

November 17, 2008

Mike Chrisman, Council Chair and Councilmembers
Ocean Protection Council
1416 Ninth Street, Suite 1311
Sacramento, CA 95814
Via Email: COPCpublic@resources.ca.gov



RE: Support for the Implementation Strategy for the Ocean Protection Council's Resolution to Reduce and Prevent Ocean Litter

Dear Council Chair Chrisman and Councilmembers:

I am writing on behalf of San Diego Coastkeeper, a non-profit grassroots organization dedicated to protecting and restoring our region's bays, coastal waters and watersheds. Coastkeeper wishes to express its strong support for the approval of the proposed Implementation Strategy for the Ocean Protection Council's (OPC) Resolution to Reduce and Prevent Ocean Litter (Resolution). In addition, Coastkeeper is a signatory to the Heal the Bay letter and it supports all the recommendations that were submitted in that letter. The ever increasing presence of plastic and other debris in California's beaches and ocean poses a serious adverse impact to public health, the marine environment, to our quality of life, and the economic well-being of the state. The OPC formally recognized this growing threat through the adoption of the Resolution in February 2007.

The Resolution's proposed Implementation Strategy offers a means of addressing some of the serious harmful effects caused by plastic litter and debris. In particular, the proposed prohibition or charge for single-use products has the potential to alleviate a significant contributor to coastal litter and debris. A single-use plastic bag ban is currently being considered by both the City of San Diego and the City of Encinitas. As indicated in the Implementation Strategy, the single-use plastic bag ban seems to be a trend among California coastal communities. These local bans will work in conjunction with the adoption of the Implementation Strategy's prohibition or charge for single-use plastic products.

The Implementation Strategy also does a good job to target the source of disposable packaging waste through the creation of a producer take-back (EPR) program. An EPR program will help motivate producers to reduce the amount of waste generated by their disposable plastic packages in light of potential physical or financial responsibilities imposed upon them. The EPR program will help prevent plastic litter and debris from reaching California's beaches and coastal waters by reducing the amount of disposable plastics being manufactured. In addition, information provided in the proposed Implementation Strategy demonstrates that similar programs are successful at other locations. In order to be the most effective, change at the source of plastic production is needed, and the Implementation Strategy addresses this with the proposed EPR program.

San Diego Coastkeeper believes that the proposed Implementation Strategy will help to reduce the amount of plastic litter and debris that is impacting California's beaches and waters. Therefore, Coastkeeper strongly urges the Ocean Protection Council to adopt the Implementation Strategy for the Resolution to Reduce and Prevent Ocean Litter.

Sincerely,

Steve Daner
Legal Intern, San Diego Coastkeeper

Gabe Solmer
Supervising Attorney, San Diego Coastkeeper

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November 18, 2008

Secretary Mike Chrisman
Ocean Protection Council Chair
Coastal Conservancy
1330 Broadway
Suite 1300
Oakland, CA 94612

**Re: Comments on the revised Draft Implementation Strategy for the California
OPC Resolution to Reduce and Prevent Ocean Litter**

Dear Secretary Chrisman,

The American Chemistry Council (ACC) appreciates the opportunity to comment on the revised Draft Implementation Strategy for the California Ocean Protection Council Resolution to Reduce and Prevent Ocean Litter (Revised Draft Strategy) dated November 20, 2008. As we described in comments on the previous draft (filed on August 20, 2008), ACC strongly supports the goal of reducing and preventing marine debris. Our recent efforts to accomplish that goal include¹:

1. Creating partnerships with government and non government organizations to launch creative new programs designed to prevent ocean litter and increase recycling.
2. Hosting a multi-stakeholder “Solutions Workshop” on marine debris (Nov. 28-29, 2007, La Jolla, CA) to identify effective programs that can be broadly supported.
3. Building the foundation for a sustained, national campaign aimed at creating an anti-litter ethic that includes education on reducing and preventing ocean litter.
4. Supporting legislation to control plastic pellets (AB 258) and promoting recycling of plastic bags and film (AB 2449).

In our previous comments ACC suggested that these and other approaches could form the basis for constructive and effective partnerships that would lead to real solutions. We are therefore extremely disappointed that this most recent draft largely ignores those suggestions. Particularly in the current economic climate, we believe that approaches which build on successful models and partnerships are most likely to lead to successful

¹ For details of these efforts please see our comments dated August 20, 2008.

outcomes. We reiterate here our desire to engage constructively with the OPC to address marine debris, and at the same time we would ask the OPC to more directly address the following concerns (which we have previously raised) *before* adopting the final report:

The Draft Strategy Still Fails to Adequately Consider Environmental Impacts of Policies

In our previous comments, ACC pointed out that the Draft Strategy focused only on plastic ocean litter, and failed to consider the obvious impacts of some of the more sweeping and counter-productive proposals, such as banning plastic bags and polystyrene food containers. Although the Revised Draft Strategy seems to implicitly recognize that an outright ban on plastic bags would cause a counterproductive shift back to paper, the Revised Draft Strategy still focuses only on plastic, and still fails to thoroughly analyze the environmental impacts of banning polystyrene food containers and other recommended policies that will encourage the replacement of plastic with alternative materials. The Revised Draft Strategy's only mention of other materials is in the introduction:

This implementation strategy is aimed at all ocean litter, but with a particular focus on plastic litter. First, as the statistics cited show, the majority of ocean litter is made of plastic. Second, while all litter is undesirable, paper is made of wood pulp that naturally biodegrades in the ocean. Plastic, on the other hand, is engineered to resist biodegradation so the problems it causes persist long after the original product served its intended purpose.

Focusing only on one material is shortsighted, inherently unfair, and will result in unintended adverse consequences. Focusing on banning a particular material rather than addressing litter will, at best, merely shift the material littered. The Revised Draft Strategy seems to justify this by saying *paper is made of wood pulp that naturally biodegrades in the ocean* but the report makes no attempt to analyze or address the environmental impacts of the degradation products of paper.

Preventing litter in the first place would result in much greater long term environmental benefits.. As support for banning polystyrene food containers the Revised Draft Strategy mentions that San Francisco banned polystyrene cups and clamshells in 2007 and cites data from San Francisco's litter study that reports that polystyrene cup litter went down by 12 items per site (43 to 31 items per site). However, the Revised Draft Strategy fails to examine the important issue of what happened to overall cup litter, which actually rose. Unfortunately, hot paper cup litter went up by 21 items per site (36 to 57 items per site). And, cup litter went up overall from 242.5 items per site to 254 items per site².

² The City of San Francisco, San Francisco Environment Department, The City of San Francisco STREETS LITTER RE-AUDIT 2008, http://sfenvironment.org/downloads/library/2008_litter_audit.pdf.



It is also important to note that paper is not the only substitute material that will be encouraged by the proposed policies that uniquely discourage plastics. In our August 2008 comments we noted that data from the most recent International Coastal Cleanup report shows that for littered beverage bottles the full range of materials were represented: 494,647 plastic bottles, 349,143 glass bottles and 308,292 beverage cans were recorded. These items do not degrade any faster than plastic. Clearly, there is no such thing as environmentally responsible litter, and policies such as bans that force a switch to alternative materials are likely to merely substitute one littered material for another, rather than addressing the fundamental litter problem.

Life Cycle Impacts Still Ignored

Although our comments pointed out that the Draft Strategy ignores the environmental impacts of its policy recommendations the Revised Draft Strategy appears not to have seriously considered the likely environmental impacts of the policy proposals. In fact, the only part of the report that even remotely addresses these issues (a text box on page 14) concludes without analysis that there are “varying results on the environmental impacts.” However, the sources cited for the point that paper is supposedly preferable to plastic do not actually support that conclusion. For example, on polystyrene food containers the Revised Draft Strategy cites a study on paper and polystyrene protective packaging for electronics (not food containers) that is reported to find “*polystyrene production consumes 90% more resources, produces 30% more NO_x and SO_x and contributes 15% more air emissions than paper.*” However the Revised Draft Strategy seems to miss the overall conclusion of the study, which is:

“For original designs, corrugated paperboard displayed a higher total environmental load. These scores are due to higher environmental impact values placed on climate change and respiratory inorganics” The study goes on to conclude “*As a result of greater weight and material savings the proposed expanded polystyrene insert potentially generates about 70% lower environmental overall load, as compared to the original expanded polystyrene insert. Therefore, it is more beneficial to produce the new expanded polystyrene insert than the new corrugated paperboard insert.*”

In addition the Revised Draft Strategy cites one study on food containers from 1990 despite the fact that in our previous comments ACC cited four new studies on polystyrene food containers. Life Cycle Studies^{3, 4, 5}, and Seattle Public Utilities (SPU)⁶ research show a ban on polystyrene foam packaging results in significant increases of non-renewable energy, greenhouse gases, and waste generated.

³ Final Peer-Reviewed Report: Life Cycle Inventory of Polystyrene Foam, Bleached Paperboard and Corrugated Paper Foodservice Products, Franklin Associates, Ltd., prepared for Polystyrene Packaging Council, March 2006, <http://www.plasticsfoodservicepackaging.org>

⁴ Paper or Styrofoam, A Review of the Environmental Effects of Disposable Cups, University of California at San Diego (UCSD), Dec 2006

⁵ Life Cycle Inventory of Foam and Coated Paperboard Plates, Peer-Reviewed Final Report, prepared for Pactiv Corporation, Franklin Associates, Ltd., May 2008

⁶ Alternatives to Disposable Shopping Bags and Food Service Items, Volume I, prepared for Seattle Public Utilities, January 2008

Similarly, on retail bags the source cited to support paper over plastic in the Revised Draft Strategy is irrelevant to retail bags. It is a CIT Ekologic study of 25kg bags for prepackaged items like dog food. The manufacturing and life cycle impacts of retail bags are very different. Despite the Revised Draft Strategy's claim to the contrary, studies on retail bags are consistent in finding plastic bag impacts are less than paper. Even the City of Seattle in their review of environmental impacts concluded:

Seattle Public Utilities' study which examined the life cycle environmental impact of disposable shopping bags found that the impact of paper bags was overall four times worse than that for an equal number of plastic bags (for all environmental impact categories weighted equally) and worse in every category except litter and marine litter. Banning plastic bags only would push stores and shoppers to paper bags, resulting in significantly greater greenhouse gas generation⁷.

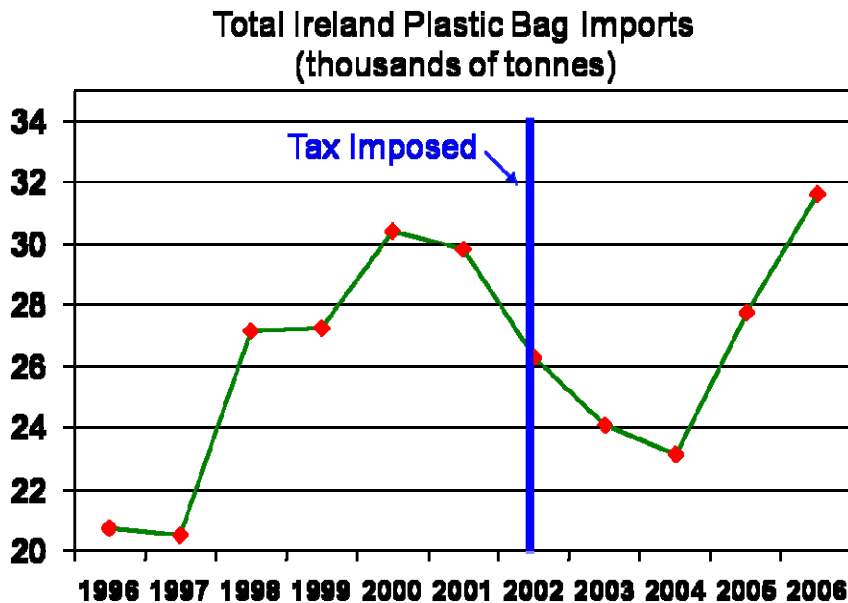
The Revised Draft Strategy also flatly ignores the other sources we cited, including a Life Cycle Assessment of plastic bags versus alternatives conducted by Boustead Environmental Consulting in 2007, which concluded that⁸:

- plastic bags require 70 percent less energy than paper bags;
- plastic bags generate less than half the greenhouse gas emissions;
- plastic bags generate 80% less solid waste than paper;
- plastic bags use less than 1/20th the water of paper.

Although it does not say so directly, it is possible that the Revised Draft Strategy acknowledges this problem by now proposing a tax on both plastic and paper bags in order to discourage their use. The Revised Draft Strategy then cites data from Ireland that reports a 90% reduction in the use of plastic carryout bags. However, this narrow focus on carryout bags ignores the fact that families reuse plastic carryout bags in many ways such as taking lunches to work, transporting gym clothes and swimwear and disposing of diapers. This reuse of plastic grocery bags prevents the manufacture of a new bag for these other purposes and the environmental impact of this manufacturing of replacement bags. Data from Ireland shows this is a significant issue. The purchase of bin liners and other plastic bags has gone up dramatically since the tax on grocery bags was imposed. Overall, according to Ireland import data plastic bag use has increased since 2002 (Figure below).

⁷ City of Seattle, Disposable Shopping Bags Green Fee and Expanded Polystyrene (EPS) Foam Food Container Ban FREQUENTLY ASKED QUESTIONS (FAQ), 2008

⁸ Boustead Consulting, "Life Cycle Assessment for Three Types of Grocery Bags - Recyclable Plastic; Compostable, Biodegradable Plastic; and Recycled, Recyclable Paper," 2007,



Thus, before the Ocean Protection Council (OPC) proposes a tax on paper and plastic bags the OPC should analyze the unintended consequences of this approach including the purchase and manufacture of bags to replace those grocery bags that are currently being reused, the environmental impacts of manufacturing reusable bags and importantly the environmental impacts and water demands of washing re-useable bags to maintain proper sanitation and hygiene.

Bag Tax will Eliminate Infrastructure for Recycling other Bags and Wraps

Before proposing taxes on plastic bags, the OPC should thoroughly review the effect this policy would have on the new take-back program for retail bags and other bags and wraps provided under AB 2449. This new take-back program provides an opportunity to collect and recycle not only grocery bags but numerous other types of bags and wraps such as dry cleaning bags, newspaper bags, wraps around cases of soda, diapers, and paper towels to name a few. Taxing plastic grocery bags out of existence will cripple this new take-back program and eliminate this important new recycling infrastructure before it is even fully implemented.

ACC Strongly Supports Increased Enforcement of AB 258

ACC supported passage of AB258 and we strongly support its implementation. ACC and the Society of the Plastics Industry (SPI) have developed a voluntary program that is a model for this important legislation. The Draft Strategy correctly notes that AB 258 was passed in 2007 to control and prevent the release of preproduction plastic pellets. ACC supported passage of this law and urged the Governor to sign it. This law builds on an existing program called Operation Clean Sweep (OCS) that ACC and the Society of the Plastics Industry jointly created and are promoting throughout the plastics industry. The

OCS program stresses that, “zero pellet loss is a priority for the plastics industry - and a critical issue for our environment. Spilled pellets make their way into local waters and eventually end up in our oceans where they create both a litter problem and a threat to sea life.” OCS helps companies that handle plastic resins implement good pellet containment practices. Through the program, ACC provides a manual of best management practices (BMP’s) and other tools to companies at no cost via www.opcleansweep.org. To date, over 130 companies have taken the OCS Pledge. ACC strongly encourages the enforcement of AB 258, and we have encouraged plastics companies nationwide to adopt the OCS BMP’s through advertisements placed in the industry’s main trade journal.

Although we may not fully agree with all aspects of the current Revised Draft Strategy, we do strongly support the goal of reducing and preventing ocean litter. In this regard, we believe a number of the Revised Draft Strategy recommendations regarding prevention and control of litter and pellets provide the basis for workable solutions, including through partnerships. We look forward to exploring opportunities to work constructively with the Ocean Protection Council to eliminate ocean litter.

Finally, ACC requests that before the OPC finalizes the draft strategy that it directs staff to adequately analyze the environmental impacts of the proposals and consider how partnerships rather than bans and taxes could be used to achieve the goals of preventing and reducing marine litter from all materials not just plastics. We would appreciate a response to our specific concerns and comments prior to the OPC taking any further action on this Draft Implementation Strategy. Tim Shestek will follow up on these goals and can be reached at (916) 448-2581 or Tim_Shestek@americanchemistry.com.

Sincerely,



Steve Russell
Managing Director, Plastics Division
American Chemistry Council

MC 08-137

CM-

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Assembly California Legislature



BOB HUFF
REPUBLICAN CAUCUS CHAIR
ASSEMBLYMAN, SIXTIETH DISTRICT

COMMITTEES
EDUCATION
HEALTH
TRANSPORTATION
BUDGET SUB. 5,
INFORMATION TECHNOLOGY
AND TRANSPORTATION

Drew B.
Please prepare
a response for
my signature
MC
W/S

October 30, 2008

Secretary Mike Chrisman
Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Dear Secretary Chrisman:

I have become aware that the Governor's Ocean Protection Council is considering strategies and recommendations that are in the draft stage which contain draconian suggestions to ban certain products in California. One of these suggestions is to ban polystyrene food packaging.

A ban on this type of material will affect plants in my district which produce this product. Statewide, the effect on jobs and the economy would be significant. Just one company, which has a plant in my district, would face the loss of 500 jobs because the manufacturing facilities would be forced to shut down. If they cannot produce the product and sell it here in the state, there is no market because transportation costs prohibit the product from being shipped to other locations outside of the state.

In addition to the economic effects, the environmental repercussions could also be significant. If one material is banned, another will take its place. Therefore the substitute materials could create more harm than good – more greenhouse gas emissions, more energy needed to produce the alternative, more chemicals in the environment. Substituting one product for another is not going to lower the amount of litter going into the environment, either.

It is imperative in this economic downturn to not create situations where jobs will be lost. If these recommendations are included in the OPC final report, the Legislature will be fighting about product bans, and not about solutions to the litter and marine debris problem.

I strongly suggest that these recommendations not be included in your final list of recommendations, and instead let the Legislature focus on solutions with all parties.

Sincerely,

BOB HUFF
Assemblyman, 60th District



QUALITY PLASTIC PRODUCTS

150 SOUTH MAPLE STREET

CORONA, CALIFORNIA 92880

PHONE (951) 735-8115

DART CONTAINER CORPORATION OF CALIFORNIA

MC08-138

October 23, 2008

Secretary Mike Chrisman
California Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Honorable John Chiang
California State Controller
300 Capitol Mall, Suite 1850
Sacramento, CA 95814

Secretary Linda Adams
California Environmental Protection Agency
1001 I Street
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Susan Golding, CEO and President
The Golding Group, Inc.
7770 Regents Road No. 113
San Diego, CA 92122

Geraldine Knatz, Executive Director
Port of Los Angeles
Administration Building
425 South Palos Verdes Street
San Pedro, CA 90731

*Draw -
Please prepare
a response for my
signature
MC
11/5*

**RE: Draft Implementation Strategy for the California Ocean Protection Council
Resolution to Reduce and Prevent Ocean Litter**

Dear Members of the Ocean Protection Council:

On behalf of Dart Container Corporation of California (Dart), I am writing you today to express my company's views on the above mentioned draft report that was released by your staff this past summer. As a California based employer, we applaud the Ocean Protection Council (OPC) for its leadership in advancing policies to protect one of our state's most precious resources.

Dart is a leading manufacturer of a broad range of quality single-use food service products and is nationally recognized as an industry leader in promoting and understanding the facts about polystyrene products and associated environmental issues. In fact, Dart strives to provide current, well-documented, factual information on our products and the environment and develop environmental answers and solutions for our customers and the general public. As a responsible corporate citizen, my company supports and shares the OPC's desire to reduce unwanted litter and marine debris. However, Dart is strongly concerned with staff's recommendation in the draft report to ban polystyrene food service packaging. In fact, our company opposes any policy proposal that calls for an outright ban on specific packaging products.

During these tough economic times, it is more critical than ever to minimize the cost burdens on the business community. As I continue to explore ways to remain efficient and operational, my company is continually faced with regulatory and legislative actions that increase the cost of doing business here in California. These additional burdens, like the OPC's proposed food packaging ban, make it very difficult to maintain the skilled workforce that is needed at our manufacturing facility in Corona. As you carefully consider the policy proposals within the draft report, I respectfully ask that you weigh the direct negative economic impact a product ban would have on my company.

- **608 skilled employees based in the Corona facility**
- **\$25MM in payroll dollars for the Corona facility**
- **\$19.9MM paid to California based vendors**
- **\$2.6MM paid in state and local taxes**

Furthermore, an outright product ban fails to consider the negative effects of alternative materials on our environment. Past research has demonstrated that polystyrene food service containers consume less energy, generate less greenhouse gas emissions and less waste to dispose of than other alternatives. Furthermore, substitutes for polystyrene food service products would cost two to three times more with no net benefit to the environment. In light of the state's landmark AB 32, Global Warming Solutions Act, manufacturing companies like Dart would be behind the curve in reducing our carbon footprint given the fact our current products consume less, not more energy than alternative products.

As a vested employer in California, Dart completely understands the need to be a part of the solution regarding litter and marine debris. We have been at the forefront in partnering with local and state governments, academia, businesses and consumers in identifying feasible solutions to environmental sustainability, such as the recycling of polystyrene into post consumer green building products.

We look forward to working closely with the OPC and all stakeholders in helping to develop policy recommendations that protect our environment and California's economy. Thank you for your time and attention on this very important policy matter.



Sincerely,



Larry Eisenhauer
Facility Manager
Dart Container Corporation of California
Corona, CA

cc: Honorable Arnold Schwarzenegger, Governor
Honorable Darrell Steinberg, Senate President Pro Tem-Elect
Honorable Dave Cogdill, Senate Republican Leader
Honorable Jim Battin, 37th Senate District
Honorable Karen Bass, Speaker of the Assembly
Honorable Michael Villines, Assembly Republican Leader
Honorable Todd Spitzer, 71st Assembly District
Mr. Chris Kahn, Office of the Governor
Mr. John Moffatt, Office of the Governor



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PO Box 3156, Fremont, CA 94539
(510) 770 9764 www.cacoastkeeper.org

November 19, 2008

California Ocean Protection Council
Mike Chrisman, Chair and Members
California Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814
VIA ELECTRONIC MAIL: COPCpublic@resources.ca.gov

**Re: Final Draft Implementation Strategy for the California Ocean Protection Council
Resolution to Reduce and Prevent Ocean Litter**

Dear Secretary Chrisman and Members of the Council:

The California Coastkeeper Alliance (CCKA or Alliance) and its 12 member Waterkeepers¹ work to protect the health of the California coast from the Oregon border to San Diego. On behalf of the Alliance, I am writing in support the comments of Heal the Bay *et al.* in their letter to you dated November 18, 2008 with respect to the Ocean Protection Council's ("OPC") *Implementation Strategy for the California Ocean Protection Council Resolution to Reduce and Prevent Ocean Litter* (Implementation Strategy). We commend your and the OPC's leadership on protecting our coast and our health from marine debris, and we support the Implementation Strategy's specific recommendations as outlined in the Heal the Bay letter. We similarly urge the OPC to provide further detail on some of the proposed actions, including target dates for completion of the Implementation Strategy and milestones to help ensure these targets are met. The ultimate success of California's commitment to reduce and prevent marine debris depends upon the OPC setting clear, measurable goals for the reduction of trash on our beaches and in our oceans.

Thank you for your continued, strong support for a healthy coast and ocean.

Best regards,

A handwritten signature in black ink, appearing to read "Linda Sheehan", is written over a thin horizontal line.

Linda Sheehan
Executive Director

¹ Klamath Riverkeeper, Humboldt Baykeeper, Russian Riverkeeper, San Francisco Baykeeper, Monterey Coastkeeper, San Luis Obispo Coastkeeper, Santa Barbara Channelkeeper, Ventura Coastkeeper, Santa Monica Baykeeper, Orange County Coastkeeper, Inland Empire Waterkeeper, and San Diego Coastkeeper.

MC 08-136

CM -

California State Senate

ROY ASHBURN
SENATOR, 18TH DISTRICT



*Drew B -
Please prepare
a response for my
signature
MC
11/5*

October 31, 2008

Secretary Mike Chrisman
Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Dear Secretary ~~Chrisman~~: *Mike*

It has come to my attention that the Governor's Ocean Protection Council (OPC) is in the process of finalizing a report that contains recommendations to ban certain products statewide. One of the products that the OPC would consider banning is polystyrene foodservice containers. These products are manufactured in my district and the adoption of a ban on this material would mean the manufacturing facilities would be shut down and the job loss statewide would be significant.

One company alone, Pactiv Corporation, would account for the loss of 500 jobs as it is impractical for them to make a product in California that cannot be sold in this state. Other companies would be forced to do the same thing and the economy will suffer greatly.

In addition to the economic effects, the environmental issues surrounding a product ban are murky. If one material is banned, another will take its place. Therefore the substitute materials could create more harm than good and the amount of litter will not go down - the littered product will just be made from another material. It is my understanding, as well, that the industry is prepared to undertake a responsible recycling effort for polystyrene products.

If the OPC report contains product ban recommendations, they will be debated here in the Legislature and the opportunity to do something responsible will be lost because we will be deliberating product bans rather than truly effective solutions.

I respectfully ask that you please remove this recommendation from your report so that we can arrive at a constructive solution to the litter and marine debris problem. This is not the time to put companies out of business. If you have any questions, please do not hesitate to contact me.

Sincerely,

ROY ASHBURN
Senator
18th District

November 18, 2008

California Ocean Protection Council
Mike Chrisman, Chair and Members
California Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814
Fax: (916) 653-8102

Re: Final Draft Implementation Strategy for the California Ocean Protection Council Resolution to Reduce and Prevent Ocean Litter

Dear Secretary Chrisman and Members of the Council:

The undersigned organizations, with over 350,000 members collectively in California, generally support the actions identified in the Ocean Protection Council's ("OPC") *Implementation Strategy for the California Ocean Protection Council Resolution to Reduce and Prevent Ocean Litter* ("implementation strategy"). Marine debris threatens our ocean ecosystem and coastal economy, and we applaud your leadership on this issue.

We support the recommendations in the implementation strategy that call for specific actions to:

- Prohibit the use of polystyrene take-out food packaging and expanded polystyrene ("EPS");
- Ban smoking on state beaches and install cigarette butt receptacles at transition points to reduce the amount of cigarette litter;
- Redesign single-use packaging (e.g. leashed or tethered bottle caps, lids and straws) to reduce their likelihood of becoming marine debris;
- Reduce the amount of toxic substances in plastic packaging in collaboration with Department of Toxic Substances Control, Office of Environmental Health Hazard Assessment, and Department of Conservation;
- Assess fees on commonly littered items, such as cigarette butts, and increase litter fines to support local enforcement of anti-litter laws and educational programs such as the Education and the Environment Initiative;
- Establish a broader base of regional partners in the Pacific region to reduce marine debris in our ocean ecosystems; and
- Place a consumer fee on single-use plastic bags.

Although the implementation strategy outlines some significant steps to reduce marine debris, we urge the OPC to further detail some of the proposed actions. For example, we recommend the OPC provide target dates for completion of the implementation strategy and milestones to help ensure these targets are met. The ultimate success of California's commitment to reduce and prevent marine debris depends upon the OPC setting clear, measurable goals for reduction of trash on our beaches and in our oceans.

Our specific suggestions are detailed below:

**Specific legislative recommendations are necessary for the success of implementation efforts.
(See #1 - August 21, 2008 letter)**

Although the implementation strategy features recommendations to take action on certain aspects of marine debris, it lacks a specific legislative direction. The OPC has the responsibility to identify and recommend changes needed in state and federal laws to improve the protection, conservation and restoration of ocean ecosystems.¹ The OPC's recommendations and continued support are critical to laying the groundwork for policy direction and for passing effective legislation.

Specific milestones and deadlines for implementing the strategy are critical.

The final implementation strategy should establish clear milestones and deadlines for achieving the stated goals and objectives for reducing marine debris. The West Coast Governor's Agreement ("WCGA") Action Plan, released in May 2008 sets specific timelines to achieve marine debris baseline estimates and establishes reduction targets.² It is also consistent with the OPC February 2007 marine debris resolution to set joint target reductions with the WCGA for single-use plastic fast food packaging litter and derelict fishing gear.³ Thus, we urge the Council to develop milestones and deadlines in the strategy and ensure that they are consistent with those set forth in the WCGA Action Plan.

We encourage the Council to support both fees and bans equally as viable policy options for reducing single-use plastic bag litter.

While we support the implementation strategy recommendation for an advanced consumer fee on single-use plastic and paper bags, we urge the OPC to recommend bans as an equal approach to achieve single-use plastic bag reduction. Prohibiting the distribution of single-use plastic bags achieves the same goal of reducing the consumption of bags and decreasing plastic bag litter; therefore, prioritizing one approach over the other is unnecessary. Moreover, current California state law prohibits local governments from placing a fee on single-use plastic bags.⁴ Therefore, as mentioned in the OPC marine debris report, many local governments in California have adopted or are in the process of proposing single-use plastic bag bans. By proposing both fees and bans as equally viable policy options for reducing single-use plastic bag litter, the efforts of these local governments will benefit from the OPC's support.

Furthermore, we urge the OPC to recommend a minimum fee amount of 25 cents per bag to effectively deter consumer use. This fee amount is consistent with the environmental costs to cleanup plastic bags as determined by the City of San Francisco and can achieve up to 90% reduction as evidenced in

¹ California Public Resources Code § 35615 (a) (6) et seq.

² Office of the Governors of Washington, Oregon and California (May 2008). "West Coast Governors Agreement on Ocean Health Action Plan," pg. 38.

³ "Resolution of the California Ocean Protection Council on Reducing and Preventing Marine Debris," adopted by the California Ocean Protection Council, 8 February 2007, Item #8.

⁴ California Public Resources Code § 42254, paragraph 2 of subdivision (b).

Ireland.⁵ A 25 cent fee is also consistent with other policies adopted in the City of Los Angeles, and in state legislation introduced last year in California.⁶ We further propose that revenue generated by the fee go toward local agencies for litter abatement, cleanup, reusable bag giveaways and litter prevention educational programs associated with bag litter. When recommending a ban, we believe the best approach is to pair it with a fee on single-use paper bags to deter consumers from switching to paper in place of plastic, as paper is fraught with its own negative environmental impacts.⁷

Proposed deposit fee system on derelict fishing gear

The deposit fee system for derelict fishing gear proposed in the implementation strategy is an innovative approach; however, without sufficient detail it is difficult to conceptualize how this approach will apply to the various types of fishing gear. For example, how would such system work in a net fishery if only a portion of a net is lost? We urge the OPC to provide further detail regarding this recommendation. We also recommend that a final program include a comprehensive statewide reporting system, database, and removal plan, to report lost gear, identify derelict fishing gear hotspots, establish target reductions and develop a timeline for derelict gear removal, and be designed in collaboration with SeaDoc Society and stakeholders in the commercial fishing and conservation communities. A toll-free hotline, such as the existing SeaDoc Society hotline, could also be publicized on fishing licenses, regulation books, and in other commonly used areas to improve its usage and timely reporting of lost gear. Furthermore, we recommend better identification of fishing gear to assist in retrieval efforts.

A more detailed strategy is needed for incorporating convenience food packaging for an effective extended producer responsibility (“EPR”) program. (See #4 - August 21, 2008 letter)

Before recommending that an EPR approach be used to reduce and prevent convenience food packaging from becoming marine debris, it is critical that the OPC, or another state agency, investigate how EPR can be applied to low value items, such as single-use food packaging and chip bags that are commonly found as marine debris. Lumping food packaging waste with all plastic packaging for an EPR program may not be functional since these items are managed differently at their end of life, and have differing market values. At a minimum, convenience food packaging should be considered separate from other plastic packaging (e.g. blister pack, electronics packaging, and durable goods packaging) when developing criteria and identifying appropriate items to be included in an EPR program.

⁵ San Francisco Department of the Environment calculated the baseline disposal and collection costs of plastic bag litter to be about 17 cents per bag. This amount does not include the additional hidden social and environmental costs associated with pollution. (City of San Francisco Bag Cost Analysis, 14 November 2004; available at: www.sfgov.org/site/sfenvironment_page.asp?id=28374); Ireland Department of the Environment, Heritage & Local Government (Report available at: www.environ.ie/en/Environment/Waste/PlasticBags).

⁶ City of Los Angeles, adopted July 22, 2008; Seattle, WA, adopted 28 July 2008; Assembly Bill 2058 (Levine, et al.) of 2007-2008 legislative session.

⁷ 2006 U.S. EPA Toxic Release Inventory for pulp and paper industry; Energy Information Administration, U.S. Department of Energy, “Energy-Related Carbon Dioxide Emissions in U.S. Manufacturing” Table 1. http://www.eia.doe.gov/oiaf/1605/ggrpt/pdf/industry_mecs.pdf; California Energy Commission, “Saving Energy” website: www.energyquest.ca.gov/saving_energy/index.html (Updated 10.12.06);

A detailed plan for minimizing toxics in plastic packaging is critical to the success of the final strategy. (See #5 – August 21, 2008 letter)

We support the OPC's efforts to coordinate with other state agencies to research the health effects of toxic additives found in plastic packaging. We further recommend that the OPC propose a phased ban of certain chemicals as these study results become available, consistent with the February 2007 OPC marine debris resolution.⁸ Toxics in plastic packaging are not only a human health hazard, but may also impact the health of marine life. For example, recent research shows that toxic substances such as polychlorinated biphenyls ("PCBs") and certain classes of persistent organic pollutants ("POPs") are transported by plastic resin pellets and other plastic debris, which can be ingested by marine and aquatic life.⁹

The final strategy should include prohibitions or strong action to reduce other commonly found marine debris items. (See #6 August 21, 2008 letter)

While we support the prioritization of polystyrene and plastic bags, we urge the OPC to include prohibitions or other strong actions to reduce additional commonly found marine debris items. For example, according to the Ocean Conservancy International Coastal Cleanup Day data, plastic straws and stirrers are some of the most commonly littered items on our beaches.¹⁰

Need for improved Adopt-A-Beach data litter card

We support the implementation strategy recommendation to develop an ocean litter data card to be used by Adopt-A-Beach volunteers throughout the year. Volunteer data can be very helpful in documenting the extent of the marine debris problem, both in terms of abundance and specific litter types. We urge the OPC to oversee the careful development of a data card to help quantify the marine debris problem. A data card that is representative of the full spectrum of commonly found trash items is essential for measuring beach debris. Heal the Bay conducts hundreds of cleanups every year and uses their own data card for the Adopt-A-Beach program. We have attached a copy of Heal the Bay's data card (see Attachment #2), which has been approved by the California Coastal Commission, as an example of the essential elements that should be recorded during beach and creek cleanups.

Specify uses for "market development" for use of funds from litter fees (Priority Action #3, p. 9)

While we acknowledge the positive role that recycling plays in reducing waste, we believe the best use of funds from litter fees should have a direct nexus to litter and marine debris problems, and that these activities should be prioritized for funding. Many of these activities are detailed in the marine debris strategy, such as increased enforcement of litter laws, litter cleanup and abatement efforts, stormwater

⁸ Item #11, OPC Resolution adopted 7 February 2007.

⁹ Mato, Y.; Isobe, T.; Takada, H.; Kanehiro, H.; Ohtake, C.; Kaminuma, T. Plastic resin pellets as a transport medium for toxic chemicals in the marine environment. *Environ. Sci. Technol.* 2001, 35, 308-324; C. J. Moore, G.L. Lattin, A.F. Zellers. A Brief Analysis of Organic Pollutants Absorbed to Pre and Post- Production Plastic Particles from the Los Angeles and San Gabriel River Watersheds, Algalita Marine Research Foundation; Teuten, E.L., Rowland, S.J., Galloway, T.S., Thompson, R.C., 2007. Potential for plastics to transport hydrophobic contaminants. *Environ. Sci. Technol.* 41, 7759–7764.

¹⁰ Ocean Conservancy (September 2007), National Marine Debris Monitoring Program, Final Program Report, Data Analysis, and Summary.

pollution program assistance, public education and outreach, and incentivizing green design. Additionally, we urge the OPC to further detail some of the more general recommendations in the implementation strategy, such as market development grants and increasing recycling opportunities, to ensure these efforts will help reduce and prevent the marine debris problem.

Technical corrections:

Update the list of bans on polystyrene and EPS (p.13): Several communities in addition to those listed in the final report have adopted bans on polystyrene food packaging. These communities include: City of Santa Monica, City of Millbrae, City of Laguna Beach, and City of West Hollywood. For EPS, these communities include: City of Pittsburg, CA, City of Scotts Valley, City of Hercules, City of Carmel, City of Pacific Grove, County and City of Santa Cruz, City of Alameda, City of Fairfax, and City of Newport Beach.¹¹

Update the list of plastic bag bans (p.13): In addition to the communities that have taken action on plastic carryout bags listed in the final report, the cities of Malibu, Manhattan Beach, Los Angeles, San Diego, Encinitas, and Fairfax¹² are considering or have adopted bans to reduce plastic carryout bags.

Conclusion

The proliferation of marine debris is increasing worldwide. More than 6 million pounds of debris was collected around the globe from over 33, 000 miles of shoreline during International Coastal Cleanup Day 2007.¹³ Marine debris is ubiquitous throughout the world, even in remote areas such as secluded Hawaiian Islands and the Bering Sea.

We applaud the OPC for taking a leadership role in tackling the marine debris crisis on the Pacific Rim. The OPC's adoption of a final implementation strategy that effectively targets some of the most abundant items that litter our coast and ocean could foster statewide and potentially global change in how plastic marine debris is managed.

¹¹ Ordinances: City of Santa Monica: (http://www.smgov.net/epd/business/images/pdf/SMMC_2216.pdf); City of Millbrae: (<http://www.ci.millbrae.ca.us/pdf/ord-sfswo.pdf>); City of Laguna Beach (http://www.lagunabeachcity.net/government/departments/waterquality/WATER_QUALITY/PS_ordinance.htm); City of West Hollywood (http://qcode.us/codes/westhollywood/view.php?topic=15-3-15_60&showAll=1&frames=on); City of Pittsburg: (<http://www.ci.pittsburg.ca.us/pittsburg/pdf/municode/1974municodetitle8.pdf>); City of Scotts Valley, adopted June 2008, Hercules (<http://www.codepublishing.com/CA/hercules/>); City of Carmel (<http://www.codepublishing.com/dtSearch/dtisapi6.dll?cmd=getdoc&DocId=76&Index=D%3a%5cProgram%20Files%5cdtSearch%5cUserData%5cCA%5cCarmel&HitCount=20&hits=231+273+3cd+3df+3ea+4e5+501+53c+560+591+5b5+608+627+666+6d4+720+744+84e+8e4+941+&SearchForm=D%3a%5cine>); City of Pacific Grove (<http://www.ci.pg.ca.us/age/CCO/A-CCO20080416/6a.pdf>); Santa Cruz County: (http://sccounty01.co.santa-cruz.ca.us/bds/govstream/BDSvData/non_legacy/agendas/2004/20041207/PDF/033.pdf); City of Santa Cruz: (<http://www.ci.santa-cruz.ca.us/council/ordinance/2008/01.pdf>); City of Alameda: (http://www.planetalameda.com/pdf/nofoam_ordinance2977.pdf); City of Fairfax, adopted 1993; City of Newport Beach, adopted October 14, 2008.

¹² Adopted by voter initiative on 4 November 2008.

¹³ Ocean Conservancy, International Coastal Cleanup, 2007 Report

However, simple modifications, such as further detailing the recommended actions and including a timeline and milestones for each action will greatly improve the effectiveness of the strategy. For these reasons we continue our strong support of the OPC's implementation strategy to reduce the plague of marine debris on our beaches and oceans, and urge you to approve this strategy with the modifications outlined in this letter.

Sincerely,

Sarah Abramson
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Heal the Bay

Tina Andolina
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Planning and Conservation League

Kaitilin Gaffney
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