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September 12, 2011

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

Re: **Ocean Protection Council Draft Strategic Action Plan**

Dear Secretary Laird:

Thank you for the opportunity to provide comments on the Ocean Protection Council's (OPC) Draft Strategic Action Plan (Plan). The Coastal Commission (Commission) has enjoyed working collaboratively with the OPC over the past five years in carrying out our complementary coast and ocean protection missions. We look forward to enhancing this partnership. Please consider the following comments on the Plan. To expedite review of these comments, they have been arranged by Focal Area and address specific Objectives and Actions whenever possible.

Climate Change Focal Area
Issue 1: Storm Events, Coastal Flooding and Sea Level Rise

The Commission staff is very supportive of the OPC's efforts to address this issue, as increased coordination and communication of information about this focal area is a critical need for improving State-level preparation and response to storm events, flooding and sea level rise as well as coordination and leveraging information that is available from local, regional and state governments, non-governmental organizations, and other groups about climate change. To that end, please consider revising all applicable Actions for this Focal Area to include workshops and discussion groups to enhance dialogue between stakeholders and affected parties, foster the development of partnerships, and promote collective learning. In the introductory paragraphs for this issue, we suggest a citation be added as a reference to the information that is highlighted in the last sentence of the first paragraph (Page 17).

Objective 1.1: To better inform agency decision-making, please consider increasing the focus placed on improving agency understanding of flooding, inundation, and erosion at site-specific areas and regional scales. Please also reflect the importance of geographic and temporal scales in the Objective 1.1 recommended actions.

Action 1.1.1: This action includes several evaluation metrics that could provide inconclusive results. For example, a metric for the number of revised planning documents may be

inconclusive – if state and local agencies already have strong policies for flooding and erosion, modifications to include the causal aspect may not provide additional benefit. In addition, a decline in the number of revised planning documents over time could indicate either that the revision effort had been successful with the "low hanging fruit" but not successful with other more complex policy changes needed to address storm events, flooding and sea level rise. Also, it could be helpful to identify a target audience to receive the up-to-date information, guidance and recommendations. Also of note is the fact that while leveraged funding is frequently an efficient and effective financing mechanism, sometimes communities do not have other funds to leverage and a single source of funds may be more useful.

Finally, please consider providing additional information regarding tsunamis in the third bullet. Tsunamis are clearly a coastal hazard that will be worsened by sea level rise, and their inclusion in the climate change focal area is not well established in the discussion.

Action 1.1.2: While the proposed metric for Action 1.1.2 is intuitive, it would likely prove very difficult to track and collect information on land use decisions and even more difficult and time consuming to determine the cause and level of influence that sea level rise made on those decisions. A more effective metric may be to track changes in local or regional zoning that result from updated coastal hazard mapping or the revision/update of development permit conditions regarding future erosion/inundation within these areas.

Objective 1.2 and Action 1.2.1: This action may not lead to achieving the stated objective, as examples from other fields have demonstrated that information alone may have a limited potential to reduce risk. The OPC may wish to consider other actions to support this objective.

Action 1.2.3: The inclusion of coastal flooding in the State Flood Control Plan could work in opposition to the main objective to "encourage development of adaptation strategies and mitigation measures" since, with insurance, communities may be allowed to rebuild in hazardous areas and rely upon insurance to cover the losses. For example, the key proponent of the National Flood Insurance Program, Gilbert White, questions whether the program is enhancing or eroding hazard resilience in the United States. It may be more appropriate to undertake an objective and action to study the long-term hazard consequences of adding communities into the State Flood Control Plan before advocating for its expansion.

Action 1.2.2: For the metrics measuring overall effectiveness, the fourth bullet would benefit from adding "and developing public infrastructure" after "investing public resources…"

Sustainable Fisheries and Marine Ecosystems Focal Area

Issue 5: Leverage Investments and Realize Benefits of the State's Marine Protected Areas

Objective 5.1: We believe the OPC is uniquely positioned to provide support for the effective implementation and management of Marine Protected Areas (MPAs) as management of the new statewide network of MPAs will require increased coordination and communication among the State's coastal resources management agencies and between these agencies and the scientific community. For example, as the implementing and enforcement agency for the new MPAs, the

California Department of Fish and Game has taken on the new role of reviewing and permitting proposed temporary and permanent development activities within MPAs that have the potential to result in the take of marine life. This new role brings with it the need for increased communication and coordination with the State's other coastal and marine resource management agencies such as the Coastal Commission, State Lands Commission, and Regional Water Quality Control Boards. Notably, members of the scientific and research communities are confronted with new or expanded review and permitting requirements for projects, even short-term scientific experiments, proposed within MPAs. Given its stated duty to "coordinate activities of state agencies to improve the effectiveness of state efforts to protect ocean and coastal resources," the OPC is well positioned to contribute to MPA implementation and management by fostering communication and coordination between State coastal and marine resource agencies regarding MPA management, and the scientific and research communities.

We therefore suggest that the OPC Strategic Action Plan include these as Actions under Objective 5.1. Possible metrics for these Actions could be: (1) development of a guidance document or letter to researchers proposing to carry out work within MPAs that details the staff contacts at the relevant agencies, the likely permit requirements, application needs, and review timelines; and (2) convening of semi-annual meetings or conference calls between relevant agency staff to discuss MPA implementation and management, the needs and challenges, and opportunities for increased coordination and effective resolution of potential issues or conflicts.

Action 5.1.2: The second "measure of effectiveness" metric identifies the potential use of "once-through cooling intake fees" as a funding source for long-term implementation of the Marine Life Protection Act (MLPA). The introductory text appears to suggest that such intake fees may be structured as mitigation for the impacts of once-through cooling but does not describe which agency or agencies would be responsible for requiring these fees or in what context they would be required. It's our understanding that the policy adopted by the State Water Resources Control Board requires a power plant operator to pay a mitigation fee to the California Coastal Conservancy to address the interim impacts of once-through cooling until the power plant ceases operations or switches to an alternative cooling method. Please clarify if this is the fee referenced by this action item.

Action 5.2.2: Please consider the inclusion of "Identification of discharge reduction methods or alternatives to discharge for outfalls located within MPAs" under the metrics for Action 5.2.2.

Land-Sea Interaction Focal Area

Issue 7: Marine Debris

We recommend a stronger recognition in the introductory section of this Focal Area that since no single agency has a mandate to deal with all the sources and impacts of marine debris, it is the role of a coordinating agency like the OPC to lead the State's effort to address the issue.
Action 7.1.1: We suggest that this action be more specific in the metrics for this action. For example, the OPC could seek a Governor's directive to act through the MDSC to enact the 2008 MD Implementation Strategy. We also recommend the OPC improve public outreach and education within and outside State government by reporting annually to the Legislature and/or

the Governor about actions taken, reductions achieved and clean-up efforts that the MDSC or OPC has supported. Please also acknowledge in this Focal Area's metrics that many of the activities in the Implementation Strategy can be enacted administratively, without the need for new legislation, and that those actions should be given higher priority by the agencies on the steering committee.

Action 7.2.1: One of the metrics to measures the OPC's action is to analyze the economic costs of cleaning up marine debris. The study of the economics of marine debris needs to be the highest priority research that the OPC undertakes in this field. This information is vital, and it should encompass not only the cost of cleaning up debris, but also the costs incurred by communities as a result of debris accumulation (e.g. lost tourism dollars, damage to California fishing boats or transportation vessels, etc.).

Action 7.2.2: This proposed metric to conduct additional studies on marine debris is not in line with the purpose of the WCGA. The WCGA is a programmatic body that can facilitate better coordinated actions in the three west coast states. A better role for the OPC in this area might be to support the anticipated launch of the West Coast Marine Debris Alliance and contribute staff time and other resources to the success of this entity.

Action 7.2.3: This is an important action where the OPC should support more stringent standards in trash policy. We recommend the OPC focus on data collection and analysis to prove the effectiveness of these trash policies.

Objective 7.3: We suggest the following modifications to Action 7.3.1: "Support collaborative efforts *and legislation* to work with a broad array of stakeholders including industry to proactively reduce *the amount of* packaging and other products *before they can* contribute to marine debris *through the use of financial incentives and end-of-life planning and recovery*."

Issue 8: Sediment Management

One of the top emerging issues for the regulation of sediment management in California is improvement of pre-project baseline information, information on project impacts and information from project monitoring. In addition, it is difficult to adequately review and evaluate projects if relevant information is lacking. Commission staff therefore suggests that assisting with providing improved information and resources to address these areas also be an objective and metric in this category or an action that is added to Objective 8.1.

Action 8.1.2: The use of the term "demonstrate" in this action implies that no uncertainty exists about the outcome of the pilot project. Please consider replacing this term with the word "test."

Action 8.2.1: The metrics for this action appear limited. Please consider whether or not other tools such as regional sediment management plans could also be useful.

Action 8.3.1: Please consider expanding this action to include NGOs, cooperatives, regional associations and other relevant groups.

Industrial Uses Focal Area
Issue 9: Desalination and Once-through Cooling

We largely support the Plan's acknowledgement of the concerns and environmental impacts associated with desalination; for example, the significant loss of marine life caused when desalination facilities use open water intakes, desalination's relatively high energy use and high levels of indirect greenhouse gas emissions compared with other water sources, the need for local or regional water portfolios to maximize their use of less costly and less environmentally damaging water sources before turning to substantial reliance on desalination, etc.

We also support the Plan's stated intent to work with other agencies on policy issues and on siting and design considerations. We urge the OPC to base its work in this area on similar work that has already been completed – including, specifically, the Coastal Commission's 2004 report, "Seawater Desalination and the California Coastal Act", the 2003 recommendations by the state Desal Task Force, and the 2010 desalination guidelines developed by the Monterey Bay National Marine Sanctuary. Those documents already establish a strong basis for identifying which siting criteria and design considerations will result in economically and environmentally appropriate desalination facilities.

We further support the Plan's intent to coordinate its study of improved intake siting and design methods with the State Water Resource Control Board's phase-out of environmentally damaging power plant open water intakes, some of which are proposed for use by desalination facilities. We recommend, however, that the Plan distinguish between desalination facilities proposing to use open water intakes and those proposing to use less environmentally damaging intake methods. For example, desalination facilities that operate using any of several types of subsurface intakes could cause few, if any, marine life impacts compared to those that use open water intakes. The long-term impacts caused by operating an open water intake far outweigh any short-term impacts resulting from constructing a properly sited and designed subsurface intake.

Objective 9.1: We recommend that this objective specifically acknowledge relevant policies and regulations that apply to desalination intakes. For example, it should reference the requirement of State Water Code Section 13142.5(b) that intakes use the best available site, design, technology, and mitigation measures feasible to minimize marine life impacts. It should also reference the requirement of Coastal Act Section 30231 that adverse effects of entrainment be minimized to the extent feasible. These regulatory measures should serve as the basis of any siting and design criteria developed pursuant to the Plan.

Objective 9.2: We recommend that this objective specifically identify the need to better understand the cumulative impacts on the marine environment caused by ocean intakes. Continued use of multiple open water intakes in some locations (e.g., Santa Monica Bay, parts of the Southern California Bight) would result in substantial adverse impacts over dozens of miles of California's shoreline. It would be helpful to develop better understanding of these extensive impacts and the effects they have on the state's marine resources.

Action 9.2.1: As discussed above, we strongly support the use of beach wells or subsurface infiltration galleries as alternatives to open ocean intakes to minimize impacts to marine life. Implementing these alternatives is consistent with the State Board's policy to phase out the use of power plant open-ocean intakes. However, the metrics for this "no open-ocean intake" and "no co-location" Action should also acknowledge the potential that some of those existing intakes might at some point be modified to allow for economically and environmentally appropriate operations – for example, some intakes might be converted to support offshore subsurface infiltration galleries. Although screening technology for ocean intakes does not at this time adequately minimize marine life entrainment, future improvements may at some point allow those intakes to operate in an environmentally sensitive manner. We recommend the Plan add a Metric to support research into whether various modifications or screening technologies might allow open intakes to be converted so they result in the same levels of *de minimus* marine life impacts as subsurface intakes.

Action 9.2.4: It is not clear that the in-lieu mitigation fee adopted by the State Board to address interim impacts of once-through cooling applies to proposed desalination facilities. We support the Plan's proposal to assess the effectiveness of the in-lieu fee mitigation; however, proposed desalination facilities that still result in some level of marine life impacts after being sited and designed to minimize those impacts will likely be required to provide project-specific mitigation rather than just an in-lieu fee. This should be clarified.

Finally, please note that Action 9.1.1 should spell out the full name of the California Coastal Commission and include the acronym "CCC", which is subsequently used on page 37.

Issue 11: Aquaculture

In the introduction to this section, please consider referencing the remaining objectives for the State described in the Sustainable Oceans Act (SB 201). These objectives include a thorough consideration of significant adverse cumulative effects when evaluating the potential expansion of aquaculture as well as minimization of the use of fish meal and fish oil in aquaculture through the use of alternative feeds (including those made from seafood by-products) and development and assessment of best management practices for marine finfish aquaculture.

Action 11.1.1: Please describe if this working group has been convened or would be developed as part of this Action. In addition, please also consider an additional metric that evaluates whether or not aquaculture projects in federal waters were proposed, planned, or developed consistent with SB 201 and any additional input provided by State agencies.

Action 11.1.2: We support the OPC's proposal to articulate State funding and research needs to federal agencies. As a first step in this process we suggest that these needs be outlined, prioritized, and described in an open process that includes input from California's coastal and marine resource management agencies, relevant organizations, stakeholders, and the public. Accordingly, we suggest the OPC include an additional metric under this Action that calls for the development of a research paper or interagency work product that clearly describes California's marine aquaculture research and funding needs. This paper or document should be based on the goals, objectives, and priorities described in SB 201 – such as the need for alternative feeds, best

management practices for commercial operations, invasive species guidelines, habitat and wildlife protection guidance, etc. – and integrate input received through public and agency review and comment opportunities.

Science-Based Decision-Making – Cross-Cutting Area
Issue 13: Identifying High Priority Management Information Needs

Objective 13.1: We suggest adding "coast and ocean" before "management" so that the objective reads: "Identify coast and ocean management information needs."

Issue 14: Building Institutional Capacity within Agencies to Incorporate Scientific Information into Management

We recommend the OPC add input from the State's coast and ocean and natural resource management agencies (e.g., the Coastal Commission, BCDC, Coastal Conservancy, State Parks, State Lands Commission, and DFG) to the OST in identifying science information needs.

Thank you again for your consideration of these comments. If you have questions, please call me at 415-904-5205.

Sincerely,

ALISON DETTMER
Deputy Director