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September 15, 2020

California Ocean Protection Council
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

RE: Agenda Item 7. Talking Trash: Identifying Policy Solutions to Address Plastic Pollution in California's Coastal and Marine Ecosystems

Dear Secretary Crowfoot and Councilmembers,

Heal the Bay is a non-profit environmental organization with over 30 years of experience and 15,000 members dedicated to making California's coastal waters and watersheds safe, healthy and clean. On behalf of Heal the Bay, we respectfully submit the following contributions to the Ocean Protection Council's discussion item on identifying policy solutions to address plastic pollution in California.

Firstly, we would like to thank the Ocean Protection Council (OPC) for their continued dedication to the plastic pollution issue and for prioritizing plastic pollution since 2007. As a contributing organization of the 2018 California Ocean Litter Prevention Strategy, Heal the Bay has been closely involved with the state's overall efforts to reduce plastic pollution for some time. We agree with OPC staff that the severity of the plastic pollution issue warrants bold solutions, and that innovative investments and policy approaches are necessary to reduce plastic pollution and its impacts in California.

As noted by staff in the staff report on this discussion item, COVID-19 has compounded the plastic pollution problem over the course of 2020.¹ Not only did the pandemic cause a drastic increase in the use of disposable plastics due to increases in product delivery and unfounded fear of viral transfer via reusable items, but it also stalled many efforts to pass comprehensive policy solutions. This includes an ordinance that the County of Los Angeles was advancing with the support of Heal the Bay and the Reusable LA coalition. This year also saw the failure of Senate Bill 54 and Assembly Bill 1080, a pair of plastic pollution reduction bills that were met with a massive opposition campaign representing an industry willing and able to spend millions of dollars in lobbying funds to keep single-use plastics on the shelves and in the homes of Californians who do not want them. While we can look forward to the California Plastic Waste Reduction Regulations Initiative, a ballot initiative to reduce plastic waste that may appear on the 2022 ballot, and which we encourage the OPC to support, the pressure from the plastics industry to continue pushing disposable plastics will continue to be unrelenting.

We would also like stress that the issue of plastic pollution in California is not isolated to our coastline, and its impacts are felt beyond our marine and aquatic ecosystems. As a fossil fuel product, plastic pollutes our environment and our communities at every point of its lifecycle, from extraction to refining, manufacture to disposal. Fossil fuel production to make plastics not only contributes to climate change, but burdens vulnerable low income communities and communities of color who bear the brunt of the pollution and health impacts from oil extraction, transportation, and refining.² These health impacts

¹ Ford, Dave. *COVID-19 Has Worsened the Ocean Plastic Pollution Problem*. Scientific American, August 17, 2020. <https://www.scientificamerican.com/article/covid-19-has-worsened-the-ocean-plastic-pollution-problem/>

² Ihab Mikati, Adam F. Benson, Thomas J. Luben, Jason D. Sacks, and Jennifer Richmond-Bryant, 2018: Disparities in Distribution of Particulate Matter Emission Sources by Race and Poverty Status American Journal of Public Health 108, 480-485, <https://doi.org/10.2105/AJPH.2017.304297>



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include asthma, respiratory illness, and increased cancer risk that make these communities more susceptible to COVID-19.³

We strongly agree with staff that a “system change” is by far the most effective way to reduce plastic pollution, and its associated impacts, and that California must take an “all of the above” approach to solving an issue of this magnitude. We agree with the recommendations for policies that decrease overall plastic consumption, improve product design, and increase recycling rates. From our extensive experience in the fight against plastic pollution, and our current work on moving local plastic pollution reduction legislation in both the County and City of Los Angeles, we respectfully suggest the council consider a comprehensive suite of policy options beyond these recommendations and consider investment and research in the following areas:

1. Research on plastic pollution reduction methods
 - a. Conduct a feasibility analysis on reuse and refill systems in the state of California
 - b. Analyze Extended Producer Responsibility schemes for plastics in California
2. Invest in a comprehensive policy approach for plastic pollution reduction that includes:
 - a. Incentives for reusable and refillable food serviceware systems
 - b. Disincentives for single-use plastic products and regrettable alternative disposables
 - c. Phasing out and banning problematic single-use packaging and products
 - d. Upon-request policies for all food accessories for delivery and take out
 - e. Updated building and health codes for new establishments that encourage reuse and refill
3. Prioritize equitable solutions and divest away from harmful alternatives

We offer additional information on these suggestions below.

Research on plastic pollution reduction methods

Conduct feasibility analysis on reuse and refill systems in the state of California

Plastic experts across the globe agree that source reduction is a critical step necessary in reducing plastic pollution. Source reduction can be reached through a number of methods, and switching from disposable systems – a linear economy or “take, make, dispose” approach – to reusable and refillable systems – a circular economy approach – is a tried and true method. Through our research and partnership building in the reuse and refill space, Heal the Bay and our other non-profit partners have discovered an array of innovative technological and infrastructure solutions that provide reuse and refill systems for everything from household goods to groceries. Many companies, both here in California and across the globe⁴, have demonstrated that these systems are not only possible, but highly effective and lucrative. Representatives from these companies have informed the public that these reuse and refill models are even growing and expanding during the COVID-19 pandemic⁵.

³ *Implications of COVID-19 on At-Risk Workers by Neighborhood in Los Angeles*, Paul Ong, PhD, Chhandara Pech, MURP, Silvia Gonzalez, PhD Candidate, and Carla Vasquez-Noriega. UCLA. 4/1/2020 <https://latino.ucla.edu/wp-content/uploads/2020/04/LPPI-Implications-from-COVID-19-res2.pdf>

⁴ i.e. [Loop](#), [Dispatch Goods](#), [Zero Grocery](#), & [r.Cup](#).

⁵ Vann, Karine. *Loop's quest for reuse dominance has only gotten more ambitious during the pandemic*. Waste Dive, August 19 2020. <https://www.wastedive.com/news/loop-terracycle-szaky-reuse-pandemic-circular-economy/583317/>



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We suggest that OPC invest in market research and analysis on the feasibility of widespread implementation of reuse and refill systems in the state of California, using existing examples as models. We recommend investment in a reuse and refill report that includes a cost-benefit analysis, infrastructure needs, refill model types, and recommendations for implementation. We also recommend inclusion of largescale industrial composting infrastructure in this research and analysis for a science-based understanding of the feasibility of compostable alternatives to disposable plastic where reuse and refill are not possible,

Analyze Extended Producer Responsibility (EPR) schemes for plastics in California

According to a report released earlier this month, the negative externalities of plastic production are nearly equal to its market value, and those externalities are not internalized by fossil fuel corporations, but burdened onto our communities through greenhouse gas emissions, air pollution, and the cost of collection and cleanup.⁶ These externalities can be internalized through Extended Producer Responsibility (EPR) schemes, a tool that the European Union's single-use plastics directive recommends for materials that are already well captured to encourage optimum collection and recycling. EPR schemes internalize externalities associated with plastics by imposing the responsibility for the end-of-life management of packaging and products on the industries that produce, import, and sell them. These systems provide an opportunity for industries to create a landscape for a circular economy and to share the burden of managing the waste created by their products, alleviating the burden placed on consumers and communities.

In the state of California, we have already implemented EPR programs for a number of different materials, including paint, carpet, mattresses, pharmaceuticals, pesticide containers, etc. These EPR programs vary, but all have the same basic principles: product redesign and innovation, material reduction, and shared end-of-life management. If the plastics industry was made responsible for the products they produce throughout their entire lifecycle, there would not only be environmental benefits through reduced pollution, but social benefits through strengthened value chains, job creation and improved public health, and economic benefits through reduced dependency on virgin material a collective shift towards a circular economy.

We highly recommend that the OPC invest in research and analysis on the feasibility of EPR programs for plastic products and packaging in the state of California. We suggest including analysis of current EPR schemes for plastics and other products, organizational structure of these programs, and the costs and benefits of a plastics EPR program.

Invest in a comprehensive policy approach for plastic pollution reduction

Incentives for reusable and refillable food serviceware systems

Currently, disposable options dominate food packaging and food service ware. They are cheap, easy to use and come by, and cater to the convenience of a throw-away culture. Without intentional intervention through pilot programs and incentives, disposable options such as single-use plastics will remain the go-to option for food serviceware, especially in food packaging, food delivery, and takeout. At their most basic, incentive programs for reusable items can be as simple as a discount for bringing a reusable container in

⁶ *The Future's Not in Plastics: Why plastics demand won't rescue the oil sector.* Carbon Tracker. September 4 2020. <https://carbontracker.org/reports/the-futures-not-in-plastics/>



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place of a disposable one. These basic incentives, however, are not always effective and in the times of COVID-19 are very difficult to implement. Therefore, we suggest that the OPC explore more a more holistic incentive program for reuse and refill food serviceware that goes beyond relying on customers to bring their own reusables. Refill and reuse systems where reusables are provided by the business in place of the consumer are more reliable, sanitary, and more effective at reducing plastic pollution. Both pilot and incentive programs for largescale reuse in food serviceware and food packaging would offer economic, social, and environmental impacts and we recommend the OPC invest in such solutions.

Disincentives for single-use plastic products and regrettable alternative disposables

While incentive programs for reusable containers can be very effective, disincentives for the use of disposables are perhaps the most effective tool to drive down the use of single-use plastic. While reduction from the source through EPR is the most effective and comprehensive approach, disincentives like charges and fees effectively decrease the use of disposable products, as shown by the California plastic grocery bag ban. As such, Heal the Bay recommends the OPC explore a disincentive tool as part a comprehensive policy approach, such as a consumer fee for disposable food and beverage containers. Research has shown that disposable container fees have the greatest potential for direct single-use food packaging and serviceware reduction in certain cities, and they are already incorporated in policy in places like Berkeley, CA. This approach alone cannot be relied upon to create widespread lasting change, but in congruence with strong outreach and education, can have a significant impact on consumer behavior and awareness.

Phasing out and banning problematic single-use packaging and products

In the OPC staff report on this discussion item, the European Union's single-use plastics directive is examined. This policy, which we highly recommend California look to as a model comprehensive approach, includes a framework of three different methods to addressing pollution based on material type. One of these approaches is for problematic items where sustainable alternatives are readily available. For these items, a ban is put into place. We highly recommend that OPC invest in the implementation of material phase-outs and bans for highly problematic materials types where alternatives are readily available, such as rigid and expanded polystyrene. For products made of such problematic materials that are shown to be harmful to human health, disastrous when littered, and nearly impossible to recycle, the most effective method is a required and enforced transition away from these materials to alternatives.

Upon-request policies for all food accessories for delivery and take out

As staff mentioned in the report on this discussion item, COVID-19 has had a substantial impact on the daily lives on Californians and how our businesses operate and how consumers receive their essentials. One result has been an enormous increase in food delivery and take out in place of on-site dining, which has resulted in an increase in the use and disposal of single-use plastic foodware and food accessories, much of which is not needed by the consumer (i.e. utensils, straws, and condiment packets). It is estimated that, even before the COVID-19 pandemic, billions of plastic utensils are used and disposed of every year in the United States. As a direct response to this specific issue, Heal the Bay, alongside the Reusable LA coalition and the National Reuse Network, has been exploring the use of an "upon-request" or "opt-in" model for these foodware accessories and has received positive feedback from businesses, consumers, and local elected officials. We highly recommend that the OPC consider inclusion of this policy tool as part of a comprehensive policy approach to reduce plastic pollution, as it is easy to implement, has immediate benefit, and does not negatively impact businesses



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Update building and health codes for new establishments that encourage reuse and refill

As mentioned by OPC staff and reiterated in this letter, the COVID-19 pandemic has changed the landscape of everyday life for Californians, including our small businesses and food service establishments. Dozens of restaurants have already permanently closed their doors in Los Angeles, and many more are expected to follow. While we acknowledge the hardship these closures have resulted in, this changeover in business ownership opens a window of opportunity to update regulations and permitting requirements for new businesses and foodservice establishments to set the stage for success in transitioning away from disposable food serviceware and towards reusable and refillable options. These changes in permitting can include, but are not limited to: requiring dishwashing facilities for establishments over a certain capacity, requiring reusable food serviceware for in-house dining, and requiring locally recyclable or compostable disposable serviceware for delivery and takeout. Heal the Bay recommends that the OPC include this policy tool when exploring a comprehensive plastic pollution policy.

Prioritize equitable solutions and divest away from harmful alternative solutions

When discussing policy solutions and approaches for reducing plastic pollution and its associated impacts, perhaps the most critical component that must be taken into account is equity. Environmental justice communities are heavily burdened by the impacts of plastic pollution throughout the entire plastics lifecycle and it is imperative to avoid further burdening these communities in attempts to remedy the plastic pollution issue. Heal the Bay strongly urges the OPC to take equity and justice very seriously when exploring and vetting policy tools and implores the council and staff to avoid certain regrettable alternatives, such as disposable bioplastic and chemical recycling, that are just if not more harmful than disposable plastics.

In the OPC staff report for this discussion item, a wide variety of policy priorities are mentioned as a part of the “system change” that is necessary to meaningfully reduce plastic pollution. Of these priorities the report mentions certain conversion and recycling technologies that are concerning to Heal the Bay. We strongly urge the council to not consider certain technologies as an acceptable tool for plastic waste reduction. These technologies include chemical recycling, (i.e. repolymerization, and waste-to-energy/plastic-to-fuel conversion) and incineration.

Plastic is a fossil fuel product, and as such, the most effective way to mitigate the impacts of all types of plastic pollution, including air pollution from extraction refining and manufacturing, is source reduction. While mechanical recycling of certain plastic types where an end market is economically viable may be an effective component to a broader scheme, we highly recommend that the OPC does not prioritize recycling as a high priority solution, especially technologies dubbed as “chemical recycling”. Chemical recycling refers to a few different processes such as “repolymerization” “depolymerization”, “pyrolysis” and “solvoysis” that use chemical processes to turn plastics into liquids or gases that can then be used to make new plastics, but in practice are normally burned for fuel.⁷ The practice of turning these materials back into new plastics in actuality is very technically challenging and uneconomical. Similarly, to mechanical recycling, the process requires an input stream of a single type of plastic that is devoid of additives and contaminants, however, it is far more energy-intensive and results in higher greenhouse gas emissions.

⁷ Chemical Recycling Research Briefing: Distraction Not Solution. GAIA, June 2020. https://www.no-burn.org/wp-content/uploads/CR-Briefing_June-2020.pdf



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Plastic-to-fuel and other plastic incineration technologies are perhaps the most harmful forms of plastic pollution. The burning of plastic, a fossil fuel, results in the release of 16 million metric tons of greenhouse gasses into the air every year.⁸ Plastics are a major contributor to climate change, and the burning of plastics in incinerator plants or for fuel only furthers this contribution. In addition, plastic incineration is linked to major social inequities, as these facilities disproportionately impact frontline communities, including low-income communities and communities of color.⁹

California, like the rest of the nation, is in the midst of a waste crisis. With compounding impacts including the China National Sword policy and the COVID-19 impact exacerbating this issue, it is imperative that our state address single-use plastic waste using a comprehensive, science-based, and equitable approach.

Thank you for your time and consideration. Should you have any questions, please feel free to contact me at eparker@healthebay.org or at 310-451-1500 x156.

Sincerely,

Emily Parker
Coastal and Marine Scientist

Katherine Pease
Director of Science and Policy

⁸ Plastics & Climate: The Hidden Costs of a Plastic Planet. Center for International Environmental Law. May, 2019. <https://www.ciel.org/wp-content/uploads/2019/05/Plastic-and-Climate-FINAL-2019.pdf>

⁹ Marco Martuzzi, Francesco Mitis, Francesco Forastiere, Inequalities, inequities, environmental justice in waste management and health, European Journal of Public Health, Volume 20, Issue 1, February 2010, Pages 21–26, <https://doi.org/10.1093/eurpub/ckp216>