley in 2010 legislation to ban plastic bags in California) and SB 568 (a bill authored by Senator Lowenthal in 2011 requiring food providers in the state to use alternatives to expanded polystyrene food containers), yet these bills were not supported by the OPC. Additionally, the OPC did not consider taking a position on AB 376 (a bill by Assemblymembers Fong and Huffman that would ban the sale of shark fin products in California). These legislative initiatives, which are consistent with OPC policy positions, could have benefitted greatly from OPC support and leadership.

Taking positions on important coastal and ocean protection legislation is directly linked to the OPC's mission, as the OPC's listed responsibilities include making recommendations for legislative action.¹ Furthermore, by supporting key legislation related to California's coast and ocean, the OPC would also help advance and implement its policies. The OPC should build support of key ocean protection bills into its strategic plan update for 2012-2017.

Specific timelines and lists of milestones are needed to achieve 2012-2017 OPC priorities

The Draft Plan contains specific timelines and metrics for some of its actions, but these components are not consistent throughout the plan. For example, each metric under Action 3.1.1 (continue to implement the California Sustainable Seafood Initiative) includes target dates for completion, ranging from January 2013 to July 2016. While, metrics under other several other actions do not include target dates for achievement. It is imperative that the OPC include a target timeframe for the completion of each metric in the final strategic plan to facilitate and track implementation.

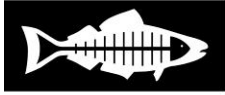
The climate change focal area should include stronger provisions regarding wetland protection

The goals of the Draft Plan regarding climate change impacts on humans are reasonably well balanced, calling for increasing scientific understanding, improving communication of the threat through mapping and other actions, and providing guidance to decision-makers on how to reduce risk and protect resources. However, we disagree with the stated decision to exclude from the Draft Plan actions related to the impacts of sea level rise on tidal wetlands.²

Tidal wetlands are some of the most productive areas of the planet, supporting wide biodiversity, and supplying a range of natural assets that benefit humans, including storm

¹ OPC responsibilities under the California Ocean Protection Act: <http://www.opc.ca.gov/about/> (accessed 9/7/2011).

² The California Ocean Protection Council Draft Strategic Action Plan (2012-2017), August 1, 2011: p.19. http://www.opc.ca.gov/webmaster/ftp/pdf/docs/Documents_Page/Strategic%20Plan/OPC_DRAFT_Strategic_Plan_110801_for%20public%20review.pdf (accessed 9/7/2011).



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damage mitigation and carbon sequestration. The state's tidal wetlands are already at great risk from historic filling, pollution, continued development, water diversions, and other stressors including inundation related to sea level rise. However, given appropriate management, wetlands can migrate and continue to provide natural resource benefits. The needs of tidal wetlands are immediate and grave, and they must be included as a near-term priority for the OPC. We urge the OPC to include the intersection between the sustainability of tidal wetlands and the actions of human coastal communities in the final strategic plan.

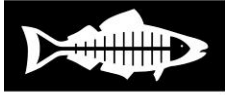
The sustainable fisheries and marine ecosystems focal area should be strengthened to better address fish toxicity information and effectiveness monitoring

Heal the Bay supports the implementation of the OPC-driven California Sustainable Seafood Initiative over the next five years. We are also pleased to see the inclusion of Action 3.1.2, which calls for OPC staff to “work with staff from the Office of Environmental Health Hazard and Assessment (OEHHA), the Department of Public Health (DPH), the DFG, the State Water Resources Control Board (SWRCB) and others to develop a program that meets the needs of the California sustainable seafood program as well as informs the public about seafood toxicity issues.”³ As a member of the California Sustainable Seafood Initiative Advisory Panel we have consistently recommended that the policy include a human health component and consider fish toxicity in the certification process. It is not in the best interest of the public to certify a fishery as sustainable if it poses a threat to human health. We recommend that Action 3.1.2 be more directly tied to the Action 3.1.1, which calls for the implementation of California's sustainable seafood program. It is important that the California sustainable seafood ecolabel is comprehensive to facilitate consumer understanding about ecosystem and health impacts associated with seafood choices, and for people to receive both environmental and social sustainability information about seafood in a single place.

Additionally, Heal the Bay supports the intent of Action 3.1.3 in the sustainable fisheries and marine ecosystems focal area, as it defines potential methods to measure success of sustainable seafood initiatives. Action 3.1.3 contains the metric: “number of jobs created by the fishing industry through a crew registry or other means documented.”⁴ Although we support monitoring to assess goals and actions called for in the Draft Plan, we do not believe that this is the best metric to gauge the promotion of sustainable seafood in California, as the number of jobs may not directly reflect a program's success and can be highly influenced by external factors.

³ The California Ocean Protection Council Draft Strategic Action Plan (2012-2017), August 1, 2011: p.23.
http://www.opc.ca.gov/webmaster/ftp/pdf/docs/Documents_Page/Strategic%20Plan/OPC_DRAFT_Strategic_Plan_110801_for%20public%20review.pdf (accessed 9/7/2011).

⁴ The California Ocean Protection Council Draft Strategic Action Plan (2012-2017), August 1, 2011: p.24.
http://www.opc.ca.gov/webmaster/ftp/pdf/docs/Documents_Page/Strategic%20Plan/OPC_DRAFT_Strategic_Plan_110801_for%20public%20review.pdf (accessed 9/7/2011).



The supporting effective fisheries management focal area should place greater focus on data gathering for recreational fisheries

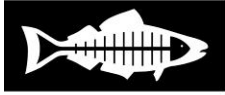
Heal the Bay supports the inclusion of Actions 4.1.1 and 4.1.2 in the fisheries management issue area: “support the Fish and Game Commission (FGC) and the Department of Fish and Game (DFG) in developing data poor assessment methods and tools, and promote their integration into fisheries management,” and “support the FGC and DFG in updating data collection and reporting systems to better inform management decisions.”⁵ It is important that robust data is gathered regarding California’s fisheries to inform management activities and protect the long-term health of our marine ecosystems.

We specifically encourage the OPC to work with the FGC and DFG to facilitate stronger data collection regarding recreational fisheries in California. Recreational fishing is popular throughout the state, especially in highly populated southern California. However, resource management agencies’ understanding of recreational fisheries (e.g. number of anglers/fishermen, type of catch, volume of catch, etc.) is poor due to limited reporting requirements and monitoring. We encourage the OPC to incorporate metrics that are specifically focused on generating strong recreational fisheries information in partnership with the FGC and DFG its final strategic plan.

The leveraging investments for MPAs section should build in a mechanism to support MPA monitoring activities beyond those conducted within the MPA Monitoring Enterprise

Heal the Bay supports Objective 5.1, which calls for supporting effective implementation and management of marine protected areas (MPAs) consistent with MLPA through strategic partnerships, and specifically supporting continued funding of the MPAs Monitoring Enterprise (MME). We encourage the OPC to include an additional provision under this objective to support MPA research activities beyond those conducted within the MME. Although monitoring activities conducted by the MME are important for understanding MPA effectiveness, their monitoring activities are not comprehensive. For example, monitoring trends in human use and compliance do not currently fall under the MME’s priorities or their funded projects. However, human use and compliance monitoring activities are essential to facilitate an understanding of socioeconomic impacts related MPAs, human use trend changes related to MPA establishment, and for interpretation of biological data (trends in compliance will be particularly important for biological data interpretation). We urge the OPC to include an action under Objective 5.1 that incorporates monitoring activities that do not fall within the MME activities.

⁵ The California Ocean Protection Council Draft Strategic Action Plan (2012-2017), August 1, 2011: p.25.
http://www.opc.ca.gov/webmaster/ftp/pdf/docs/Documents_Page/Strategic%20Plan/OPC_DRAFT_Strategic_Plan_110801_for%20public%20review.pdf (accessed 9/7/2011).



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The marine debris section of the land-sea focal area should be strengthened to include a focus on implementation of plastic pollution prevention and reduction measures

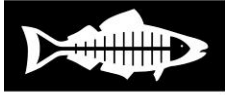
We appreciate the OPC's focus on marine debris as a priority issue over the past five years, and strongly support the OPC marine debris prevention and reduction resolution and associated implementation plan.⁶ However, we are disappointed that achievement of the implementation plan is not further along since its adoption in 2008. Although several plastic bag bans, expanded polystyrene food container bans, and other trash pollution prevention policies have been implemented since the adoption of the OPC resolution and implementation plan, most action has occurred at the local level. Although California has considered legislation to ban or place a fee on single-use bags, ban expanded polystyrene food containers, and require bottle caps to be attached to drink containers, these efforts have yet to pass at the state level. As such, we encourage the OPC to take stronger leadership to assure that its marine debris prevention and reduction resolution and implementation plan are achieved over the next five years. Specifically, we encourage the inclusion of an additional objective in the strategic plan that calls for the "Execution of the *Implementation Strategy for the California Ocean Protection Council Resolution to Reduce and Prevent Ocean Litter by 2017.*" It is unclear why Action 7.1.1 calls for the Marine Debris Steering Committee to develop strategies to reduce marine debris when the implementation plan includes numerous vetted strategies.

Additionally, we support the attention given to the importance of economic information associated with marine debris in the Draft Plan. Specifically, we support inclusion of Action 7.2.1, which would facilitate strong economic analyses associated with marine debris. We further encourage the OPC to include a cost-benefit analysis that evaluates the economic benefits associated with alternative products to those commonly found in the litter stream (e.g. plastic bags vs. reusable bags, foam coffee cups vs. reusable mugs, plastic water bottles vs. reusable water bottles, etc).

Although we support the update of OPC's existing marine debris policies with new information, as suggested in Action 7.2.2, we encourage the OPC to take the lead on implementing its existing policy recommendations related to marine debris (as detailed in the marine debris resolution and related action plan). Information related to items commonly found as marine debris and the associated environmental impacts is well-documented.⁷ The OPC should immediately take the lead on marine debris prevention, so that the gathering of new

⁶ Ocean Protection Council resolution on reducing and preventing marine debris, adopted on February 8, 2007; Ocean Protection Council, *An Implementation Strategy for the California Ocean Protection Council Resolution to Reduce and Prevent Ocean Litter*, November 2008.

⁷ Ocean Protection Council, *An Implementation Strategy for the California Ocean Protection Council Resolution to Reduce and Prevent Ocean Litter*, November 2008; West Coast Governor's Agreement Marine Debris Action Team Action Plan: http://westcoastcoceans.gov/Docs/Marine_Debris_Final_Work_Plan.pdf (accessed 9/7/2011); Information presented at the 5th International Marine Debris Conference: www.5imdc.org



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information is not used as an excuse to delay action by state and local entities. This would only perpetuate trash pollution problems by avoiding opportunities to actively implement existing policy recommendations to reduce and prevent marine debris that are strongly founded in science, and required under Total Maximum Daily Load (TMDL) and other trash reduction regulations.

We support the incorporation of the State Water Resources Control Board (SWRCB) Trash Policy development process in the Draft Plan. However, we believe that Action 7.2.3 should be expanded to include support of the trash policy “and other relevant trash regulations.” As mentioned in the metrics section, there are several statewide and regional stormwater regulations that are currently in draft form (i.e. Phase II MS4 Permit and Caltrans Permit) that include trash regulation. The OPC should support strong trash reduction elements in these regulations as well. In addition under Action 7.2.3, with respect to the Trash Policy, we recommend the second bullet under the metrics be revised to be consistent with existing trash TMDL regulations in southern California that establish a “zero trash” metric as the pollution target.⁸ Specifically, we recommend the second bullet under the metrics state, “Protective SWRCB trash policy, with a zero trash water quality objective, is adopted and implemented.”

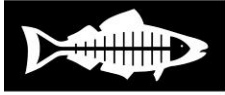
The OPC should include the promotion of Low Impact Development Policies as an Action in Issue area 6.

We agree that the state needs integrated water policies that consider the connected issues of water supply, runoff, pollution, and ecosystem function and believe that OPC should actively promote such policies. Low Impact Development is a key strategy in integrated water policy. Research has shown LID to be the most effective and cost-efficient means of managing stormwater and abating water pollution, while at the same time promoting groundwater recharge. To that end, we strongly supported the Resolution of the California Ocean Protection Council Regarding Low Impact Development adopted in 2008. The Resolution outlines various policy approaches to advance LID implementation in California. We urge the OPC to include an Action item that calls for the organization to focus on implementing and supporting the LID strategies called for in the Resolution.

The OPC should stay strong on its opposition to open ocean intakes for desalination facilities in the final version of its strategic plan

Heal the Bay strongly supports the Draft Plan’s attention and prioritization to highlighting environmental issues associated with ocean desalination. Specifically, we support Action 9.2.1 and the Draft Plan’s call for policies that oppose open ocean intakes for desalination and co-location with once-through cooled power plants because of adverse marine life impacts. This stance is particularly important to help bolster the SWRCB’s once-through cooling policy

⁸ Los Angeles River trash TMDL; San Gabriel River trash TMDL; Malibu Creek trash TMDL; Ballona Creek trash TMDL, Legg Lake trash TMDL; Machado Lake trash TMDL; Ventura River Estuary trash TMDL; Lake Elizabeth, Munz Lake, Lake Hughes trash TMDL; and Revolon Slough & Beardsley Wash trash TMDL.



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(adopted in May 2010), and ensure that it is not undermined with proposals to co-locate ocean desalination facilities with once-through cooling facilities. Numerous alternatives to open ocean intakes and co-location exist, including sub-surface intakes, making destructive open-ocean intakes unnecessary.

We are supportive of the OPC's development of a five year strategic plan, as it provides a framework for focus on critical ocean and coastal protection issues in the near future. The strategic plan has been and will continue to be a vital tool to guide the OPC in its efforts to protect and manage our ocean resources by effectively prioritizing use of resources, even as the state grapples with significant financial challenges. Thank you for the opportunity to provide these comments. We look forward to working with you on these important issues. If you have any questions, please do not hesitate to contact us.

Sincerely,

Sarah Sikich
Coastal Resources Director