September 6, 2024

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

Sent via: COPCpublic@resources.ca.gov

RE: COMMENTS ON DISCUSSION ITEM 5 - OPC PRIORITIES AND PROCESS TO INFORM 2026-2030 STRATEGIC PLAN

Dear Chair Crowfoot and OPC Council Members:

California Coastkeeper Alliance ("CCKA") represents watershed-focused California Waterkeepers to fight for drinkable, swimmable, fishable waters for all Californians. On behalf of CCKA, we appreciate the opportunity to provide comments on the OPC's priorities and process to inform the state's next ocean strategic plan.

We first want to applaud the OPC for its 2020 – 2025 Strategic Plan. Whenever asked about ideal state agency strategic plans, we've always pointed to the OPC's Plan as the example to follow. The Plan was ambitious, comprehensive and well organized to keep OPC actions focused. We also felt that our input was very well received by the OPC during stakeholder engagement and that our recommendations were well integrated into the Plan. While Objectives, Targets and Actions will need to be updated, many of them are ongoing, yet remain very important for the state to complete. Therefore, we strongly recommend that the OPC's next strategic plan maintain the same structure and organization, while preserving ongoing Objectives, Targets and Actions that the OPC can play a role in advancing with sister agencies.

Question One: What are your top priorities for OPC's work through 2030?

We recognize that every NGO will have different priorities. We are also mindful that if everything is a priority then nothing is a priority. That said we want to take this opportunity to propose just one priority that we believe should be elevated as a paramount Objective – Ocean Acidification and Hypoxia (OAH). Issues like plastics, sustainable seafood, or even CCKA's mission of improved water quality – none of it matters if our marine ecosystems collapse because marine life cannot breathe, or the food web literally dissolves because of acidification.

The best available science in the world has alarmingly concluded that land-based nutrients discharged to the ocean from coastal sewage treatment plants are causing ocean acidification and the loss of oxygen, creating OAH hot spots. *During late summer months, magnified by daily coastal sewage treatment plants discharges, OAH hot spots form and cause marine habitat compression*[1] *on average of 20% but up to 60% (vertically) for 25% (horizontally – over 1,000 square miles) of the Southern California Bight; even at distances of up to 50 miles offshore*. Ocean acidification is gradually shifting the California coastline toward a more acidic, corrosive state, while hypoxia – or low dissolved oxygen levels – is making the ocean less habitable for organisms ranging from sea snails to crabs to fish.

[1] Habitat compression is a reduction in available space in which organisms are able to sustain life.

Ocean acidification and hypoxia will destroy our oceans if we do not get a handle on climate change in the long-term and control our coastal nutrients that cause OAH hot spots *now*. But unlike issues, like plastics, that are taken very seriously, too many people ignore OAH because they cannot see it occurring, it is too complicated to understand, and if they do care and understand, they do not know a specific, achievable solution (i.e. they think all we can do is lower GHG emissions). But in California, largely thanks to the OPC's investments in OAH research, we are leading the way to develop regulatory tools to prevent OAH hot spots. By addressing our anthropogenic nutrient inputs to our near-shore marine ecosystems, we can buy our ocean time from OAH impacts while the international community reduces GHG emissions to prevent global acidification of our oceans.

We strongly recommend that the OPC prioritize and treat as a paramount responsibility Objective 1.2 (Ocean Acidification and Hypoxia) of the current Plan, and specifically, support the State Water Board's efforts to achieve Target 1.2.1. (Set an OAH Water Quality Objective) by the end of 2026.

Question Two: Will the four current goals of climate change, equity, biodiversity and sustainable blue economy adequately encompass the breadth of our work in the next strategic plan?

CCKA largely agrees with the current goals in the existing Strategic Plan, but we believe the OPC's next strategic plan should more closely align its actions with ones the OPC can lead on and/or provide expertise and support to sister agencies. For example, decarbonizing ports might not be an achievable objective given OPC's expertise, but alternatively, supporting and providing scientific expertise to the State Water Board's effort to amend the Ocean Desalination policy is likely a better use of OPC resources. We would also recommend that the next strategic plan clearly communicates what was achieved in the 2020 – 2025 Strategic Plan, and the OPC's paramount priorities in the 2026-2030 Plan. For achievements, less is more in our opinion. Rather than list every action the state took within the Strategic Plan, we would recommend focusing on actual achievements. Respectfully, a top 10 list of achievements that OPC is particularly proud of accomplishing is more valuable than a laundry list of actions taken.

Question Three: Are there priorities in the current plan that should be carried through and/or new priorities that should be included? Prioritize?

Below we provide initial feedback of certain CCKA priorities that should be carried through and updates that need to be made. Our focus below is on CCKA-specific issues that we can provide useful knowledge of; the absence of any objective/target/action is not intended to suggest that they are not important – only that we are not the best stakeholder to provide updates. There are also some Objectives that we need to better understand what will get accomplished by 2025 before we can offer recommendations for a future Plan. For example, Marine Protected Areas and Beneficial Reuse are two very important issues for CCKA, and we highly recommend they be advanced forward, but at this time we do not know what to recommend as future actions until we better understand what will be accomplished by 2025.

As discussed above, while CCKA has many important objectives/targets/actions in the current Plan, nothing is more important than addressing OAH and accomplishing Target 1.2.1. Additionally, racial equity is of equal importance and should be woven throughout the action plan; however, we will defer to our Tribal and environmental justice partners to provide input on that section of the Plan.

Objective 1.2 Minimize Causes and Impacts of Ocean Acidification and Hypoxia

While our ocean needs California to act now to prevent OAH hot spots, it will take several years for the State Water Board to adopt an OAH Water Quality Objective. While work has begun, the public process has not, and in our experience, that usually takes two years to complete. We recommend maintaining Target 1.2.1. but update the deadline to 2026.

Target 1.2.1. Based on the latest scientific research, advance adoption of regulations, as needed, establishing water quality objectives for ocean acidification and hypoxia that include, but are not limited to, publicly owned treatment works, stormwater, and non-point source pollution, by ~~2025~~ 2026~~, with scientific analysis of the relationship between nutrient inputs and acidification hot spots completed by 2022~~.

Objective 3.4 Improve Coastal and Ocean Water Quality

California boasts a network of 124 ecologically connected MPAs that safeguard the natural richness of our oceans and build the resilience of our fisheries. MPAs are proven to serve as ocean "hope spots" when managed correctly, providing a buffer to climate change and human disturbances compared to unprotected areas. However, California's coastal waters are regularly inundated by pollution. When it rains, the water flows through streets, storm drains, and gutters and into our waterways and ocean, carrying pollutants that make swimmers sick and harm marine life. California has committed to conserving 30 percent of its land and ocean by 2030. The state's existing MPAs can help meet this goal, but they cannot fully function as biodiversity hot spots and climate "hope spots" when under constant threat from land-based pollution.

To protect our coast from the threat of land-based pollution, the State Water Board created State Water Quality Protection Areas, which include ASBS. ASBSs, like MPAs, serve as a tool to protect and preserve marine ecosystems from human interference. While MPAs manage what activities can take place within the protected area (such as fishing or recreational diving), ASBSs regulate the water pollution that washes off our coast and into these areas.

Currently, only 45 of the 124 MPAs have at least some overlap with ASBS, but *all* MPAs would benefit from the additional water quality protection. Within the OPC Strategic Plan, the state commits to *"[s]trengthen water quality protection in MPAs equivalent to at least that of Areas of Special Biological Significance or State Water Quality Protection Areas by 2023."* Additionally, the Central Coast Regional Water Board prioritized establishing the Point Sur MPAs SWQPA in its 2021 Triennial Review.

While we strongly appreciate Target 3.4.1, it was ambitious to attempt to strengthen water quality protections in individual MPAs by 2023. CCKA recommends the OPC modify Target 3.4.1 to support the State Water Board's adoption of one General Order that would set State Water Quality Protected Areas for all MPAs by 2027. The reasons for the below modifications are (1) Areas of Special Biological Significance are a subset of State Water Quality Protection Areas, so it makes more sense to just say the more encompassing term of State Water Quality Protection Areas; (2) one General Order to set protections for all MPAs would reduce the resource burden on the Water Boards and avoid doing CEQA for each individual MPA; and (3) changing the date to 2027 is a more practical target to allow the state to find the resources necessary to achieve this target.

3.4.1: Strengthen water quality protection in MPAs with the adoption of a General Order designating ~~equivalent to at least that of Areas of Special Biological Significance or~~ State Water Quality Protection Areas for all MPAs by ~~2023~~ 2027.

New Target 3.4.1(a) Enforcing the Areas of Special Biological Significance General Exception

If California is going to adopt State Water Quality Protections for all MPAs, the state needs to fix its existing ASBS regulations to ensure new protections will result in actual water quality improvements. The concept of "special biological significance" was developed in recognition that certain biological communities, because of their value or fragility, deserve special protection, including the preservation and maintenance of natural water quality conditions. For this reason, the Ocean Plan explicitly prohibits the discharge of waste into ASBS.

In 2012, the State Water Board adopted an ASBS General Exception to allow the discharge of waste into an ASBS and found the Exception applicants had demonstrated runoff containing toxic levels of constituents to receiving waters in many ASBS and did not meet water quality objectives to protect marine life. The General Exception imposes special conditions on the 27 Exception-holding dischargers. The Exception's "Special Protections" include the explicit mandate that discharges "shall not alter natural ocean water quality." Exception conditions also include the requirement that a final ASBS Compliance Plan be submitted to the State Water Board by September 2014—30 months after the Exception's 2012 effective date—and pollutant reductions be achieved by March 2018—six years of the effective date. Unfortunately, the Exception's conditions have failed to make measurable progress due to rampant discharger non-compliance and a lack of oversight to ensure final ASBS Plans were satisfactorily completed, comprehensive ASBS monitoring was conducted, and control measures were enacted as required.

California Waterkeepers have been sounding the alarm on ASBS pollution issues for decades. California's fragile and valuable marine ecosystems have endured rampant and unchecked discharges to areas deemed to be of 'special significance' for far too long.

Needed Additional Target (3.4.1a): Prevent the alteration of natural ocean water quality within all ASBS by bringing ASBS dischargers into compliance with the ASBS General Exception.

Objective 3.4.2. Statewide Trash Amendments

The state's Trash Amendments went into effect in January 2016 after a 5-year stakeholder process. The Amendments layout a Water Quality Objective of "no trash to be present" in waterways and provides a two-track implementation pathway. To be implemented as enforceable Clean Water Act provisions, the Amendments need to be incorporated into 17 municipal stormwater permits, including Caltrans. Once incorporated into individual stormwater permits, permittees will then have ten years to comply with the regulations – but all permittees must comply by 2030.

Almost a decade since the Trash Amendments were adopted, the majority of California stormwater permits have not incorporated the trash requirements, including the statewide Phase II and Caltrans stormwater permits. The lack of implementation is becoming a serious concern as the 2030 deadline for all stormwater permittees quickly approaches. The state needs to do a better job of focusing on implementation of the Trash Amendments if communities will achieve the enforceable water quality standard of "no trash present" by 2030.

While CCKA would support an objective of "zero" trash to be present in California waterways by 2030, we think it's important to be precise with the legal requirement within the Trash Amendments of "no trash" to be present. We would also recommend the OPC consider actions to help support the necessary compliance monitoring required for permittees to comply with the Trash Amendments: both Track 2 "full equivalency" monitoring and the necessary receiving water monitoring to determine compliance with the narrative water quality objective of "no trash present" in our waterways.

Lastly, like many states across the nation, California is experiencing a housing crisis, leaving many individuals unhoused across the state. Many unhoused individuals have found refuge among California's rivers and streams – unfortunately, introducing significant amounts of trash and bacteria into waterways that then flow to our beaches and the ocean. The state has an important opportunity to address this source of trash by enacting a "Trash Hot Spot" program throughout the state, which includes tools, guidance, permit language, and policies that reduce the generation and presence of trash in waterways located outside of city limits.

3.4.2: Work to achieve ~~zero~~ no trash entering state waters by 2030 consistent with the State Water Resources Control Board's final compliance deadline with the trash amendments.

Target 3.4.7 Ocean Desalination

CCKA has worked for almost two decades to prevent the intake of seawater from killing marine life. First, the state developed its Once-Through Cooling Policy to phase-out the intake of seawater from coastal powerplants, and then adopted the Ocean Desalination Amendment to prevent facilities from using the exact same OTC pipes to intake seawater for desalination. After the Desalination Ocean Plan Amendment was adopted in 2015, CCKA focused on the Amendment's implementation, including the permitting for the Poseidon – Huntington Beach project. That project laid bare the Desalination Amendment's flaws, but also demonstrated the need for better permitting efficiencies at state agencies.

CCKA does not oppose all desalination. However, given its significant costs to ratepayers, high energy use, GHG emissions, and marine life impacts, ocean desalination should be considered an option of last resort. Jurisdictions should invest in ocean desalination only after they have pursued feasible water conservation measures (including effective programs to reach low-income households), stormwater capture, and water recycling alternative water supply projects. Ocean desalination projects that demonstrate a water supply gap after these sustainable supply options have been pursued should scale the project to be no larger than the identified supply gap. The project should then be sited, and the intake capacity sized appropriately, to accommodate subsurface intakes in order to best minimize the intake and mortality of marline life.

3.4.7: Improve and clarify the state's Desalination Policy by ~~2021~~ 2028 to address both ocean and coastal groundwater desalination.

Target 3.4.9 6PPD (Previously Emerging Contaminants)

The chemical known as 6PPD is lethal and used in nearly every motor vehicle tire. As microplastic tire particles break off from wear and tear, stormwater washes these chemicals into the environment where they poison aquatic life. According to SFEI, 85% of microplastics in stormwater are tire particles carrying 6PPD. This chemical is hazardous waste, as outlined in 22 CCR section 66261.24(a)(6), because according to DTSC's analysis, "based on even the most conservative of the acute toxicity values described for aquatic plants and animals, 6PPD meets the criteria for designation as a Category Acute 1 aquatic toxicant, which is the most hazardous GHS classification." Its transformation product, 6PPD-q is incredibly toxic to coho salmon, causing mortality in salmon after only a few hours of exposure. As a chemical found anywhere there are cars and with such incredible toxicity, 6PPD and 6PPD-q threaten California's vulnerable salmon populations and the communities and tribal cultures that rely upon them.

3.4.9: By 2030, evaluate the feasibility of regulatory controls, such as 6PPD product alternatives or bioretention stormwater BMPs, and eliminate the discharge of 6PPD from the state's highways to prevent salmon and steelhead mortality.

~~By 2020, identify and subsequently reduce the ecological and human health risks posed by emerging contaminants that threaten coastal watershed, estuarine, and ocean water quality.~~

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We look forward to working with the OPC in 2025 to help craft the state's next ocean strategic plan and continue California's global leadership of ocean protection.

Sincerely,

Sean Bothwell
Executive Director
California Coastkeeper Alliance