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January 17, 2012

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

VIA ELECTRONIC MAIL: opc.comments@scc.ca.gov

Re: Comments on the California Ocean Protection Council Revised Draft Strategic Action Plan

Dear Chair Laird and Ocean Protection Council Members:

On behalf of the California Coastkeeper Alliance (CCKA) and its 12 Waterkeepers who work to achieve healthy coastal and marine ecosystems, we submit the following comments on the California Ocean Protection Council Revised Draft Strategic Action Plan (Revised Plan). California Coastkeeper Alliance has actively participated in the development of Ocean Protection Council (OPC) plans and policies since its inception, including work over the past year to develop the 2012-2017 Strategic Action Plan.

CCKA appreciates OPC's work to release a Revised Plan that is more streamlined, and reflects a focused approach to produce greater impacts. The Revised Plan identifies some specific strategies and work to address critical ocean and coastal issues. For example, Objective 4.2 in the Climate Change Section commits OPC to "[i]dentify and recommend emerging—best and innovative practices, such as model ordinances and habitat protection measures, and promote and support their implementation."¹ Additionally, the Revised Plan includes a number of productive OPC marine debris initiatives, such as "working with partner agencies to execute the priority actions in the 2008 Implementation Strategy to Reduce and Prevent Ocean Litter, supporting the SWRCB's statewide trash policy, supporting workshops and studies on the economic impacts of marine debris, and collaborating with stakeholders to support innovative efforts for source control."

While CCKA notes the inclusion of many important actions in the Revised Plan, in many places the Plan fails to articulate the ways in which OPC plans to fulfill its leadership and advocacy mandate over the next five years. The incorporation of clear goals for attainment of the various elements of the Plan will help OPC to remain on task, and will help the public track the OPC's efforts. The Strategic Plan should identify work and initiatives to address known threats to California's marine ecosystems, with corresponding timelines and milestones for objectives and actions within the Plan to be achieved. CCKA offers suggested revisions below to add specificity and clarity to the Revised Plan.

¹ Ocean Protection Council, Draft Five Year Strategic Plan 14 (Dec. 2011), available at http://www.opc.ca.gov/webmaster/ftp/pdf/docs/Documents_Page/Strategic%20Plan/OPC_REVISED%20DRAFT_StrategicPlan_2011%2015%20Dec_for%20public%20review.pdf.

Climate Change Adaptation

CCKA encourages OPC to incorporate more specific and “no-regrets” nature-based adaptation strategies into the Climate Change section of the final Strategic Plan, including:

- Identifying conservation areas and recommending lands to be considered for acquisition and preservation in the face of sea level rise;
- Establishing guidance for managed retreat and the removal of existing non-essential development in hazard prone areas;
- Establishing guidance for projects placing development in undeveloped areas containing critical habitat, and undeveloped areas that have the opportunity for tidal restoration, habitat migration, or buffer zones; and
- Encouraging projects that protect critical habitat for fish, wildlife, and other aquatic organisms.

Desalination and Once-Through Cooling

CCKA applauds the OPC for the inclusion of Objective 12.2, which states that OPC will “work with relevant state agencies to *develop policies that are consistent with OPC resolutions* related to existing and emerging uses, such as development of a statewide desalination policy that addresses marine intakes, in-plant dilution, and brine disposal.”² CCKA appreciates OPC’s willingness to develop policies that are consistent with prior OPC resolutions, and requests that the Council direct OPC Staff to immediately begin taking the appropriate actions to accomplish this objective. It is a critical moment in developing statewide guidance for desalination facilities. In 2012, the State Water Resources Control Board (SWRCB) will formulate a statewide desalination policy, determining the best course of action to minimize the impacts of intakes and brine disposal. Southern California Regional Water Boards are also on the verge of making crucial decisions on desalination permits that could set a detrimental precedent for other California desalination facilities. CCKA urges the Council to act swiftly to adopt policies that are consistent with prior OPC resolutions and the law.

CCKA respectfully requests that OPC use the original title for Issue 12: “Desalination and Once-Through Cooling,” which is singularly titled in the Revised Plan as “Desalination.” Under the California Water Code, both desalination and once-through cooling (OTC) are regulated under the same provision; and therefore, are treated similarly under the law. The impacts of desalination and OTC are remarkably similar, and thus require similar action from appropriate agencies to mitigate impacts to the marine environment. Over half of the proposed desalination facilities in California expect to co-locate with existing OTC power plants.³ The Revised Plan explicitly references OTC, including in Objective 12.2, which states that OPC will “work with the SWRCB, the Coastal Commission, and other appropriate entities to assess the effectiveness of interim mitigation projects proposed through the OTC policy process to address impacts to the marine environment from OTC intake structures.”

Coastal Water Quality

CCKA requests that the Council re-invigorate efforts to implement OPC’s Resolution on low impact development (LID) coast-wide, with a specific focus on coastal stormwater runoff affecting Areas of Special Biological Significance (ASBSs) and Marine Protected Areas (MPAs). ASBSs are home to the state’s most unique and sensitive marine communities, each one possessing a complex and fragile ecosystem. LID is an effective and cost-efficient strategy that curtails impacts to coastal waterways caused by land-based polluted runoff and generates low-energy localized water supplies. CCKA

² Supra note 1, at 25 (*Emphasis added*).

³ Pacific Institute, Desalination, With a Grain of Salt 35 (June 2006), *available at* http://www.pacinst.org/reports/desalination/desalination_report.pdf.


recommends that OPC revise the Downstream Impacts Section with a set of objectives, actions and metrics to implement its 2008 Resolution on LID, with a particular focus on reducing pollution into ASBSs and MPAs. Council action on stormwater pollution is particularly timely in light of the SWRCB's pending ASBS Special Protections Policy,⁴ SWRCB's Ocean Plan amendment to delineate State Water Quality Protected Areas, and the soon to be complete statewide network of MPAs. Critically designated habitats need to be protected from stormwater runoff, which is considered the largest threat to water quality throughout the state.

California Water Quality Monitoring Council

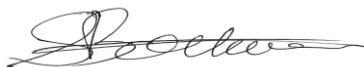
CCKA recommends that the Council revisit the comments submitted by the California Water Quality Monitoring Council, which have not been addressed in the Revised Plan. Specifically, CCKA requests that OPC: incorporate references to the Monitoring Council's Comprehensive Strategy into the Action Plan, with description of the relevance of the Comprehensive Strategy to the Action Plan's goals and objectives; and commit OPC to taking a leadership role to convene an inter-organizational California ocean ecosystem workgroup that will develop a California ocean internet portal, as one of the theme-based portals under the *My Water Quality* information website. With the creation of an ocean ecosystem workgroup and web portal, OPC and the Water Quality Monitoring Council would provide the appropriate agencies the necessary information to effectively evaluate and resolve existing problems related to ocean monitoring, assessment, coordination, and data access. CCKA looks forward to working with OPC to integrate Water Quality Monitoring Council work, tools, and data as the Council's public representative.

The Revised Plan acknowledges that "threats are mounting, and the consequences will be dire unless we continue to take bold action."⁵ As discussed above, CCKA believes that the Revised Plan could better incorporate bold action in several key areas. We urge OPC to reconsider how it can best lead ocean protection work over the next five years. Irrespective of whether or not OPC chooses to incorporate bolder actions in the Strategic Plan, we urge the Council to immediately undertake needed actions to address imminent threats, and look forward to continued work together to do so.

Sincerely,



Sara Aminzadeh
Acting Executive Director



Sean Bothwell
Policy Analyst

⁴ "Waste shall not be discharged to areas designated as being of special biological significance. Discharges shall be located a sufficient distance from such designated areas to assure maintenance of natural water quality conditions in these areas. Ocean Plan, Sec. III.E.1., at p. 20.

⁵ Supra note 1, at 1.