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California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94150

**Submitted via email at [SLRGuidanceDocument@coastal.ca.gov](mailto:SLRGuidanceDocument@coastal.ca.gov)**

**Re: California Coastal Protection Network Comments on the Coastal Commission's Draft Sea-Level Rise Policy Guidance**

Dear California Coastal Commission Staff and Commissioners:

The California Coastal Protection Network appreciates the opportunity to provide preliminary comments on the first draft of the Coastal Commission's 'Sea Level Rise Guidance' document, which was originally released on October 14, 2013. We look forward to commenting in greater depth on the Coastal Commission's second draft that is tentatively scheduled to be released in the spring of 2014.

CCPN appreciates that staff has spent a great deal of time preparing this document. However, our over-arching assessment is that it needs considerable revision and editing to be useful on a real-time basis for the Commission, local planners, and the public-at-large. The Guidance also needs to include information about key issues, such as takings law, and structure-lifetime and bluff-setback calculations that is necessary if the Commission is to establish a consistent and enforceable approach to addressing sea level rise. CCPN's specific recommendations are as follows:

**Streamline the document to make it more understandable and usable:** We agree with the conclusions provided to the Coastal Commission by Dr. Gary Griggs that the document, itself, contains much important information but will be difficult for planners at the local level to understand and utilize. Further, the document lacks feasible, actionable incentives and tools for local planners to actively engage in adaptation to sea level rise. (See next recommendation.)

**Consider finding a way to connect local planners with the best available data and science via CCC staff:** The draft Guidance identifies several databases and other sources of information that may be useful to local planners. However it does not provide a clear path for potential users to access these sources, or instructions on how to understand and apply the data they contain. Without this kind of hands-on assistance, it is unlikely that many jurisdictions will be able to make much progress in incorporating Sea-Level Rise policies into their Local Coastal Plans on a timely basis. Solutions need not be complicated: Commission staff could provide links to relevant information sources on the Commission’s website as well as “how to” guidance or other technical assistance regarding issues that are likely to arise across jurisdictions. Staff could also prepare and make available maps and other information products that depict the range of sea-level rise projections identified in the 2012 National Research Council Report; local planners could use those products to move forward even if they lack the expertise to develop them in-house.

**Prioritize ‘Vulnerability Assessments’ as a doable first-step:** Some jurisdictions, notably Humboldt County, have already completed Vulnerability Assessments that provide them with estimates of the sea-level rise and related hazard risks that they will face over next 50 to 100 years. In the draft Guidance, Vulnerability Assessments are not even mentioned until page 27 and the Guidance only recommends that these types of plans be “considered” on a regional basis. The Guidance could do more to encourage and support Vulnerability Assessments as an initial step in shaping coherent local and regional policies that are rooted in science and appropriate and justifiable changes in land use.

**Incorporate an analysis of ‘takings’ law and other relevant legal doctrines, as a solid legal foundation will be integral to constructing a successful sea level rise policy that balances protection of private property owners, public access, and public trust resources over the long term.** The Commission’s recent discussions about seawalls and sea-level rise have highlighted tensions among important public values and legal doctrines, including citizens’ right to access the coast, the state’s duty to protect and manage public trust tidelands, and the rights of private citizens to protect their property against encroaching threats. ‘Takings’ law rightly informs the Commission’s recommendations and decisions on such matters, including its consideration and approval of sea walls and other coastal armoring infrastructure. Importantly, however, ‘takings’ law recognizes that the rights of private property owners do not take unilateral priority over other values, rights, and duties such as those identified here. Without a discussion of these important issues, the Commission’s draft Guidance lacks a rudder. CCPN acknowledges that this is one of the most difficult areas to tackle, but without doing so, the Commission may undermine its ability to steer a consistent course and advance strong sea level rise policies and decisions over time.

**Better define the ‘life of a structure’ so both applicants and local planners can be clearly informed of limitations on sea wall construction and maintenance:** The

Coastal Commission has been debating this issue since August 2013 when it reversed its previous course, established in 2010, that permitted seawalls for a predicted maximum life of twenty years. At the August 2013 hearing on a project in Pacifica in San Mateo County, the Coastal Commission, for the first time, permitted a seawall for the 'life of the structure' and tied the definition of that term to a complicated formula based on the percentage of structural revision. In the January 2014 Commission hearing on the Solana Beach LUP, the Commission started to tackle exactly what is meant by the 'life of the structure' and what should qualify as extending that life in perpetuity—and by implication the seawall that has been permitted to protect it. Commissioners debated what exactly extended the life of a structure and questioned the Pacifica model that had been adopted in that case. They opined that any increase in square footage or major renovation, even if below the 50% threshold adopted in Pacifica, would extend the life of the structure and, thus, the life of the seawall. These rapid changes in the Commission's thinking and approach have introduced uncertainty into the review of seawall applications. As in the 'takings' example above, a clear and thorough discussion about calculation of the 'life of the structure,' and what constitutes extending that life, should be provided to applicants and planners in advance so that efforts to undermine the goal of ultimate seawall removal are not achieved.

**Better define mitigation for impacts of seawall construction and clarify that private property owners bear the burden for appropriate mitigation:** Until recently, the Commission only required a sand mitigation fee to mitigate for the anticipated loss of beach sand. However, it has become clear that this sand mitigation fee is wholly inadequate to mitigate for the loss of public access and recreation as the beach recedes, or for the loss of public tidelands and ecosystem resources. While understanding that these fees must be applied on a case-by-case basis, the Commission should seek legal and scientific input to determine how to standardize the assessment of mitigation fees, as well as how to think about mitigation fees in the context of a range of approaches that may appropriately compensate the public for these losses over time.

**Convene a stakeholder working group to provide feedback on the SLR guidance document before releasing the second draft for public review:** In recent discussions CCPN has had with diverse interests from all sides of the aisle, it is clear that some valuable ideas could emerge from such a discussion, despite some tensions among groups. A working group could use an informal roundtable process coordinated by staff with a report on the outcome presented to the Coastal Commission for its consideration. Participants should be drawn from relevant legal, technical, scientific, agency, public, and local government interest groups. Funding from an outside source such as the Ocean Protection Council or State Coastal Conservancy, and/or an outside convener, should be considered so as not to have a negative impact on the Coastal Commission's budget.

In my ongoing review of Commission decisions related to coastal armoring and setbacks as they relate to future sea-level rise policies, it is clear that a course correction must occur. Coastal property owners understandably wish to protect their initial investments in perpetuity; however, rising sea levels put their property at increasing risk, while many owners' efforts to protect their property may inappropriately shift that risk to the public and to public trust resources. Clear guidance that acknowledges and addresses both the risk and our shared responsibility to address it, while empowering local decision makers and the public to take meaningful action, will better prepare everyone for what is to come.

Sincerely,

A black rectangular redaction box covering the signature area.

Susan Jordan, Director