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## CALIFORNIA OCEAN PROTECTION COUNCIL

### Staff Recommendation

January 31, 2018

### Reauthorize OPC's Investment in the California Fisheries Fund and Transfer Administration to a New Entity

Paige Berube, Program Manager

**RECOMMENDED ACTION:** (1) Reauthorization of OPC's \$1,356,198 contribution to the California Fisheries Fund; and (2) transfer of administration of this contribution from Environmental Defense Fund to the Northern California Community Loan Fund.

**LOCATION:** Statewide

**STRATEGIC PLAN OBJECTIVE(S):** Sustainable Fisheries and Marine Ecosystems, and Science-Based Decision-Making

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#### EXHIBITS

Exhibit A: California Fisheries Fund Overview Document: Investing in Sustainable Fishing

Exhibit B: Current California Fisheries Fund Loan Criteria

Exhibit C: Support Letters

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#### FINDINGS AND RESOLUTION:

Staff recommends that the Ocean Protection Council (OPC) adopt the following findings:

“Based on the accompanying staff report and attached exhibits, the Ocean Protection Council hereby finds that:

- 1) The proposed projects are consistent with the purposes of Division 26.5 of the Public Resources Code, the Ocean Protection Act.
- 2) The proposed projects are consistent with the Ocean Protection Council's grant program funding guidelines (Interim Standards and Protocols, August 2013).
- 3) The proposed project is not a ‘legal project’ that triggers the California Environmental Quality Act (CEQA) pursuant to Public Resources Code section 21068 and Title 14 of the California Code of Regulations, section 15378. If it were determined to be a ‘legal project’ under CEQA, the proposed project is categorically exempt from review under CEQA pursuant to 14 Cal. Code of Regulations Section 15306 because the project involves information collection, consisting of data collection, research, and resource evaluation activities that will not result in a serious or major disturbance to an environmental resource.”

Staff further recommends that the OPC adopt the following resolution pursuant to Sections 35500 *et seq.* of the Public Resources Code:

“The California Ocean Protection Council hereby approves the reauthorization of OPC’s \$1,356,198 contribution to the California Fisheries Fund, and the transfer of administration of this contribution from Environmental Defense Fund to the Northern California Community Loan Fund.

This reauthorization is subject to the condition that prior to transfer of funds, the Northern California Community Loan Fund shall submit for the review and approval of the Executive Director of the OPC a detailed work program, staff requirements, budgets, and the names of any contractors intended to be used to complete the projects, as well as discrete deliverables that can be produced in intervals to ensure the projects are on target for successful completion. All projects will be developed under a shared understanding of process, management and delivery.”

**PROJECT SUMMARY:**

The Ocean Protection Council (OPC) has reached a 10-year check-in point at which to consider reauthorizing its contribution to the California Fisheries Fund<sup>1</sup>. The California Fisheries Fund is a revolving loan fund that supports sustainable commercial fisheries on the West Coast<sup>2</sup>. The California Fisheries Fund’s mission is to help borrowers (fishermen, fishing businesses, ports, communities and others) succeed in fisheries that achieve environmental conservation, improved profitability for the industry, and stability for port communities. The California Fisheries Fund (CFF) aims to enable improved scientific information, enhanced stewardship of fish stocks and habitats, better fishery jobs, improved profitability, and revitalized, sustainable coastal communities.

In 2008, OPC, then in coordination with the State Coastal Conservancy, approved a \$2 million grant from Proposition 84 to Environmental Defense Fund (EDF) to develop and administer this revolving loan fund for the purpose of enhancing and developing sustainable fisheries in California. Private foundations also invested over \$2.3 million to capitalize the CFF. OPC’s contribution currently represents 42% of the total CFF capitalization. Of OPC’s initial investment in the CFF, there is about \$1.36 million currently remaining after administrative costs and a partial loss from one borrower<sup>3</sup>.

The CFF has had a successful ten years of operation, supporting 38 loans to 27 borrowers – ranging from \$10,000 to \$300,000 – totaling almost \$4.8 million since the first loan closed in 2009. The total corpus of the CFF, not including administrative expenses, is over \$3.2 million. Therefore, as the 38 loans totaled almost \$4.8 million, this is indicative that the fund has revolved 1.4 times since its initiation. Some borrowers applied for a second loan after paying back their first loan, demonstrating the trust that has been established between the fishing community and the CFF. Loans have been used for the following purposes: vessel purchase, vessel gear/upgrades, purchase of fishing permits, working capital, non-vessel equipment, dockside infrastructure, and purchase or lease of quotas pertaining to the Pacific

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<sup>1</sup> California Fisheries Fund: <http://www.californiafisheriesfund.org/>

<sup>2</sup> OPC’s contribution to the fund only supports loans made in California.

<sup>3</sup> Administrative costs were \$600,000 over the course of 10 years. Initial allocation was \$300,000 and an additional \$300,000 was provided. The partial loss from one borrower totals \$43,802.

groundfish fishery. The partial loss from one borrower totals \$43,802; OPC has received reconciled financial details, as well as budget reports from the current grantee.

Environmental Defense Fund (EDF), an environmental non-profit organization, has been the administrator of the fund since its inception; however, due to an evolved organizational strategic plan, and lack of long-term, in-house lending infrastructure, EDF seeks to transfer its administrative duties of the CFF. The transferee, the Northern California Community Loan Fund, was identified after a year-long, thorough and strategic search for an appropriate administrative entity. The Northern California Community Loan Fund is a Community Development Financial Institution (CDFI) whose mission is to promote economic justice and alleviate poverty by increasing the financial resilience and sustainability of community-based nonprofits and enterprises. The Northern California Community Loan Fund has demonstrated experience in administering successful loan programs and has overall mission alignment with the intent of the CFF, as well as in-house lending program infrastructure.

OPC staff's recommendation is to (1) reauthorize OPC's \$1,356,198 contribution to the CFF; and (2) to transfer administration of this contribution from EDF to the Northern California Community Loan Fund.

## **Background**

### *California Ocean Protection Act*

The California Ocean Protection Act (COPA) states that OPC may support sustainable fisheries through loans. Specifically, in Public Resources Code 35650 (b)(C)(v), it states that monies deposited in the Ocean Protection Trust Fund may be expended to foster sustainable fisheries through "the creation of revolving loan programs for the purpose of implementing sustainable fishery projects."

### *About the California Fisheries Fund*

The California Fisheries Fund (CFF) is a nonprofit, mission-based revolving loan fund that helps finance sustainable commercial fisheries on the West Coast, and primarily in California. The primary objective of the CFF is to improve the financial performance of California marine fisheries that are actively moving towards more sustainable models, methodologies or outputs.

In 2008, it was identified that fishing communities lacked the necessary funding to adapt to new, environmentally-friendly regulations<sup>4</sup>. The CFF was established to provide a stable, accessible source of capital to support California's evolving harbor communities. Historically, banks and credit unions have been mostly unwilling to provide loans to commercial fishermen due to the potential for marginal profits and the general unpredictability of the fishing industry representing a higher risk of supporting fishing communities through loans<sup>5</sup>. The CFF model is unique in that it allows fishermen to use fishing boats, permits and Pacific groundfish quota as collateral. This allows for the use of a powerful new asset that can be securitized in order to access capital supporting both environmental and economic benefits<sup>6</sup>.

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<sup>4</sup> CFF Overview Document: Investing in Sustainable Fishing (Exhibit A)

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

CFF loans strive to support a positive environmental, social and financial impact. CFF financing has helped community fishing businesses lessen their environmental impact, increase the profitability and stability of their businesses by increasing business efficiency, and increase the diversity, number and stability of employment opportunities in local port communities.

Over the past 10 years, the CFF has worked directly with the following fisheries in California: groundfish, spiny lobster, Dungeness crab, and sablefish, among others, as well as with fishery businesses and scientific research organizations that provide information to support sustainable, commercial fisheries. Loans have been used for the following purposes: vessel purchase, vessel gear/upgrades, purchase of fishing permits, working capital, non-vessel equipment, dockside infrastructure, purchase/lease of quotas pertaining to the Pacific groundfish fishery<sup>7</sup>. The CFF is a unique model. California does not have any other similar fisheries loan programs. There are impact investing sources; however, there are not revolving loan funds that support commercial fisheries. Other funds supporting commercial fisheries exist; however, they do not serve California.

#### *About CFF Loans*

The CFF has supported 38 loans to 27 borrowers – ranging from \$10,000 to \$300,000 – totaling almost \$4.8 million since the first loan closed in 2009. The average approved loan amount is about \$128,000. Sixteen out of 38 loans have been fully repaid, and eleven of these loans were paid back early. Three loans have defaulted, two of which were written off and one remains in default. The partial loss pertaining to OPC's contribution equals \$43,802.

The CFF provides term loans or lines of credit, for terms ranging from one to ten years at an interest rate ranging from 4.0%-8.0%, depending on market interest rates and specific borrower circumstances. Borrowers include: Fishermen, processors, distributors, ports, communities, and nonprofit organizations. Loan purposes include: vessel purchase, vessel gear/upgrades, purchase of a specific fishing permit, working capital, non-vessel equipment, dockside infrastructure, purchase or lease of Pacific groundfish quota. Nine of the 38 loans have fallen into more than one purpose category. The CFF analyzes if projects are aligned with ten loan criteria (Exhibit B). The first criteria is that projects are aligned with CFF's core goals to enable a healthy environment and healthy local economy.

#### *California Fisheries Fund Grant Agreement*

The OPC has reached a 10-year check-in point at which to consider reauthorizing its contribution to the California Fisheries Fund. The grant between the Ocean Protection Council and EDF states that the California Fisheries Fund, "*shall be in full force and effect until June 30, 2017, at which time EDF shall stop disbursing loans with the percentage of the capital that reflects OPC's contribution. At the first available meeting on or after June 30, 2017, the Council may consider three options: (1) to reauthorize OPC's contribution to the CFF for an additional term, (2) to convert the fund to a grant under the Ocean Protection Act, or (3) to have all remaining loans wind down and revert the principal of 1.4 million dollars – less any loan losses, plus any interest earned in excess of those funds needed to fund operations – into*

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<sup>7</sup> About CFF loans: <http://www.californiafisheriesfund.org/loan.html>

*the State Treasury. Management of the grant agreement by the OPC shall run through March 31, 2018<sup>8</sup>, unless otherwise amended.*” OPC staff recommends reauthorizing the Council’s contribution to the CFF and transferring administration of this contribution to a new entity because the CFF fulfills an important niche in supporting California commercial fishermen, and because the CFF has a demonstrated track record of success for the past 10 years.

#### *About the Northern California Community Loan Fund*

The potential new administrator of OPC’s contribution is the Northern California Community Loan Fund (NCCLF). NCCLF was identified as an appropriate administrator after a one-year thorough and strategic search, which was initiated by EDF and advanced in close communication with OPC staff. NCCLF is a Community Development Financial Institution (CDFI) whose mission is to promote economic justice and alleviate poverty by increasing the financial resilience and sustainability of community-based nonprofits and enterprises. NCCLF is advancing a food lending program to bring grocery stores, markets and other innovative forms of healthy food retail and distribution, and to establish and support sustainable local food systems, to communities that do not have them. NCCLF seeks to invest in nonprofits and social enterprises that are improving lives and building equity in low-income northern and central California neighborhoods. NCCLF has demonstrated experience in administering successful loan programs, and has overall mission alignment with the intent of the CFF, as well as in-house lending program infrastructure.

EDF has communicated with current borrowers about this upcoming transfer, and NCCLF will administer outstanding loans supported by the OPC contribution. With this transfer, OPC will continue to have an advisory role regarding OPC’s contribution in order to oversee mission-based objectives of the loans. NCCLF will provide regular reports to OPC regarding OPC’s contribution. OPC’s contribution will support loan applicants statewide.

#### *Structural Changes Related to the Administration of OPC’s Contribution with a Transfer to Northern California Community Loan Fund (NCCLF)*

There will be a structural update to the administration of the contribution in order to leverage additional funds to foster sustainable fisheries in California. For any new loans serviced with the cash balance of OPC’s contribution, OPC will require a 3:1 leverage of other lenders to OPC’s portion of the contribution, and will operate with a 25% top-loss reserve position.<sup>9</sup> This will increase the impact of OPC’s investment by leveraging additional funds to support commercial fisheries that achieve environmental conservation, improved profitability for the industry, and stability for port communities. While OPC’s contribution takes on some risk by being in the 25% top-loss position, the risk is low, based on the 10-year history of CFF loans, where CFF only wrote off loans to one of the 27 borrowers, and only one other loan is currently in default. This 25% top-loss position mirrors that of the Golden State Acquisition Fund (GSAF), a revolving loan fund financed by bond funds and initiated by the California

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<sup>8</sup> The current termination date of the grant agreement is December 2027, indicating the current month and year when all outstanding loans must be repaid to the State.

<sup>9</sup> A 25% top-loss position means that if any loan defaults, OPC’s portion of the loan takes the first loss up to 25% of the overall loan amount, and then the other funds take any loss over 25%.

Department of Housing and Community Development (HCD)<sup>10</sup>. NCCLF is one of the originating lenders of GSAF. OPC funds that are currently invested in the CFF portfolio will only meet this leverage requirement once they have been repaid and recycled into new loans.

NCCLF has the demonstrated lending experience and overall mission alignment to successfully administer the fund. NCCLF is prepared to immediately take on administration of OPC's contribution if the reauthorization and transfer are approved.

**Benefits of Reauthorizing OPC's Contribution to the California Fisheries Fund & Transferring Administration of this Contribution to NCCLF**

Reauthorizing OPC's contribution for an additional term and transferring administration of OPC's contribution to NCCLF will allow for the continuation of the State of California's support of a revolving loan fund that results in positive environmental, social and financial impact. This reauthorization and transfer demonstrates OPC's commitment to financing sustainable fisheries and collaborating directly with fishermen to advance this objective. In alignment with COPA, OPC will continue to support a revolving loan fund that fosters sustainable fisheries in California.

**Project Timeline:**

Within OPC and EDF's current grant agreement, the completion date is March 31, 2018, and the termination date is December 30, 2027. The termination date is the date by which all outstanding loans must be paid back to the State. OPC staff and NCCLF have identified that a three-year check-in point would be mutually beneficial to assess the operations and success of the transfer. If the Council reauthorizes OPC's contribution and transfers administration of the contribution to NCCLF by March 31, 2018, then a three-year check-in point would be around March 31, 2021. The termination date may be ten years after the completion date, to allow for the loan terms of one to ten years. For example, if the effective date of the transfer agreement is March 31, 2018, then the termination date may be June 30, 2028. At the three-year check-in point in 2021, if the operations and administration are successful and mutually beneficial, then NCCLF's administration of OPC's contribution may be extended an additional ten years until 2031.

This timing follows a similar structure to the initial agreement between OPC and EDF where the staff recommendation for the initiation of the CFF was in 2008, the completion date is currently on March 31, 2018 and the termination date almost 10 years later at December 31, 2027.

**PROJECT FINANCING:**

Staff recommends that the Ocean Protection Council (OPC) reauthorize of OPC's \$1,356,198 contribution to the California Fisheries Fund, and transfer of administration of this contribution from Environmental Defense Fund to the Northern California Community Loan Fund.

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<sup>10</sup> GSAF: <http://www.goldenstate-fund.com/>

Ocean Protection Council	\$1,356,198
<b>TOTAL</b>	<b>\$1,356,198</b>

These funds are from the Ocean Protection Council’s appropriation of the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84). Proposition 84 authorizes the use of funds for purposes consistent with Section 35650 of the Public Resources Code, establishing the California Ocean Protection Trust Fund (Pub. Res. Code § 75060(g)). Under Section 35650(b), Ocean Protection Trust Fund monies may be expended for projects authorized by the OPC that are identified as appropriate Trust Fund purposes, as specified. The project is consistent with the Trust Fund purposes as discussed in the following section.

**Leverage of OPC Funds**

Through the 3:1 structure, one portion of OPC funds will leverage three portions of additional lender contributions. OPC’s reauthorization of its contribution builds upon the previous 10 years of demonstrated success of the CFF. OPC funds that are currently invested in the CFF portfolio will only meet this leverage requirement once they have been repaid and recycled into new loans.

**CONSISTENCY WITH CALIFORNIA OCEAN PROTECTION ACT:**

The proposed project is consistent with the Ocean Protection Act, Division 26.5 of the Public Resources Code, because it is consistent with trust-fund allowable projects, defined in Public Resources Code Section 35650(b) as projects which:

- Improve the management of fisheries
- Foster sustainable fisheries
- Improve management, conservation, and protection of coastal waters and ocean ecosystems

**CONSISTENCY WITH THE OPC'S STRATEGIC PLAN:**

This project implements Focal Area A: Science-Based Decision-Making and Focal Area C: Sustainable Fisheries and Marine Ecosystems.

**CONSISTENCY WITH PROPOSITION 84 (The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006; Public Resources Code §75060(g))**

This project is consistent with the purposes outlined in Proposition 84, specifically it includes the development and implementation of projects to foster sustainable fisheries using loans and grants.

**CONSISTENCY WITH THE OPC'S GRANT PROGRAM FUNDING GUIDELINES:**

The proposed project is consistent with the OPC’s interim Grant Program Funding Guidelines for Proposition 84 funds, in the following respects:

#### Required Criteria

1. Directly relate to the ocean, coast, associated estuaries, or coastal-draining watersheds: *This project finances commercial fishermen and sustainable fishing communities in California.*
2. Support of the public: *See Exhibit X.*
3. Greater-than-local interest: *This fund will allow for applicants from the entire state of California.*

#### Additional Criteria

4. Improvements to management approaches or techniques: *Fishermen, processors, distributors, ports, communities, and nonprofit organizations are eligible to apply for loans including the following purposes: vessel purchase, vessel gear/upgrades, purchase of a specific fishing permit, working capital, non-vessel equipment, dockside infrastructure, purchase or lease of Pacific groundfish quota. These loans have helped community fishing businesses lessen their environmental impact, increase the profitability and stability of their businesses by increasing business efficiency, and increase the diversity, number and stability of employment opportunities in local port communities.*
5. Resolution of more than one issue: *OPC's contribution to this revolving loan funds seeks to support environmental, social and financial benefits for commercial fishermen and fishing communities in California.*
6. Leverage: *For every one dollar of OPC funds, three dollars of other lender's funds will be leveraged to foster sustainable fisheries in California. This reauthorization will continue to build upon OPC's initial capitalization in the revolving loan fund. OPC funds that are currently invested in the CFF portfolio will only meet this leverage requirement once they have been repaid and recycled into new loans.*
7. Timeliness: *NCCLF has demonstrated experience in administering successful loan programs, and has overall mission alignment with the intent of the CFF, as well as in-house lending program infrastructure. Therefore, NCCLF is able to begin administering this loan program after the transfer is authorized, and is able to provide regular updates to OPC staff throughout the duration of the project.*

#### **COMPLIANCE WITH CEQA:**

The proposed project is not a 'legal project' that triggers the California Environmental Quality Act (CEQA) pursuant to Public Resources Code section 21068 and Title 14 of the California Code of Regulations, section 15378. If it were determined to be a 'legal project' under CEQA, the proposed project is categorically exempt from review under CEQA pursuant to 14 Cal. Code of Regulations Section 15306 because the project involves information collection, consisting of data collection, research, and resource evaluation activities that will not result in a serious or major disturbance to an environmental resource. Staff will file a Notice of Exemption upon approval by the OPC.