

# Ocean Protection Council

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## White Paper

*“Towards Improving the California Ocean Protection Council”*

ADDENDUM  
Response to Comments

October 21, 2010



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# Ocean Protection Council

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## White Paper

*“Towards Improving the California Ocean Protection Council”*

### ADDENDUM

#### Response to Comments

October 21, 2010

Prepared for:



OCEAN PROTECTION COUNCIL

Prepared by:

**NewPoint Group**<sup>®</sup>  
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The OPC received seven (7) comment letters (via email) on the August 26, 2010 Draft Ocean Protection Council White Paper. Copies of the comment letters are provided in this addendum, starting on page 5. Several of the letters provided comments or opinions on ocean activities, such as Marine Protected Areas, and opportunities for collaboration. Some letters addressed typographical errors, which NewPoint Group will not discuss in this response, but will correct in the final report. The letters also addressed several more substantive issues, which are addressed below. As discussed in this response, some suggested changes will be incorporated in the final report. NewPoint Group sincerely appreciates the input provided in these response letters, and thanks those that commented for taking the time to review and respond to the OPC White Paper. Below, we address nine (9) points raised in the comment letters.

**1. Increase emphasis and assessment of the OPC’s role in recommending changes to state and federal policies and laws.**

We agree with the recommendation to expand the “Advancing Policies” subsection to include a discussion of the OPC’s use of position letters, primarily to federal government recipients. We have identified over a dozen such letters, and will provide a summary of these letters and an expanded assessment of methods to influence policy at the federal and state level in the final white paper.

**2. Expand the analysis of opportunities to improve the institutional structure of the OPC.**

The white paper includes several references to challenges created by the OPC’s unique institutional structure. In the long-term, we believe that the OPC must

OPC

address these institutional challenges (including issues such as the OPC's position within the State Coastal Conservancy, relationship with the Resources Agency Ocean Management Program, staffing structure and location, and Council membership). However, given that the OPC has only been in existence for five years, and the current budget and political climate, the evaluation team determined that it was premature to consider revisions to the current institutional structure at this point in time. We recommend that over the long-term, these issues be addressed.

### **3. Incorporate a more discerning analysis of the quality of OPC projects.**

We recognize that the white paper did not provide an extensive analysis of the outcomes of the OPC's 88 funded projects. Given the large number of projects, and short time-frame and wide scope of the white paper, we selected a case study format to assess some project outcomes in more detail. The OPC, in response to our recommendations of increased transparency and accountability, is currently posting project reports on their web page. This is a work in progress, and postings will be expanded as staff availability allows. The OPC recognizes that some projects have been more successful than others, and has learned from their experiences. We believe it is more critical that going forward, the OPC evaluate and publicize project outcomes. It is already taking steps to do so. In terms of a standardized opportunity for public comment on draft reports, we believe that the OPC requires some flexibility. In many cases, the OPC does provide an opportunity for public comment in the draft phase. In other cases, for example in independent scientific or technical studies, the OPC provides opportunity for public comment after the report is completed. This helps maintain the scientific integrity of the

report. In all cases, we recommend that the OPC post public comments on its web page.

### **4. Strengthen the recommendations on transparency, accountability, communication, and outreach.**

The comment letter provided several recommendations to strengthen wording related to improving transparency, accountability, communication, and outreach. We appreciate the need for increased emphasis on transparency, accountability, and communication. However, we believe that the intent of the recommendations is clear, as written. The OPC is already taking specific steps to improve its efforts in these areas.

### **5. Recognize that improved interagency coordination requires a culture of cooperation not only at the OPC, but also at other agencies.**

We agree with the comment related to improved cooperation from other agencies, and will address this comment in the text. The white paper recommends that the Secretaries "could significantly enhance the OPC's ability to effectively coordinate amongst state agencies by issuing directives within departments under their control to support OPC activities" (Page 3.14). Reestablishment of the OPC Steering Committee is mechanism for improving coordination with the other agencies. The new subgroups within the Steering Committee will provide an ongoing and direct mechanism for engaging high level staff at the agencies. We also support the sharing of staff, detailing of staff, and use of joint Budget Change Proposals to fund shared staff positions (Page 3.13). Unfortunately, in the current budget climate, this is easier said than done. However, we agree that shared staffing options and the need for other agencies to cooperate should be emphasized.

## 6. Clarify the need for a flexible strategic plan, and consider incorporating areas that were not addressed from the previous strategic plan.

The recommendations related to strategic planning emphasize that the OPC must identify and focus on a few (perhaps five) key issues, selected with outside input. As much as we might like them to, the OPC simply cannot address all of the important ocean issues that California faces. The OPC has a small and shrinking staff, and at this point no new revenue source for project funding. We believe that it is more effective for the OPC to do fewer things well, than more with mediocrity. That said, we also recognize that new problems may arise in the next five years that we cannot predict today. Thus, we recommend that the strategic plan include language to the effect: “As the OPC moves ahead in conducting the activities outlined in this strategic plan, it must keep informed of new and emerging ocean issues that may critically affect the state. If the OPC, SAT, OST, and/or OPC Steering Committee concur, the OPC should maintain the flexibility to develop a strategy to address such an issue, even if it is not defined within this current strategic plan.”

While the OPC may consider issues that it did not address in the previous strategic plan, we hesitate to recommend that the OPC necessarily adopt these issues in its next strategic plan. The OPC did not have the time or resources required to address the wide range of actions in the first strategic plan. We believe that to be effective, the OPC must focus and clarify its approach to ocean issues and narrow its range of activities. The OPC’s resources are limited, even with continued improvements to leadership, structure, and process.

## 7. Concern related to dilution of the OPC’s leadership role in the White Paper findings and recommendations.

A comment addresses an apparent inconsistency between recommendations that the OPC focus on ocean policy leadership, and recommendations related to the OPC’s ability to coordinate among state agencies. It is not the intent of the white paper to dilute the OPC’s leadership role. It is the intent of the white paper that the OPC provide a strong leadership role and work to effectively collaborate among state agencies. These two activities (and others) are part of the OPC’s statutory mandate. Being effective as a leader and a coordinator requires that the OPC take a nuanced approach to both. It has not always done this effectively, the result being that neither role was accomplished as well as it could have been. We will attempt to clarify this nuance in the final report. The concept that we were trying to convey within the points that were raised in the comment letter is that if the OPC is to lead, coordinate, and collaborate with state agencies, it must establish a solid and respectful relationship with those agencies. The OPC cannot bully or shame other agencies to follow its lead. Rather, it should utilize its position to influence other agencies to follow its lead. For example, by utilizing scientific studies and working directly with agency management and staff, the OPC can demonstrate the broader ocean benefits of a particular policy, expanding the narrower focus that one agency may have.

## 8. Clarifications to the discussion of the Once-Through Cooling (OTC) Resolution

We appreciate the in-depth discussion of the OTC resolution. Our brief summary and analysis of the resolution was based on input we obtained during the course of the evaluation, and our understanding of that input. As the comment

letter demonstrates, there are differing interpretations of the process. We will make revisions to our OTC summary in the final white paper, drawing on the comments provided.

#### **9. Concern related to recommendation to seek funding from corporations.**

We disagree with the concern that the OPC could be influenced by corporate funding. We believe that the OPC can maintain independence from their funding sources, and has established structures to do so. An example is the Ocean Science Trust (OST) implementation of the Oil and Gas Platform Decommissioning Study, which included funding from the OPC, Chevron

Corporation, the Ocean Conservancy, the Sportfishing Conservancy, and United Anglers. None of these entities (including the OPC) commented on the report. The California Ocean Protection Act directs the OPC to “use California’s private and charitable resources more effectively in developing ocean protection and conservation strategies.” (Public Resources Code Section 25515 (f)) The state does not have adequate resources to finance all ocean-related funding needs; identifying additional funding sources is among the OPC’s many responsibilities. Clearly, it must do so with transparency, and create firewalls between corporate funders and project outcomes.

Letter from  
NRDC and Ocean Conservancy

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October 5, 2010

Laura Engeman  
California Ocean Protection Council  
Coastal Conservancy  
1330 Broadway, 13th Floor  
Oakland, CA 94612  
Delivered by electronic mail to: [lengeman@scc.ca.gov](mailto:lengeman@scc.ca.gov)

**RE: OPC Strategic Plan Review White Paper, Comments & Notes**

Dear Ms. Engeman:

On behalf of Natural Resources Defense Council (NRDC) and the Ocean Conservancy, we are writing to thank you for the opportunity comment on the Ocean Protection Council White Paper: Draft August, 26, 2010 (the White Paper), which was commissioned as an independent evaluation of the California Ocean Protection Council's (OPC) efforts, since inception, and opportunities to improve its work in the future.

The White Paper effectively highlights many of OPC's successes, and the use of case studies, plus graphs and timelines are effective to demonstrate where OPC has made the most progress. For example, the White Paper rightly identifies the success and value of OPC-funded activities such as the California Seafloor Mapping Project, California Coastal Mapping Project, implementation of the California Marine Life Protection Act, and creation of the Marine Protected Area Monitoring Enterprise, each of which would not have been realized without OPC support.<sup>1</sup> It is evident that the White Paper authors have gathered and evaluated a great deal of input from individuals and written documents, incorporating many salient points throughout the White Paper. Nevertheless, there are opportunities to strengthen the White Paper's analysis, and we suggest additional points for inclusion in the final document.

Our letter addresses the following key points:

- We suggest that more emphasis and an expanded assessment be given to OPC's role in recommending changes to state and federal policies and laws.
- We recommend expanded analysis of opportunities to improve institutional structure of OPC.
- We recommend the incorporation of more discerning analysis of the quality of OPC projects.
- We suggest further strengthening of recommendations transparency, accountability, communication, and outreach.
- We suggest that improved interagency coordination requires a culture of cooperation not only at OPC, but also other agencies.
- Finally, we make a few recommendations on the development of the next strategic plan.

**1. Suggest more emphasis and expanded assessment of OPC role in recommending changes to state and federal policies and laws.**

<sup>1</sup> The sustained commitment of California resources made by OPC indicates that statements at ES.3 -- that the state's investments in the Pacific Ocean have been "relatively minor" or that the state has "relatively ignored" the Pacific Ocean -- are a negative overstatement that belittles the importance of significant and sustained resources dedicated to initiatives such as the Marine Life Protection Act (MLPA) implementation, including the MPA Monitoring Enterprise.



The sub-sections addressing “Advancing policies” could be retitled to more accurately capture OPC’s mandate under the California Ocean Protection Act (COPA), related to legal and policy changes. OPC’s charge is not simply to advance policies (which might only be those developed by outside of OPC), but to proactively identify legal and policy changes that should occur to achieve that goals of the act. The White Paper primarily assesses OPC’s legal and policy assessment work by reviewing the effect of nine OPC resolutions passed. The paper recognizes that, “[r]esolutions are not necessarily the same as recommending changes in law, as specified in the COPA,”<sup>2</sup> so we suggest that this section be expanded to consider a more thorough review of other tools to assess and suggest changes to state and federal policies and laws.

For example, footnote 1 (at 2.3) states that OPC occasionally writes position letters on policy issues. These letters are a very important example of OPC directly taking a stand on state, regional, or federal issues and should be given more thorough treatment. Often, the letters are more detailed and include more sophisticated review of issues than do OPC resolutions. We suggest that such letters be highlighted as an important tool in the body of the analysis.

At 2.15, the White Paper states: “It is important that the OPC be consistent in its use of outside scientific expertise in reviewing work, and that all aspects, including social science, are evaluated.” We strongly support the recommendation that every White Paper be reviewed by an outside expert, but we encourage OPC to include external legal and policy expert review of documents, where relevant. The Rig Decommissioning study is an example of a study that addressed a fairly complex area of state and federal law. Numerous errors were evident in that analysis. OPC should strive to make every product it funds or produces exceptionally accurate, so decision makers can use these documents with confidence.

Other points of concern related to OPC’s role in recommending changes to law and policy:

- On page 2.2, the chart arguably contains a number of errors. For example, the Rig Decommissioning study was closely tied to a legal and policy debate about a change to state law; in the chart, this project was not recognized as contributing to “policy”.
- On page 3.4 (and ES.10) “coastal resource policy management” is an inaccurate term, unless the OPC is managing the policies, rather than developing them (and laws should be included here too) for better coastal resource management.
- One stated barrier of OPC’s ability to engage more intensively in recommending changes to laws and policies is the institutional structure that ties the Council to the perspective of the Governor. As such, the institutional structure of the entity should be given more intensive consideration.
- Related to our suggestions in the next section, OPC funded an inventory of laws and a gap analysis to help identify opportunities for OPC to suggest improvements to laws and policies. This project was only partially completed and did not include an analysis of gaps or overlapping jurisdictions.

## **2. Recommend further analysis of the quality of OPC projects.**

The White Paper acknowledges that some OPC projects have been more successful than others, and that there are arguably proponents and opponents of each individual project.<sup>3</sup> We agree with this and support OPC’s continued role as a project funder. However, we suggest that, in the event that a project is not completed satisfactorily, it is very important that lessons help inform future decisions. The chart provided on page 2.2. is intended to partially assess the value of OPC project. However, it has a number of mis-categorizations, and more importantly, so many of the boxes are marked, it is not a particularly effective tool to assess the achievement of real impact in each issue area.

<sup>2</sup> At 2.5.

<sup>3</sup> At 2.32.

An important example of projects that were not properly performed, resulting in a missed opportunities, were three projects intended to help evaluation future funding sources. On page 2.34, the White Paper acknowledges that “[i]t is also critical that the OPC carefully evaluate its funding strategies.” However, the Council has arguably already spent \$217,7348 to do just that. The OPC website has recently been improved to include a list of OPC-funded projects, with links to produced documents. Notably missing from this list are documents relating to assessment of OPC current and prospective funding sources, as well as a study that could help generate additional funding: “Permanent Funding Options for Ocean and Coastal Protection,” project 06-098-01; “State Agency Budget Assessment,” project 07-001-01; and “Non-market Ecological Valuation of Coastal Marine Resources in California,” project 07-025-01. It is our understanding that these are not available, because they are not of sufficiently high quality – this is valid. However, understanding why the reports were unsatisfactory is important to prevent such errors in the future.

The White Paper, states: “The peer review process, which is currently being more formally incorporated into OPC contracting policy, can help improve the content of OPC projects and programs.”<sup>4</sup> This is a very important point. We also strongly suggest that the peer review process include a standardized opportunity for meaningful public comment, at a draft stage in the document’s development, so key points may be incorporated into the final analysis.

### **3. Further strengthen recommendations on transparency, accountability, communication, and outreach.**

At various points, the White Paper describes the value of transparency, accountability, communication, and outreach. These are all related attributes of OPC’s operations – full satisfaction of each will strengthen the Council and make its products increasingly useful to various constituencies. To this end, we suggest the following changes to the White Paper.

- The White Paper recommends that OPC “promote accountability for itself”, but this is a rather weak standard.<sup>5</sup> We recommend instead that “OPC will conform to the highest level of professional accountability.” This point is closely related to the transparency theme – real, consistent transparency is one of the most important ways to promote accountability.
- The White Paper also suggests that OPC “use transparency”<sup>6</sup>, but we suggest a change that: “OPC will institute measures to ensure financial, procedural, and substantive transparency”, or something similar. Recently, we have noted greater transparency in OPC project funding. For example, the OPC website is becoming a more useful source of funding information. These points are closely related to the previous theme of promoting OPC accountability for the quality of products generated using OPC funds
- We also suggest adding a recommendation to the communication and outreach sections: that OPC ensure dedicated funding and staff capacity to continue to improve OPC’s website, making it a renowned, highly functional repository of the most up-to-date ocean science and policy materials. Specifically, we recommend that all substantive materials that are only accessible through links in the meeting agendas be added to an electronic document library that is searchable by date, subject matter, and other relevant fields. This would significantly improve the public accessibility of OPC generated data.

### **4. Improved Interagency Coordination Requires Culture of Cooperation at OPC, but also other agencies.**

The report identifies a need to “Create and support an OPC culture conducive to coordination and

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<sup>4</sup> At 2.20.

<sup>5</sup> ES.9 and 3.2.

<sup>6</sup> *Id.*

collaboration with other state agencies.”<sup>7</sup> While it is true that OPC culture must be conducive to coordination and cooperation, it is our understanding that OPC’s culture was not the only hurdle in cross-agency work. The willingness to engage must be a two way street, and we have heard examples that indicate the barriers to coordination and cooperation come from the agencies with regulatory authority that are reluctant to involve non-agency parties, where not strictly required. There appears to be an opportunity for Council members to be more involved in paving the way for such engagement, through dialogue with agency heads and managers; joint projects for data collection and management should also be considered.<sup>8</sup>

We support the suggestion that one way to improve cross-agency cooperation is to have OPC share staff with other agencies. This might take the form of a temporary detail assignment, or a split of staff time between two agencies. The Coastal Commission should be included among the agencies with which OPC would share staff, because this entity has traditionally had less communication with OPC but stands to offer significant expertise, for example, related to land use and climate change adaptation efforts.

**5. Recommendations regarding the development of the next strategic plan.**

With regard to the development of the next strategic plan, one point made throughout the document is that OPC should “leave room” to address emerging and critical issues that arise.<sup>9</sup> It is unclear how the Council could do this without straying from the a more narrowly tailored strategic plan. We encourage the White Paper to add clarification on this point. Additionally, the examples of emerging issues listed at the bottom of 3.21 are arguably all current uses of the ocean that should not be placed into a “future” category, but should be, and are currently being addressed by resource managers.

Further, in developing the issues of focus for its next strategic plan, we encourage staff and Council members to consider issue areas in the last plan for which no action was taken in the last 5 years, as demonstrated in the Crosswalk Comparison. Our perspective is that some of these areas were not acted on, not because they lack importance, but because they are more difficult and involve more intensive cross-agency coordination. With continued improvements to leadership, structure and process, OPC may now be ready to tackle these issues.

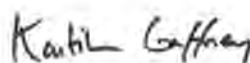
We have focused on areas where the White Paper and OPC could be strengthened, but we want to emphasize, too, that OPC has made important strides since its inception, and the White Paper has provided valuable insights into OPC’s work. We appreciate the fact that the OPC has commissioned this independent review and see it as a valuable step toward productive growth of this important state institution.

Thank you for your consideration of these comments.

Sincerely,



Leila Monroe  
Staff Attorney, Oceans Program  
Natural Resources Defense Council



Kaitilin Gaffney  
Director, Pacific Program  
Ocean Conservancy

<sup>7</sup> ES.11 and 3.9.

<sup>8</sup> A minor point of note, related to coordinating governmental ocean activities, is that the body of the report acknowledges the recreation of the OPC Steering Committee – the Executive Summary (at ES.11) should edited to reflect that the Committee has been reconstituted.

<sup>9</sup> ES.13, 3.16, and 3.21.

Letter from  
California Coastkeeper Alliance

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(510) 770 9764 [www.cacoastkeeper.org](http://www.cacoastkeeper.org)

Humboldt  
Baykeeper

September 28, 2010

Inland Empire  
Waterkeeper

The Honorable Lester Snow, Chair and Council Members  
California Ocean Protection Council  
1330 Broadway, 13th Floor  
Oakland, CA 94612-2530  
*c/o Laura Engeman*

Klamath  
Riverkeeper

Monterey  
Coastkeeper

**VIA ELECTRONIC MAIL:** [lengeman@scc.ca.gov](mailto:lengeman@scc.ca.gov)

Orange County  
Coastkeeper

**Re:** Comments on Ocean Protection Council White Paper, "Towards Improving the Ocean Protection Council" (Aug. 26, 2010)

Russian  
Riverkeeper

Dear Chair Snow and Council Members:

San Diego  
Coastkeeper

On behalf of the California Coastkeeper Alliance (CCKA), which represents 12 Waterkeeper organizations spanning the coast from the Oregon border to San Diego, I welcome the opportunity to submit these comments on the Ocean Protection Council's White Paper, "Towards Improving the Ocean Protection Council" (White Paper).<sup>1</sup> CCKA and its members have been active in the establishment, development and implementation of the Ocean Protection Council (OPC or Council) since its inception. We greatly appreciate this opportunity to weigh in on key lessons learned in the OPC's first five years.

San Francisco  
Baykeeper

San Luis Obispo  
Coastkeeper

Santa Barbara  
Channelkeeper

Santa Monica  
Baykeeper

In particular, we focus our comments below on the White Paper's assessment of the OPC's implementation of its leadership and coordination roles to date, and the White Paper's recommendations with regard to funding of OPC mandates. Specifically, we believe that the White Paper under-emphasizes the critical leadership role that the OPC can and must play to ensure that the state meets its ocean and coastal protection goals. We also believe that the White Paper inappropriately recommends private corporate funding of OPC activities.

Ventura  
Coastkeeper

We urge that the final White Paper be revised to correct these proposed findings and recommendations, which we believe will significantly dilute the OPC's effectiveness in achieving the state's goal to "conserve the health and diversity of ocean life and ecosystems."<sup>2</sup> We provide more detail on these conclusions and requests below.

<sup>1</sup> [http://www.opc.ca.gov/webmaster/fip/project\\_pages/Evaluation/OPC\\_White\\_Paper--Draft--08-26-2010.pdf](http://www.opc.ca.gov/webmaster/fip/project_pages/Evaluation/OPC_White_Paper--Draft--08-26-2010.pdf)

<sup>2</sup> Public Resources Code § 35510(b)(1).

## THE WHITE PAPER UNDER-EMPHASIZES THE OPC’S ESSENTIAL LEADERSHIP ROLE

### Statutory Background

The Council was created in the Public Resources Code (PRC) pursuant to the California Ocean Protection Act (COPA, 2004).<sup>3</sup> Among other things, the Legislature found in COPA that:

PRC Sec. 35505(a). California's coastal and ocean resources are critical to the state's environmental and economic security, and integral to the state's high quality of life and culture. A healthy ocean is part of the state's legacy, and is necessary to support the state's human and wildlife populations. Each generation of Californians has an obligation to be good stewards of the ocean, to pass the legacy on to their children.

COPA directs the new Council to achieve these and other goals as follows:

PRC Sec. 35515. The Legislature finds and declares that the purpose of this division is to integrate and coordinate the state's laws and institutions responsible for protecting and conserving ocean resources . . . to . . . (a) Provide a set of guiding principles for all state agencies to follow, consistent with existing law, in protecting the state's coastal and ocean resources.

PRC Sec. 35615. The council shall do all of the following:

(a) (1) Coordinate activities of state agencies that are related to the protection and conservation of coastal waters and ocean ecosystems to improve the effectiveness of state efforts to protect ocean resources . . . .

(6) Identify and recommend to the Legislature changes in law needed to achieve the goals of this section.

(b) (1) Identify changes in federal law and policy necessary to achieve the goals of this division and . . . .

(2) Recommend to the Governor and the Legislature actions the state should take to encourage those changes in federal law and policy.

In summary, COPA calls on the OPC to “integrate and coordinate” laws and agencies *with the goal of*:

- “[p]rovid[ing] a set of guiding principles for all state agencies to follow, consistent with existing law,”
- “improve[ing] the effectiveness” of state agencies’ coast and ocean initiatives,
- “[i]dentify[ing] and recommend[ing] . . . changes in [state] law needed” to “achieve the goals of this section,” and
- “[i]dentify[ing] changes in federal law and policy necessary to achieve the goals of this division” and recommending actions that the state “should” take to encourage such federal changes.

<sup>3</sup> Public Resources Code §§ 35500 *et seq.*

Letter from  
California Coastkeeper Alliance (continued)

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In other words, the OPC's integration and coordination role must be accomplished not solely to ensure more collaborative processes, but also to ensure that the OPC specifically *leads* the state toward meeting our collective ocean and coastal protection goals. COPA directs the OPC not just to be a coordinator or facilitator, but to be a leader, by "providing guiding principles for all state agencies to follow" in implementing the law, by ensuring that agencies' effectiveness actually improves, and by identifying changes in law and policy needed to further enhance effectiveness and ocean protection.

### Application of Legislative Language and Intent in Defining OPC's Leadership Role

Based on the legislative language and history that created the OPC, we strongly support the White Paper's finding that

the best outcomes will occur when [the OPC] embraces its leadership role, follows through each issue to a logical conclusion, and promotes accountability, both for itself, and its partner agencies.<sup>4</sup>

Each of these three objectives is essential to meeting the mandates and goals of COPA to ensure that the Council adds significant value to existing state efforts to achieve healthy, biologically diverse coastal and ocean ecosystems.

Similarly, we agree with the White Paper that the OPC "has an opportunity to build a stronger culture of leadership, follow-through and accountability," and we strongly concur that one important way of achieving this goal is for the Council members and Executive Director to "support policies and recommendations that they believe offer the best solutions for the particular policy issue at hand."<sup>5</sup> These findings and recommendations are completely consistent with the letter and intent of COPA that the OPC provide leadership and guidance, and that the OPC actually work to improve agencies' effectiveness in implementing their mandates to protect the coast and ocean. Without a focus on leading state agencies to achieve greater ecosystem protection, the OPC becomes merely a vessel for coordinated science and potential bond funding. Certainly these are helpful roles, but they do not in any sense create the desired ocean *leadership* in the style of the recommendations of the Pew Oceans Commission and U.S. Commission on Ocean Policy reports, which provided the genesis for COPA.

### White Paper Rollback of OPC Leadership Mandate

Given the mandates, findings and recommendations correctly asserting that more leadership is required and needed, it is particularly disconcerting to see that the White Paper then retreats not only from its own recommendations but also from COPA. Specifically, the White Paper's Wikipedia-based language regarding the OPC's coordination role<sup>6</sup> is inconsistent with

<sup>4</sup> White Paper, p. 3.3.

<sup>5</sup> *Id.*, p. 3.4.

<sup>6</sup> We found questionable the White Paper's turn to Wikipedia for guidance on the Council's collaboration and coordination role, particularly given that the Wiki references ignored the interaction of "collaboration and coordination" with the Council's other mandates. (White Paper, p. 3.9.) The OPC would have been far better served by a more thorough analysis of the role of coordination *in the context of* the OPC's other responsibilities, specifically as articulated in the actual operating statute and its legislative history.

the statute and the OPC's ability to lead state agencies toward more effective ocean governance. For example:

- The White Paper characterizes the OPC's "standing alone" on a policy position as a "risk," effectively discouraging the OPC from taking positions that further its mandate if those positions are potentially inconsistent with the status quo.<sup>7</sup> We would argue that it is precisely the OPC's job to be open to taking such positions. Indeed, the White Paper notes correctly that the hats that the OPC "can (and should) wear" include "bully pulpit,"<sup>8</sup> which implies taking a stand that not every entity may be happy with. This "bully pulpit" role has prompted some of the OPC's greatest successes to date, as discussed below, and should be retained throughout the White Paper.
- The White Paper states plainly that the "OPC's role is to make it easier for the regulatory agencies to do their jobs."<sup>9</sup> The purpose of COPA is not to make regulatory agencies' work easy. The purpose of COPA is to protect and enhance the health of ocean ecosystems, ideally in a way that is consistent with efficient and effective (not necessarily "easy") agency operations. In some, if not many, cases, implementation of COPA may require changes in agency operations that will be periodically difficult to accomplish. To assert its leadership role effectively, though, the OPC must sometimes take such positions, regardless of whether they are perceived as making oversight agencies' work easier.
- The White Paper appears to take the position that an OPC position "may not help the overall effort" if it makes an agency "look bad."<sup>10</sup> Again, the purpose of the OPC is to protect and enhance our coast and ocean environment. If an agency is not meeting its environmental protection mandates, and/or is operating inefficiently, calling out this problem will indeed make an agency "look bad" – because it is *in fact* performing at a sub-par level. The OPC simply cannot shy away from issues that may be controversial within an inter-agency context but that are essential to tackle for the health of our coast and ocean, solely because it is worried about public opinion of agency operations.
- Inconsistent with the assumption that agencies do not want to "look bad," the White Paper also assumes that agencies will work collaboratively to identify specific problems that they would like the OPC to help resolve through its strategic planning and work plan processes.<sup>11</sup> It has been our experience that even outside, objective analyses of agency operations sometimes fail to clearly identify agency problems in need of assistance. It is relatively rare that agencies will volunteer that information about themselves in a stakeholder or other group setting. Additional tools and strategies need to be identified to ensure that the OPC effectively identifies not only obvious substantive problems to be corrected (coastal pollution, fish declines) but also breakdowns in agency communications, operations, etc. that impact agency missions and would benefit from OPC guidance.

<sup>7</sup> *Id.*, p. 3.4.

<sup>8</sup> *Id.*, p. 3.15.

<sup>9</sup> *Id.*, p. 3.9.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*, p. 3.11.

Letter from  
California Coastkeeper Alliance (continued)

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- The White Paper notes that the OPC will be “more successful” if it understands both “real *and perceived* institutional limitations.”<sup>12</sup> While it is important to understand the *actual* variables that are preventing the state and its agencies from achieving our mutual goal of a healthy coast and ocean, calling on the OPC to spend staff and contractor time assuaging non-existent (“perceived”) concerns will only slow the state towards achieving a thriving environment. An institutional limitation that is “perceived” rather than “real” should be called out as inconsistent with the facts, and the OPC and agencies should move on quickly from there to accomplish the hard work at hand.

### Example of Application of Rollback in Leadership Mandate: Once-Through Cooling Resolution

As was raised by Council members at the September 7, 2010 OPC public meeting, some of the above findings and recommendations appear to have stemmed at least in part as a result of the experience of the OPC and member agencies with the OPC’s 2006 “once-through cooling” (OTC) resolution.<sup>13</sup> The White Paper notes that “resolutions have been most successful when they highlight the importance of a particular ocean policy issue and identify follow-up actions that are within the scope of the OPC.”<sup>14</sup> The 2006 OTC resolution, which we view as one of the OPC’s most successful endeavors of its first five years, did just that. It pushed the State Water Board and numerous other involved agencies toward completion and adoption of a final OTC Policy in May 2010 based on extensive science and input, funded in large part by the OPC. Despite the fact that the federal Clean Water Act mandate to control once-through cooling had been in place for decades, and despite the fact that OTC causes significant and well-documented harm in the marine environment,<sup>15</sup> the state had done little to implement this mandate; this changed with the Council’s OTC resolution. The OTC resolution clearly articulated the Council’s position on OTC as causing significant environmental harm, set reasonable and achievable guidelines for correcting this problem, and allowed for the OPC to fund important independent research that was important to informing the final OTC Policy.

In reviewing the lessons learned from the OTC Policy, the White Paper should have highlighted the critical need for this effort, and described the important and valuable leadership, coordination and research roles that the OPC played in ensuring State Water Board adoption of a final OTC Policy. While the White Paper did somewhat highlight the OPC’s important role in

<sup>12</sup> *Id.*, p. 3.10 (emphasis added).

<sup>13</sup> <http://www.opc.ca.gov/2006/04/resolution-of-the-california-ocean-protection-council-regarding-the-use-of-once-through-cooling-technologies-in-coastal-waters/> (April 20, 2006).

<sup>14</sup> White Paper, p. 3.16; *see also* p. 2.5.

<sup>15</sup> Among other things, the State Water Board’s Final Substitute Environmental Document supporting the final OTC Policy found that just the 12 Southern California coastal power plants using OTC kill up to 30% of the number of fish recreationally caught in the Southern California Bight each year. (SWRCB, “Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling, Final SED,” p. 35 (May 4, 2010), available at: [http://www.waterboards.ca.gov/water\\_issues/programs/npdes/docs/cwa316may2010/sed\\_final.pdf](http://www.waterboards.ca.gov/water_issues/programs/npdes/docs/cwa316may2010/sed_final.pdf).) These are fish that California is at the same time struggling to save through the Marine Life Protection Act (MLPA). Indeed, in their guidance on placement of MPAs, the MLPA Science Advisory Team stated: “Intakes from power generating facilities are the greatest threat because they operate year round or over many months and there is virtually complete mortality for any larvae entrained through the cooling water intake system.” (*Id.*, citing MLPA Master Plan Science Advisory Team, “Draft Recommendations for Considering Water Quality and MPAs in the MLPA South Coast Study Region” (Draft Revised May 12, 2009).)



this effort, its assessment of the resolution's "Accomplishments" was disappointingly sparse. Further, its review of the "Challenges" the White Paper was both confusing and inaccurate. Specifically, the White Paper articulated the Challenges posed by the Resolution as follows:<sup>16</sup>

- As an unintended consequence, environmental groups used the OPC resolution to pressure the SWRCB, some believe on an unrealistic timeframe.
- The resolution included a provision on US EPA findings, which were later thrown out in court.
- An alternative would have been to be less specific and more flexible in the resolution text.
- Because the OPC did not clearly specify its role in OTC, there were different expectations among stakeholders and the SWRCB, as to what actions the OPC would take on this issue. The OPC could have done a better job of communicating with the SWRCB as to how it could, and should, support the SWRCB's OTC efforts, and a better job of communicating with stakeholders to manage expectations as to how involved the OPC would be (or would not be) in SWRCB regulatory development.

As to the first point, we are confused by the White Paper's assessment of the "intent" of the OPC with regard to the resolution. Since it was environmental groups who first supported such a resolution in public comment at the noticed OPC meeting in September 2005 in La Jolla, and environmental groups spoke in significant numbers in support of such a resolution at the noticed OPC meeting in January 2006 in Santa Barbara (which agendized this item), it should have been a fully expected result that environmental NGOs would advocate strongly in support of such a position before the State Water Board as well. We would ask if the White Paper is in fact asserting that the OPC should consider editing future resolutions based on the concern that public advocates for a healthy ocean might appropriately cite strong OPC resolutions in future advocacy efforts. We obviously would have significant concerns with such an assertion.

As to the second and third points, we have carefully reviewed the OTC resolution and find no reference to U.S. EPA findings that were "thrown out in court." The specific language in the resolution referencing U.S. EPA findings is as follows:

- *WHEREAS*, the U.S. Environmental Protection Agency (U.S. EPA) has determined, after a thorough review of the rulemaking record for implementation of section 316(b) of the Clean Water Act, that there are multiple types of undesirable and unacceptable environmental impacts associated with once-through cooling technology; and
- *WHEREAS*, The U.S. EPA has found these types of impacts to include entrainment and impingement; reductions of threatened and endangered species; damage to critical aquatic organisms, including important elements of the food chain; diminishment of a population's compensatory reserve; losses to populations including reductions of indigenous species populations, commercial fisheries stocks, and recreational fisheries; and stresses to overall communities and ecosystems as evidenced by reductions in diversity or other changes in system structure and function

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<sup>16</sup> White Paper, p. 2.7.

Letter from  
California Coastkeeper Alliance (continued)

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Both of these sets of findings are well-supported in the State Water Board's Final Substitute Environmental Document and were not affected by court rulings.

The White Paper may be referring to the resolution's Resolved section, which states that in agreement with U.S. EPA findings, the environmental impacts from once-through cooling technologies for coastal power plants can be significant, and resolves to urge the State Water Resources Control Board to implement Section 316(b) and more stringent state requirements requiring reductions in entrainment and impingement at existing coastal power plants and encourages the State to implement the most protective controls to achieve a 90-95 percent reduction in impacts . . . .

Again, the U.S. EPA finding that "the environmental impacts from once-through cooling technologies for coastal power plants can be significant" is well-supported in the Final Substitute Environmental Document and was not touched by a court. The OPC's decision to "urge" (not mandate) the State Water Board to "achieve a 90-95 percent reduction in impacts" was not a citation of then-existing U.S. EPA rules,<sup>17</sup> but instead represented the OPC's independent (and we believe, correct) assessment of the level of impact reduction needed to protect the state's coastal, marine, bay and estuarine ecosystems from the devastating impacts of once-through cooling. Rather than being "thrown out in court," their decision to set an appropriate and achievable target<sup>18</sup> fully supported both at the appellate level<sup>19</sup> and in front of the U.S. Supreme Court,<sup>20</sup> cases in which CCKA was an actively involved co-litigant. Accordingly, we strongly disagree with the White Paper's suggestion that the OPC be "be less specific and more flexible" in its recommendations. As argued above, this is not the job of the OPC. Rather, the OPC, as it did in the 2006 OTC resolution, can and should set an appropriately high and specific bar for state agencies to reach in protecting the health of the coast and ocean – an issue on which the OPC is supposed to be an expert.

As to the final point, we agree that better communication is generally agreeable. However, given the well-known lines of authority on this and other substantive policy issues, it again should have been relatively clear that the OPC cannot mandate the State Water Board to take a particular action pursuant to the State Water Board's delegated Clean Water Act authority. Moreover, during the period from the April 2006 OTC resolution and the May 2010 adoption of the final OTC Policy by the State Water Board, there was not only an extensive public process but also a comprehensive agency coordination process, one of the most comprehensive on a particular issue in our many years of experience. We therefore would be curious as to the specifics of the assertion that "[t]he OPC could have done a better job of communicating with the SWRCB as to how it could, and should, support the SWRCB's OTC efforts."

<sup>17</sup> See, e.g., California Energy Commission, "Issues and Environmental Impacts Associated with Once-Through Cooling at California's Coastal Power Plants," pp. 35-36 (CEC-700-2005-013, June 2005), available at: <http://www.cacoastkeeper.org/document/issues-and-environmental-impacts-of-otc.pdf>.

<sup>18</sup> The OPC's own funded studies supported the feasibility of this goal, as discussed in detail in the State Water Board's Substitute Environmental Document.

<sup>19</sup> *Riverkeeper, Inc. v. U.S. EPA*, 475 F.3d 83 (2d Cir. 2007).

<sup>20</sup> *Entergy Corp. v. Riverkeeper, Inc. et al.*, 129 S.Ct. 1498 (April 2009).

Finally, we agree that the OPC was not initially clear with stakeholders as to as to “how involved the OPC would be (or would not be) in SWRCB regulatory development.” It quickly became evident, however, that the OPC members and staff would not in fact be publicly involved in the development of regulations, despite the fact that numerous other agencies (particularly the California Energy Commission) did publicly comment in hearings and workshops based on their professional assessment of OTC regulatory options. We would recommend, then, not *increased communication about OPC’s involvement*, but instead *increased OPC involvement*. There is no statutory or other reason that the OPC cannot provide public comment on its scientific, technical or other assessment of a particular ocean issue. We thus urge that the White Paper be revised to address this gap and encourage the OPC to be more publicly active in agency proceedings, consistent with the OPC’s mandates and expertise.

#### **THE WHITE PAPER INAPPROPRIATELY RECOMMENDS DIRECT CORPORATE FUNDING OF OPC ACTIVITIES**

Finally, we have significant concerns with the White Paper’s suggestion that the OPC seek funding from corporations (specifically non-foundation corporations) to “support ocean management and research.”<sup>21</sup> The White Paper itself articulates our chief issue with this proposal, which is that the OPC would dedicate staff to “readily identify and match funding opportunities that are aligned with a funder’s particular focus.”<sup>22</sup>

The OPC is accountable first and foremost to the people of California. Ocean management and research projects and priorities should be chosen based on science and policy concerns of greatest interest and relevance to the public and environment, and must be completely independent of corporate donor desires.

If the OPC requires funding from regulated entities (as one would expect donor corporations to be), then the OPC instead should seek authority to levy user fees that isolate a payer’s “particular focus” from the strategic goals and work plans of the Council. Another way to leverage and use existing funds more effectively is through development of joint agency Budget Change Proposals. While the White Paper claims that such BCPs can be “difficult to get approved,” there is in fact precedent that the OPC can and should draw from,<sup>23</sup> to be able to reap the benefits of jointly-funded staff and projects that enhance collaboration.

Given the White Paper’s language rolling back on the OPC’s leadership mandates (see discussion above), an enhanced focus on corporate funding could set the stage for potential management projects and decisions that do not necessarily benefit ecosystems or the general public. We accordingly urge that the above-described recommendations with respect to seeking non-foundation corporate funding in the White Paper be deleted.

<sup>21</sup> White Paper, p. 3.8.

<sup>22</sup> *Id.*

<sup>23</sup> For example, prior to July 1, 2006 the California Bay-Delta Authority coordinated 24 state and federal agencies to implement a long-term comprehensive plan to restore ecological health and improve water supply reliability in the San Francisco Bay/Sacramento-San Joaquin Delta system. Its most recent (2005-2006) budget can be found here: <http://2007-08.archives.ebudget.ca.gov/StateAgencyBudgets/3000/3870/department.html#printable>. Further detail of the BDAT budget was provided to the OPC in September 5, 2005 comments by the California Coastkeeper Alliance *et al* (available upon request).

Letter from  
California Coastkeeper Alliance (continued)

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\* \* \*

As NOAA Administrator Dr. Jane Lubchenco has articulated, our “ocean-based and land-based activities together are . . . literally changing the chemistry, the physical structure and the biology of our oceans in unprecedented ways . . . [a]nd we are suffering the consequences.”<sup>24</sup> The Council has an enormous opportunity to learn from its initial five years and initiate a much-needed “rapid development phase” that will “result[] in . . . a very dramatic change in collective awareness and action” on the oceans.<sup>25</sup> We urge that the White Paper be revised to address the clear need for swift, decisive action and leadership to protect and enhance the health of California’s ocean home.

Thank you for the opportunity to provide these comments. If you have any questions, please do not hesitate to contact us:

Sincerely,



Linda Sheehan  
Executive Director  
[lsheehan@cacoastkeeper.org](mailto:lsheehan@cacoastkeeper.org)

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<sup>24</sup> Dr. Jane Lubchenco, Testimony before the U.S. Commission Ocean Policy (Wash. D.C., Nov. 13, 2001).

<sup>25</sup> *Id.*



October 5, 2010

Laura Engeman  
Project Manager  
California Ocean Protection Council  
lengerman@scc.ca.gov

**RE: OPC Draft Evaluation – West Coast EBM Network Comments**

Dear Ms. Engeman,

Thank you for the opportunity to provide input on the California Ocean Protection Council's (OPC) Program Evaluation. On behalf of the West Coast Ecosystem-Based Management Network, I am excited to provide the following comments regarding the ongoing and future efforts of the OPC, in hopes of furthering the Council's efforts and fostering collaboration with local communities along California's coast.

First, as background on our effort, the West Coast Ecosystem-Based Management (EBM) Network is a partnership of six community-based initiatives focused on proactive management of local coastal and ocean ecosystems on the U.S. West Coast. We have four projects in California that range from Humboldt Bay to the Ventura River, along with one project in Oregon and a former project in Washington State. Each of these projects has been underway anywhere from three to ten years, and our Network was brought together in late 2008 with funding from the David and Lucile Packard Foundation to connect and leverage their common efforts. I have served as the Network's Coordinator since 2009, and am based in Oakland, CA co-located with staff from the NOAA Coastal Services Center and the California Ocean Science Trust, and two floors below the offices of the California Coastal Conservancy and staff for the OPC.

The West Coast EBM Network (Network) is focused on a range of activities, with most focused on enhancing locally-driven approaches to management related to fisheries, water quality, coastal land use, and responding to climate change, among many others. We also support ongoing collaboration and community engagement focused on sustaining our ocean areas along the coast, and the livelihood and wellbeing of the residents that rely on them. Further, we are actively pursuing partnerships with management entities at the state, regional and federal levels, including state agencies in WA, OR and CA, the West Coast Governors' Agreement on Ocean Health, and a range of federal agencies, among other partners. To date, the OPC has supported some of our Network members individually, including efforts in Humboldt Bay and the San Luis Obispo Science and Ecosystem Alliance. The Network is excited to build on these existing partnerships, with hopes of expanding collaboration throughout the state to pursue common goals at the local and state levels.

Specific to the OPC, the West Coast EBM Network submits the following comments:

- **The OPC can strengthen its efforts related to fostering ecosystem-based management in California by linking to groups like the West Coast EBM Network and its member projects.**

In Exhibit C-1, Summary of the OPC's Accomplishments, a status update is provided for Objective A4, related to developing practical approaches to EBM along the coast and encouraging their implementation. Under this objective, the OPC status is listed as "limited action," and is assessed as "minimally addressing this objective, to-date." The West Coast EBM Network is an ideal partner to allow the OPC to strengthen their EBM efforts and to

Letter from  
West Coast EBM Network *(continued)*

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begin more substantively addressing it throughout the state. The Network has developed a guide on practical steps to implementing EBM at the local level (*available at [www.westcoastebm.org](http://www.westcoastebm.org)*) and is actively reaching out to a range of audiences throughout California to build on the successful outcomes identified in the guide. The Network is ready to partner more closely with the OPC to pursue common objectives related to coastal management, public outreach, new technical approaches and stakeholder involvement. The Network also provides a mechanism to efficiently connect OPC staff to all four of its member projects throughout the state, leveraging the existing regional partnership to maximize the impact of OPC collaboration related to ecosystem-based management.

- **The West Coast EBM Network provides a link to local management initiatives and stakeholders that can serve to spotlight OPC activities, and increase opportunities for outreach, public input, and clearly demonstrate the benefits of OPC collaboration.**

The Program Evaluation White Paper recommends that the OPC increase its outreach and communication with stakeholders in order to better demonstrate the efforts OPC has underway. The member sites of the West Coast EBM Network have brought together a range of stakeholders at each of their individual sites, including local businesses, environmental NGOs, local, state and federal management agencies, and local elected officials, among others. As a result, the Network provides the ideal opportunity for the OPC to instantly reach an extremely wide range of stakeholders already familiar with coastal management approaches and techniques, and collaborate with OPC staff on new partnerships to better demonstrate the value provided by OPC activities.

The Network hopes to follow up on these comments by actively reaching out to OPC staff through the Network Coordinator, and is happy to connect the OPC to its member project staff throughout the state. If at any time the OPC would like more information from the Network, or is interested in discussing these comments and the potential for future collaboration, please do not hesitate to contact John Hansen, at [john.hansen@westcoastebm.org](mailto:john.hansen@westcoastebm.org), or at 510-251-1260.

Thank you again for the opportunity to submit these comments, and on behalf of the West Coast EBM Network, we look forward to our growing relationship with the OPC.

Best regards,

John Hansen

Coordinator  
West Coast Ecosystem-Based Management Network

Letter from  
California Sea Grant

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From: Gear, Marsha [<mailto:mgear@ucsd.edu>]  
Sent: Thursday, September 23, 2010 10:49 AM  
To: lengeman@scc.ca.gov  
Cc: Oh, Shauna; Hughes, Catherine  
Subject: feedback on OPC draft evaluation report

Hi Laura,

I reviewed the draft where it refers to California Sea Grant, and marked some edits/comments in the attached version (see comments attached to the small, blue insertion marks) on pgs. 59 (two edits), 118, 159.

Let me know if you have questions.

Best wishes,

Marsha Gear, APR  
Communications Director  
California Sea Grant  
[mgear@ucsd.edu](mailto:mgear@ucsd.edu)  
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and reports. The peer review process, which is currently being more formally incorporated into OPC contracting policy, can help improve the content of OPC projects and programs. While this process can add significant value, it is not without challenges. There are opportunities for more consistent application of peer review, greater acceptance of peer review by OPC project managers and contractors, and better communication and follow-up to the reviewing scientists as to the impact of their reviews.

The SAT is also involved in the development of research priorities for applied research, and has provided assistance in “identifying critical emerging science issues that should be of concern to the OPC and the state.” At its first meeting, the SAT identified five emerging issues: (1) desalination, (2) aquaculture, (3) disaster scenario planning, (4) technical innovations, and (5) sedimentation, sand, and beach nourishment. The OST formed three working groups to further assess these issues; these working groups produced recommendations that informed the OPC on the issues including background used in the development of a desalination panel at the November, 2009 Council meeting.

Just two years old, the SAT has yet to live up to its full potential. There have been many challenges: the State’s budgetary problems, the fact that the SAT is new, the challenges inherent in coordinating twenty-four (24) busy scientists, and the need to determine the best processes to more fully engage the SAT. To this point, the SAT’s primary role has been in the peer review process. As it establishes a framework, the SAT could play a greater role in identifying emerging issues and concerns, and in supporting the science needs of all state agencies that work on ocean issues.

The SAT benefits the scientists, as well as the OPC. Through their involvement in the SAT, members gain a better understanding of research needs, policy issues, and scientific questions from an applied management perspective.

### Supporting Applied Research

The Sea Grant College Network consists of thirty (30) university-based programs across the country that support the understanding, conservation, and sustainable use of coastal and marine resources through research, education, and extension. Most Sea Grant funding is provided through the National Oceanic and Atmospheric Administration (NOAA). Since 2006, the OPC has provided a total of approximately \$5 million to support applied research through the University of Southern California (USC) and University of California (UC) Sea Grant research programs.

Each year, the OPC, with input from the state’s resource managers and the SAT, develops a series of priority research topics. The general purpose of research funding is to “enhance the practical use and conservation of coastal and marine resources through scientific research.” Recent research projects include: evaluating ocean management systems to facilitate the development of ecosystem-based management, the future of the California Chinook Salmon fishery, ocean acidification exacerbated by coastal upwelling, and parasites as indicators of coastal wetland health.

The Sea Grant College Program institutes a call for proposals, and selects research projects through a competitive process. The research projects are reviewed by a committee of scientific experts and a committee of state ocean and coastal resource managers. The projects that score well by both committees are then selected. This provides a valuable competitive and rigorous process for funding projects that meet the highest needs of



## 2.30 DRAFT

- Ensuring that funding is available for projects that support state departments that implement high priority programs (e.g., Marine Life Management Act and Marine Life Protection Act).

Examples of staff directed projects include: San Francisco Bay Native Oyster Restoration Plan funding to UC Davis; California and the World Ocean 2006 conference to the Coastal Conservancy Association; San Luis Obispo Sustainable Fisheries Support to the City of Morro Bay; and Cooperative Kelp Monitoring to Reef Check California.

4. *Unsolicited Proposals* – The OPC's strategic plan outlines specific goals and actions to be undertaken by the OPC. The OPC accepts unsolicited proposals to advance these goals and considers them on a case by case basis. The proposals are reviewed internally and scored by agency representatives from the issue-relevant public agencies including: the Department of Fish and Game, the California Coastal Commission, the State Water Resources Control Board, the California Ocean Science Trust, and the California Resources Agency. In 2008, the OPC issued a list of funding priorities for unsolicited proposals. Examples of unsolicited projects include: the Derelict Fishing Gear Removal Pilot Project funding to UC Davis; Channel Islands MPA Monitoring Program Remote Operated Vehicle Survey funding to the Nature Conservancy; California Fisheries Fund to the Environmental Defense Fund; and Santa Monica Bay Gap Analysis funding to the Santa Monica Bay Restoration Commission.
5. *Management Driven Science* – OPC and its Science Advisory Team consult with state agencies partners to develop a list of priority research topics that meet the scientific data needs of California's ocean and coastal managers. The California Sea Grant Program at UC San Diego and the University of Southern California (USC) Sea Grant Research Program then issue an RFP based

on these identified priorities and provide a scientifically robust peer review for selecting projects. OPC provides approximately \$1 million a year to the California Sea Grant programs to be awarded to projects through this process. These funds are intended to support innovative research to directly inform and improve stewardship of ocean resources. Research funded over the last three years include projects such as: parasites as indicators of coastal wetland health; evaluating ocean management systems to facilitate the development of ecosystem-based management; long-term faunal changes in California nudibranchs; climate change and local ocean health; and ocean acidification exacerbated by coastal upwelling; monitoring of CO<sub>2</sub> and O<sub>2</sub> on the California shelf, and studies of their effects on red sea urchins, California mussel and abalone.

6. *State and Federal Agency Collaborations* – OPC staff work with state and federal partners to develop projects of mutual interest. These projects typically evolve when the OPC and other state or federal agencies and departments are considering similar projects that would be completed more effectively and/or efficiently by combining resources. OPC only considers federal projects that have a matching federal contribution. Examples of state and federal agency collaboration projects include: the California Seafloor Mapping Program funded with USGS and NOAA; California Sea Level Rise Projections funded with UC San Diego; Marine Protected Areas Monitoring Enterprise funded through the California Ocean Sciences Trust; and the Instream Flow Assessment on Big Sur River, funded through the Pacific States Marine Fisheries Commission.

## Appendix A. OPC Projects Approved and Funded Since 2005 A.3

Exhibit A-1

Projects Approved and Funded by OPC since March 2005 (continued)

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|     | OPC Project Number | Title   | Grantee   | OPC Approved Funding | Matching Funding |
|-----|--------------------|---|---|----------------------|------------------|
| 21. | 06-097-02          | California Sea Floor Mapping Program  | USGS, NOAA, and CSU Monterey Bay Foundation                                       | 15,250,000           | 14,500,000       |
| 22. | 06-098-01          | Permanent Funding Options for Ocean and Coastal Protection                        | Redefining Progress   | 49,000               | 0                |
| 23. | 06-109-01          | OPC-DFG Joint work plan   | California Department of Fish and Game  | 0                    | 2,000,000        |
| 24. | 06-109-02          | DFG Equipment and Operations  | California Department of Fish and Game  | 325,000              | 0                |
| 25. | 06-109-03          | North Central Coast MLPA Socioeconomic Data Collection                            | Ecotrust  | 210,000              | 0                |
| 26. | 06-109-04          | Deep-water ROV Surveys in the Channel Islands (MARE)                              | Marine Applied Research and Exploration   | 660,000              | 0                |
| 27. | 06-109-05          | Channel Islands SCUBA survey  | National Park Service   | 210,668              | 0                |
| 28. | 06-109-06          | Channel Islands SCUBA survey  | UC Santa Barbara  | 371,187              | 0                |
| 29. | 06-109-07          | Lobster and Finfish Trap Surveys  | UC Santa Barbara  | 407,855              | 0                |
| 30. | 06-109-08          | Nearshore Ichthyoplankton Assessment  | UC San Diego  | 500,000              | 0                |
| 31. | 06-109-09          | Recreational Fishing Survey Improvement Studies                                   | Pacific States Marine Fisheries Commission  | 630,000              | 0                |
| 32. | 06-109-11          | Commercial Fishery Logbook Data Management  | Pacific States Marine Fisheries Commission  | 445,000              | 0                |
| 33. | 06-109-12          | Commercial Fishery Information System Improvement Study/Business Process Analysis | California Department of Fish and Game  | 302,571              | 0                |
| 34. | 07-001-01          | State Agency Budget Assessment  | Monterey Bay Aquarium Research Institute  | 90,000               | 0                |
| 35. | 07-002-01          | UC Sea Grant Research Program (07)  | USC Sea Grant   | 1,600,000            | 0                |
| 36. | 07-003-01          | California Fisheries Fund   | Environmental Defense Fund  | 2,000,000            | 3,000,000        |
| 37. | 07-009-01          | Moss Landing Fish Market Feasibility Study  | Moss Landing Marine Labs  | 50,000               | 10,000           |
| 38. | 07-010-01          | Ocean Science Capacity – Science Advisory Team Development                        | California Ocean Science Trust  | 200,000              | 0                |
| 39. | 07-011-01          | Cooperative Kelp Monitoring   | Reef Check California   | 243,500              | 327,000          |
| 40. | 07-012-01          | San Francisco Fisherman’s Wharf Sustainable Seafood Market                        | Ecotrust  | 65,468               | 0                |
| 41. | 07-014-01          | Energy Grid Reliability Study   | Jones and Stokes/Global Energy  | 135,638              | 100,000          |
| 42. | 07-025-01          | Non-market Ecological Valuation of Coastal Marine Resources in California         | National Center for Ecological Analysis & Synthesis – program of UC Santa Barbara | 78,738               | 0                |
| 43. | 07-026-01          | Low Impact Development Regulation Assessment                                      | Tetra Tech  | 50,000               | 0                |

**DRAFT**

Letter from  
Irwin Haydock, Ph.D.

Page 1 of 2

## Laura Engeman

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**From:** HAYDOCKI@aol.com  
**Sent:** Monday, October 04, 2010 10:42 PM  
**To:** lengeman@scc.ca.gov  
**Cc:** brian.baird@resources.ca.gov; haydocki@aol.com; scott@s4s.com  
**Subject:** OPC Program Evaluation Report Comments and Recommendations  
**Attachments:** S4SbrochureJune2010.pdf

October 4, 2010  
 All Hands at OPC,

I have followed the evolution of California and the World Ocean Conferences from the 1960's to the most recent, in September 2010. Although I frequently follow the OPC webinars, I had my first opportunity in San Francisco to actually attend an OPC meeting and provide my 2-minute drill to praise their work and, in particular, to remark that much of this success is built on Brian Baird's many years of dedication in molding the Resources Agency's Ocean Program through several administrations. In the eyes of a retired marine ecologist with over fifty years of public service, Brian has done a true work of art that stand as a touchstone to the best ocean science, management and policy being found here in California.

As your recent Ocean Protection Council White Paper documents there have been many advances made in developing comprehensive ocean policy, based on the best science available, that provides clear direction for better coordinated management of the public's marine resources. Now that we know what to do and how to do it, it's time to move forward in a collaborative effort for all agencies, the public and private entities to engage and succeed in the difficult work ahead.

Although there is plenty of beef in OPC's five years of work, the one significant ingredient missing is the glue to hold this ocean meatloaf together. This is clearly apparent on the last few pages of the Draft Executive Summary: "In five years, the OPC has evolved from a concept into a fledgling agency.... Now, it is time for the next transition phase. The "new" OPC core strengths will need to emphasize policy leadership, coordination, collaboration, and science." The current staff is small, but it has shown great ability to leveraging existing expertise from other agencies, and the public and private sector. I would encourage OPC to continue to follow this option by keeping internal staff small. This can be accomplished by using modern collaboration techniques, custom software, and internet resources. Agencies should assign joint full/pt staffing positions to OPC that will truly engage all relevant agencies and organizations with ocean mandates. The point should be to find and invite the best available to work on OPC's goals and strategic plans while infusing their home agency with developing solutions and inoculations that work for all.

The suggestion that the Council members become more involved is also an excellent opportunity to bring a truly collaborative effort to bear on a comprehensive view of ocean resources. But this should be extended beyond the existing 7 members (OK for deciding, but not for discussing) including working with other west coast states/countries and applicable federal agencies. I believe OPC has already developed a list of agencies and laws that intersect the ocean in various significant ways. Again, the way this works is to utilize our current knowledge of formal Ecosystem-based Collaborative Management protocols, and then develop a more robust Collaborative Adaptive Management strategy that truly represents and honors all the diverse ocean interests involved and the evolving nature of the right solutions. The Marine Life Protection Act is just a preview of what's to come from conflict and, hopefully, resolution and solution, but it is essential that we develop new skills and comprehensive management tools that allow solutions to emerge, and measures of goal attainment to demonstrate that fact. This is the glue that will hold all the OPC's good works together into the future.

But, this glue is what is missing from this OPC White Paper. "OPC focused resources on projects, and did not fully develop processes to communicate to more than just its closest stakeholders. In the long-term, this strategy is not sustainable. Key decision-makers need to understand what the OPC does, and how the OPC provides benefits to the state." "...it will be critical for OPC managers to ... communicate the value of participating in the OPC, and making our Pacific Ocean a priority California natural resource." OPC cannot do this alone. I recommend that you seriously consider using one of the emerging collaborative management software technologies as the glue to comprehensively hold together all the people and pieces of marine resources management. There are now several organizations developing such software. Ours was discussed in the recent CaWorldOcean'10 Conference in San Francisco. I have attached a recent brochure of our tool, S4S Solutions' Claros, that has been developed for comprehensive watershed management that I have been working on for the past three years. This software has been tested in both small (Newport Bay) and very large (Fraser River Basin) situations where multiple people and projects need to be planned, executed and tracked to success.

Letter from

Irwin Haydock, Ph.D. *(continued)*

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We are currently planning to apply this to help stakeholders evaluate the MLPA process in the south coast region. I believe this software can easily be adapted to managing all the efforts necessary to allow OPC to succeed in its next 5-year program. It would immediately allow OPC to communicate with all its users, to collaborate with all relevant agencies, and track all projects, expenditures, results, and evaluations that accrue to the program. I have attached a recent brochure and would be happy to discuss the advantages of gluing together the past, present and future work of the OPC with open-source, Web2.0, internet software tools. Just give me a call (714) 469-3088 or visit our website at S4S.com for information.

I also believe it's time for OPC to allow all ocean lovers and users to develop a comprehensive list of their issues that are vetted in a systematic fashion prior to reaching OPC's next short list of key issues. To do this, OPC must develop an internet presence with software tools that allows participants to gain knowledge, and develop, discuss, vet and vote their preference to notify their relevant public agencies. I look forward to the next California and the World Ocean Conference, and hope to hear of OPC's great success in working with the west coast and nation to bring sustainability to our natural ocean resources along with their wise usage by our burgeoning population. One last thought is to include the entire watershed in your analyses of ocean needs. Here in southern California we call it the "Pines to Palms" approach, all parts of one ecosystem from the tops of the mountains to the nearshore (10-mile) coastal waters.

Sincerely yours,

Irwin Haydock, Ph.D.  
[haydocki@aol.com](mailto:haydocki@aol.com)

**Laura Engeman**

**From:** Jeff Kruthers [info@hollister-ranch.com]  
**Sent:** Friday, August 27, 2010 5:48 AM  
**To:** lengeman@scc.ca.gov  
**Subject:** OPC evaluation

Dear Ms Engeman:

I have lived along the California coast since 1954; first in Palos Verdes from its undeveloped condition to a rapidly developing state in the early 60s and second - from 1963 to the present - along the south coast of Santa Barbara County (presently in our home in Gaviota). During those 56 years I have been an avid free-diver, fisherman and surfer. In that capacity I have observed a gradual contamination of the near-shore environment causing me to find less contaminated coastline conditions. I was pleased to see the organization of the OPC and passage of the MLPA hoping that the degradation of the ocean would be reversed. To my regret, close examination of the MPA siting process has me distressed and dismayed.

I am very familiar with the coastline from the City of Santa Barbara to Point Conception (which I can see from my home). Rather than go into a lengthy and detailed explanation as to why, some of the sites selected by the "stakeholders" are simply improper and counterproductive to the goals of the OPC as I understand them. It's apparent that, contrary to the stated and common belief that the MPA sites have been selected based upon science, the sitings have been designated based upon political considerations.

For example, a MPA is proposed at Point Conception. This site is only 11 miles from a virtually identical location at Point Arguello contrary to the MPA guidelines placing MPAs at 33 to 66 mile intervals. Furthermore, the weather conditions (both above and below the ocean surface) allow for very little habitat for sea life. A substantial sea lion rookery rests just in the lee of Point Conception. There are no trails to the beach/reef location of this rookery, so it cannot be accessed by humans. In addition, this rookery is five or so miles within a locked gate to a private cattle ranch prohibiting public access. Point Conception is already, in effect, a protected area, the boundaries of which are already easily monitored (for whatever that's worth) at Jalama Beach Park and Gaviota State Beach Park.

On the other hand, the most ideal location for a MPA of which I'm aware (once again after 56 years of observation) would be at Naples Reef Near Goleta. This is already an outstanding incubation location for myriad species of sea-life (also an outhaul location for sea lions and harbor seals). Naples (and its surroundings) is incredibly easy to monitor given its proximity to US 101. Its location conforms perfectly within the MPA guidelines placing MPAs at 33 to 66 mile intervals. As a fisherman myself, I can understand the organized fishing industry's opposition to a significant Naples MPA. Located only minutes from the Santa Barbara Harbor, its convenience is obvious. The generally calm weather condition and light ocean currents allow for sea-life to flourish and reproduce prodigiously. So, many fisherman have bemoaned any siting of a MPA in their favorite fishing grounds.. once again understandable from a short-term perspective.

To see vast sums of financial resources and numerous hours of work by those with honorable intentions wasted in such a political process is disconcerting at best. Once the entire story of this enterprise is known, significant damage will have been inflicted upon sincere efforts to protect, preserve and restore our coastal environment. The effect will undoubtedly be similar to fall-out that occurred after unnecessarily damaging emails from some over-zealous climate change scientists wounded the efforts to curtail carbon emissions into the atmosphere.

Letter from  
Jeff Kruthers (continued)

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I absolutely love this coast, and I was really looking forward to some positive actions to save it. Fishermen need to earn a living, but so do those future generations who will want to fish as well. I would hope that locations other than Naples Reef would offer the ability to harvest the sea-life to allow for fishermen to continue to make their living and for the rest of us to enjoy sea-food for sustenance. However, Point Conception is a wasted selection, and - as I stated above - what is there now is already effectively protected. If Naples is rejected as a significant MPA location, the potential for a truly important site will be lost to politics. If that happens, it will be clear that nothing has changed. That's unfortunate.

Thank you very much for the opportunity to express my concerns. Best of luck turning the MPA ship into a more effective direction.

Jeff Kruthers

Letter from  
Mark Nicks

**Laura Engeman**

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**From:** thaifurn@aol.com  
**Sent:** Sunday, October 03, 2010 4:13 PM  
**To:** lengeman@scc.ca.gov

The science is lacking to make abrupt changes to fisheries, and yet with marine spatial planning models we are going to regulate fisheries into extinction. The Marine Protected areas and the spatial planning are not the result of professional analysis of science. The SAT have repeatedly stated they have been grossly underfunded , thus unable to provide a detailed analysis to draw valid conclusions. Slow these processes down, let the next administration wrestle with it, and quit ramming

lousey policy decisions down our throats.....Mark Nicks F&G#13180

