

CALIFORNIA COASTAL COMMISSION

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February 8, 2016

TO: California Coastal Commission and Interested Parties

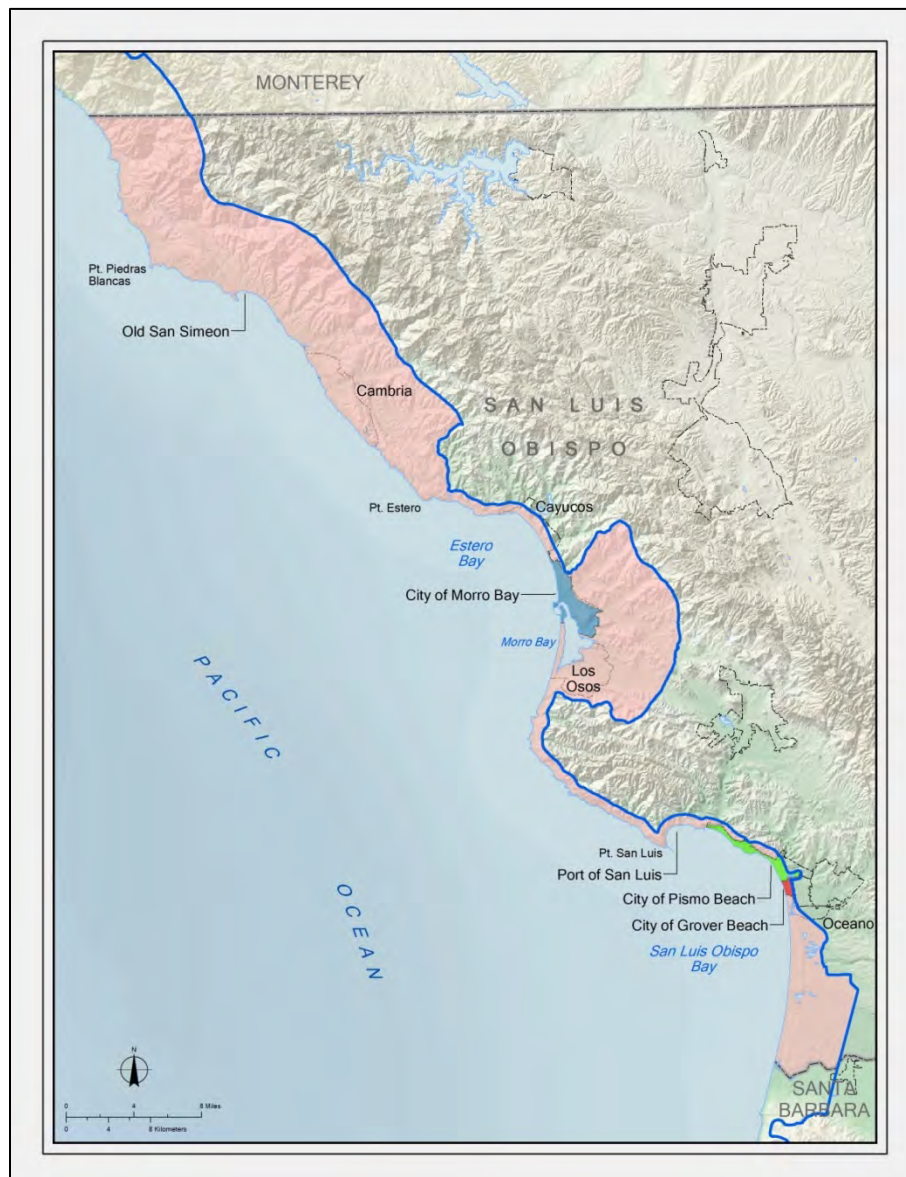
FROM: Charles Lester, Executive Director

SUBJECT: Executive Director's Report, February, 2016

Significant reporting items for the month. [Strategic Plan](#) (SP) reference provided where applicable:

LCP Program Status – San Luis Obispo County (SP Goal 4)

Background information on LCPs and update status in San Luis Obispo County may be found in the February, 2015 [Executive Director's Report](#).



Coastal Commission 2015 Year in Review

The Coastal Commission accomplished many things in 2015, including making substantial progress in the LCP program, climate change adaptation, protection of public access and lower cost visitor serving development, and providing for environmentally-sustainable coastal development. A more detailed [report](#) on the Commission's work in 2015 and a brief look ahead to 2016 is available on the Commission's homepage: www.coastal.ca.gov.

Jobs! Open Examination for Coastal Program Analyst Positions Scheduled

The Commission's Human Resources Office has posted the examination bulletins for the Coastal Program [Analyst I](#) and Coastal Program [Analyst II](#) positions with the Coastal Commission. This examination is a necessary first step for anyone interested in working with the Commission as a coastal program analyst. **The required state application ([Form 678](#)) must be received in the Human Resources Office or postmarked by Friday, February 26, 2016.** The examination will be held from Monday, March 21st, through Friday, March 25th in San Francisco and Long Beach. Actual exam dates in each location will depend on the number of applicants. More information is available on the Commission's website (<http://www.coastal.ca.gov/jobs/>).

Agency Diversity Update

Expanding agency diversity is a core objective of the Commission. The adopted Strategic Plan sets out an action of enhanced outreach to recruit a diverse and highly qualified applicant pool for our work. The attached summary shows that the Commission has made progress in recent years to expand the diversity of both the applicant pool of coastal analysts and hiring staff agency-wide.

Aquaculture MOU

Commission staff have been working with state and federal agencies for the past several years on the development of a process to facilitate and enhance government communication, coordination and regulatory consistency regarding shellfish aquaculture development in Tomales Bay and the State Waters of the Monterey Bay National Marine Sanctuary. This process culminated this month in the signing of a Memorandum of Agreement between the Commission and eleven federal and state resource management agencies (including the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Ocean Service, and Office of National Marine Sanctuaries, through the Greater Farallones National Marine Sanctuary and Monterey Bay National Marine Sanctuary as well as the California Natural Resources Agency, the Ocean Protection Council, the California Department of Fish and Wildlife, California Fish and Game Commission and California State Lands Commission). The Agreement establishes a process intended to ensure that state and federal agency assessments of aquaculture development projects rely on and are consistent with the best available information and methodologies and all agencies have full knowledge of permit or lease application reviews and are provided with sufficient opportunity to address any concerns that may arise. The full agreement is provided as an attachment to this report.

Lighting Impacts in Marine Protected Areas (MPAs)

In response to concerns raised by the public and the Commission at the June, 2015 Commission meeting, Commission staff has been working with staff from the Ocean Protection Council (OPC), the MPA Collaborative Network, and Orange County Coastkeeper to better understand the ecological impacts of artificial lighting on marine resources – particularly in MPAs. To further an outreach/education approach to the issue, the group has developed a reference list of available research, initiated a mapping effort to understand how many MPAs are being affected, recently launched a [dedicated page](#) on the OPC website and finalized a [two-page informational leaflet](#) to use for outreach. Next steps include completing the mapping work and identifying ways to produce and disseminate the leaflet.



El Niño and Storm Response Update (SP 3.1, 7.8.3)

Commission staff has been responding to El Niño related storm damage through meetings, discussions and site visits with agency officials, local government staff and property owners. 52 El Niño related permits/actions have been issued as of February 5, 2016. Additional permit requests have been received and are pending additional input from the applicant or for the applicant to make decisions on the actions they want to recommend for consideration. The attached memo provides a summary of El Niño actions by month and by office, photos of some of the areas that experienced significant storm damage, and a list of all permits/actions issued as of February 5, 2016.

Conservation/Open Space Offers to Dedicate Update

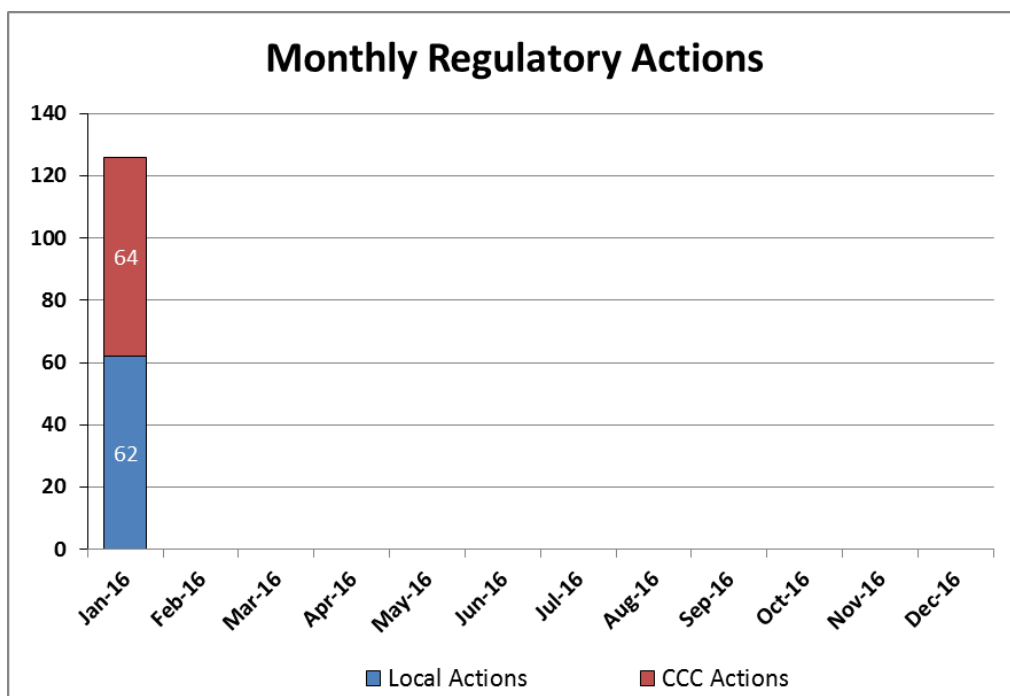
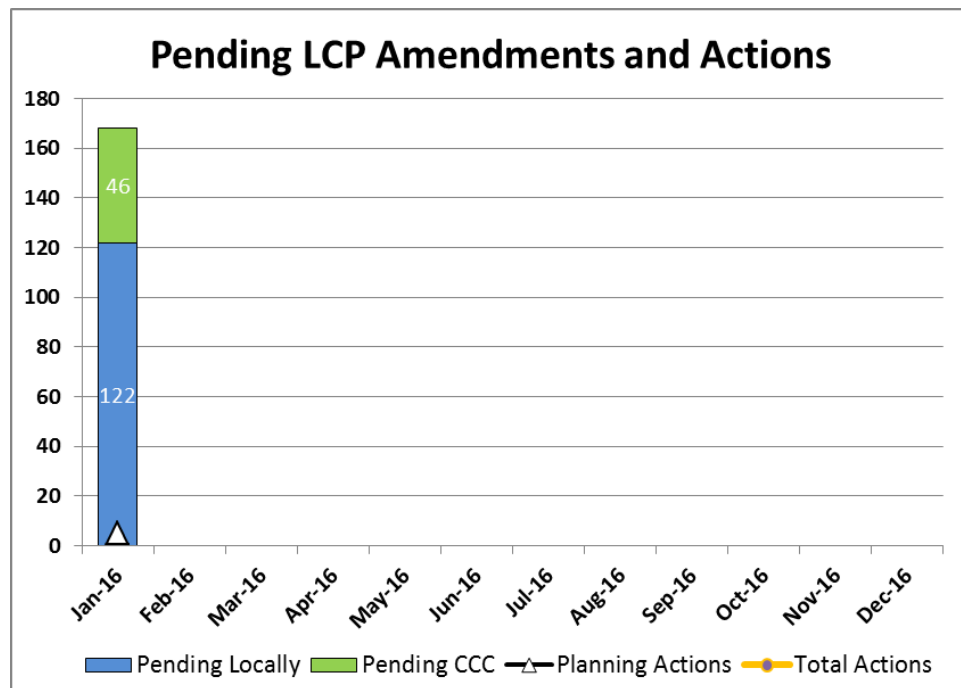
The attached spreadsheet is an addendum to staff's annual report of the California Coastal Commission's Open Space/Conservation Easement Program (heard at the December 2015 meeting). Per the Commission's request, the spreadsheet contains a current listing of recorded open space and conservation Offers to Dedicate (OTDs), yet to be accepted, categorized by jurisdiction. This list changes as new OTDs are recorded. If you wish additional information on any of these OTDs, please contact Allyson Hitt at Allyson.Hitt@coastal.ca.gov or 415-904-5252.

Meetings, Events, Announcements

- Commission staff will be attending the annual coastal zone management program and Coastal States Organization (CSO) meetings, and visiting congressional offices, in Washington, D.C., the week of February 22.

LCP and CDP Workload Data (SP 6.1.6)

Monthly Commission and local government planning and permit activity is reported below, as provided by the Commission's Coastal Data Management System (CDMS).



Final Local Action Notices and Appeals -- 2016

Month	Appealable	Not Appealable	Total	Appeals	Appeal Rate
Jan	31	31	62	6	19.4%
Feb					
Mar					
Apr					
May					
Jun					
Jul					
Aug					
Sep					
Oct					
Nov					
Dec					
YTD	31	31	62	6	19.4%

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February 8, 2016

TO: Coastal Commission and Interested Parties

FROM: Charles Lester, Executive Director
Susan Hansch, Chief Deputy Director
Melanie Wong, Chief, Human Resources

SUBJECT: Update on Hiring/Recruitment and the Diversity Efforts of the California Coastal Commission

SUMMARY

This briefing is an update to the March 2015 memo on the actions taken by the California Coastal Commission staff on hiring and recruitment efforts related to staff diversity.

Expanding diversity is a core objective within the agency. The Coastal Commission's adopted Strategic Plan sets out an action of enhanced outreach to recruit a diverse and highly qualified applicant pool for our work. Our goal is to have a workforce that reflects the broad diversity of our state. While we surely have work to do, according to Cal HR data our diversity is greater than some agencies, including the Resources Agency as a whole, but not as great as others. We also face the challenges of building a diverse workforce recognized by environmental organizations broadly. Comparing the Commission's 29% overall diversity as of December 31, 2015 to the percentage rates for staff diversity in environmental organizations generally, the Commission's overall diversity rate is almost twice the 15%¹ seen in the environmental field generally.

Staff Diversity in Environmental Organizations

In the last 18 months (six months of the current FY 15-16 and FY 14-15), we have increased the diversity of our applicant pool through expanded outreach and hired an increased number of diverse candidates. Approximately 37% all of new employees hired in the last 18 months identified heritages other than white when voluntarily completing the State Employee Race/Ethnicity Questionnaire (See California Department of Human Resources Form (CalHR 1070) (attached as Exhibit 1). In comparison, 28% of the total of new employees in the previous three years (FY13-14, FY 12-13 and FY 11-12) identified heritages other than white when

¹ <http://www.diversegreen.org/the-challenge/> - Green 2.0

voluntarily completing CalHR 1070. (See Exhibit 1 and more specific discussion on pages 4-5). Accordingly, for the last 4.5 fiscal years overall, 32% of all new employees hired voluntarily identified heritages other than white.

Increasing the diversity of the agency is not something that happens overnight. Questions of recruitment and retention at a state agency are necessarily wrapped up with the salaries we can offer. And so, we are also working hard to increase the general salaries of our coastal planning positions, so that we are more competitive with not just the private sector, but also local governments, to which we often lose staff. We are also trying to get a geographically-based increase in our salaries because all the Commission's district offices are in coastal and urban areas with a much higher cost of living than that of most Sacramento based state workers. For example, recent analysis shows an average of 53% higher cost of living in our locations than in Sacramento.

There are three types of ethnicity data that are important and relevant in ascertaining the effectiveness of the Commission staff in addressing the goal of the Commission's Strategic Plan to:

Objective 17.6 Action 17.6.2

Identify opportunities and strategies for enhanced outreach to recruit a diverse and highly qualified applicant pool for needed positions.

The three types of data are:

1. Racial/ethnicity breakdown in numbers of applicant for Civil Service Examinations given by the Coastal Commission;
2. Hiring data by race/ethnicity.
3. Overall composition of Commission staff by race/ethnicity.

To get a complete picture of the diversity issue, it is important to look at each component of the data.

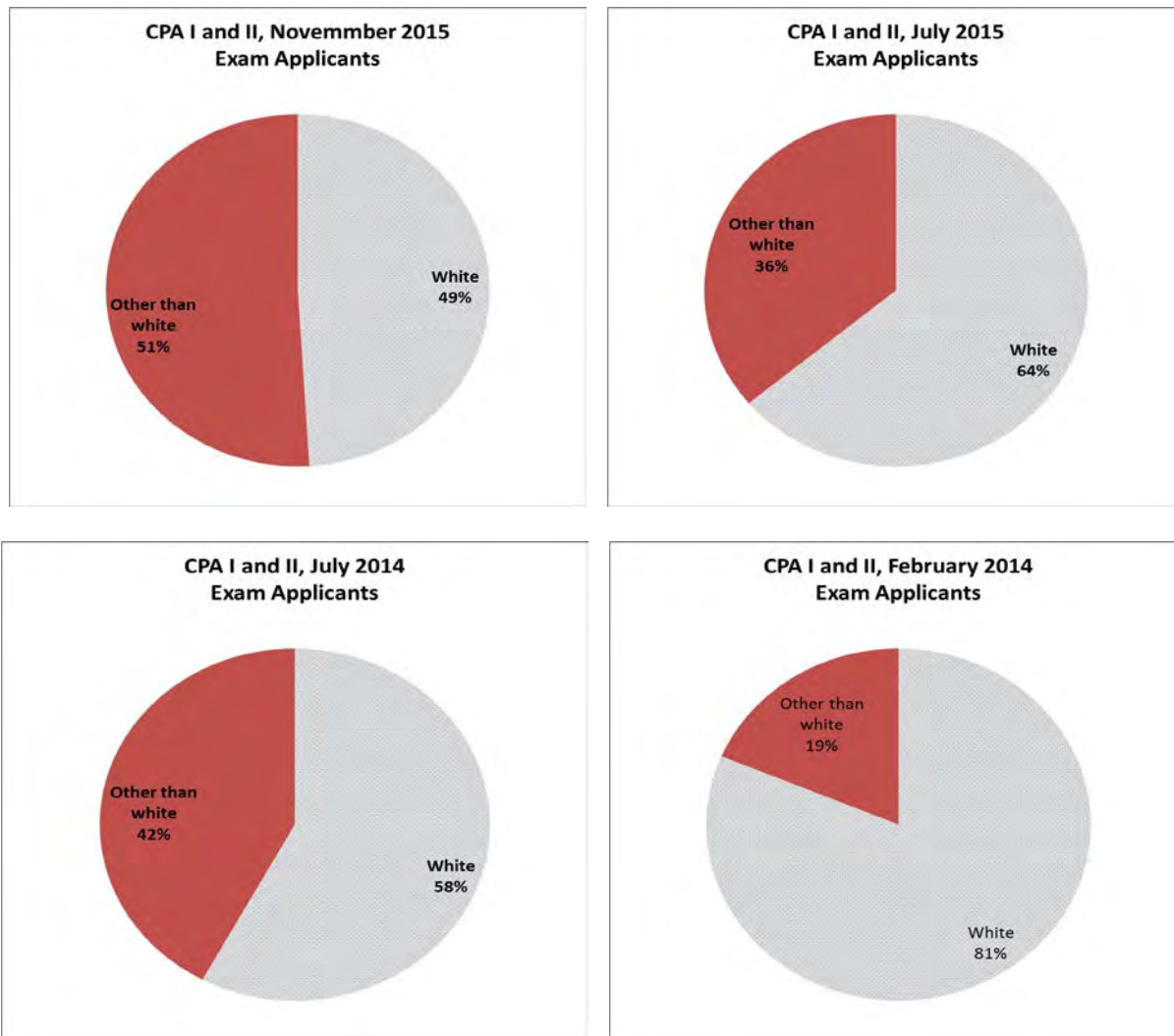
I. Examinations

The Coastal Commission will be holding the next civil service examinations for the Coastal Program Analyst I and II classifications in March 2016. The deadline for this examination period is February 26, 2016. The Coastal Program Analyst I classification is the entry-level foundational classification for recruitment into the planning and regulatory programs of the agency. In order to qualify for potential vacancies, a candidate must take the examination and score in the upper ranks.

In 2015, staff attended a career fair at the California State University at Northridge and one at the California State University East Bay in an effort to recruit as broadly as possible for qualified candidates. Notices for the examinations were posted and will continue to be posted on multiple websites for colleges and universities for broad exposure. Commission staff will continue to reach out directly to all California State University and University of California campuses that have environmental programs such as, Humboldt State and UC Santa Cruz and UC Santa Barbara. Staff anticipates attending additional career fairs and is currently scheduled to attend one at the University of California at Berkeley in March 2016 and one at the University

of Davis Extension in Sacramento in May 2016. We expect to have an additional analyst exam in the summer of 2016.

The Coastal Commission offered two examinations for the Coastal Program Analyst I and II classifications in June and November 2015. Prior to the 2015 exams, the Commission staff took numerous steps to expand outreach to enhance the diversity of the applicant pool for Civil Service Exams. This enhanced outreach has shown results in a more diverse pool of applicants taking examinations. As indicated below, there was a significant increase in the diversity of the candidates who applied for the examination in November 2015 in comparison to the three previous examinations.²



Staff continues to welcome additional information on specific universities or websites that Commissioners or others have to offer.

² As previously discussed in the December 2014 report to the Commission, heritage questionnaires (See California Human Resources Standard Form 678 (CalHR 678) (Attached as Exhibit 2) submitted during the examination process are removed prior to any application review and are not linked to individual candidates through the examination process. The percentages shown above are calculated based on the forms filled out by all candidates that applied for the Coastal Program Analyst I and II examination.

II. Hiring Data by Ethnicity For All Commission Hires

Race/ethnicity heritage information is provided on a voluntary basis by all employees at the time of hiring on the CalHR 1070 Questionnaire (attached as Exhibit 1). The Coastal Commission and all other State agencies have the responsibility to maintain the privacy of the race/ethnicity heritage information provided by employees. The Coastal Commission's Human Resources Unit provides data to the State Controller and CalHR using CalHR rules. It has always been the practice of the Commission to use the publicly posted data provided on CalHR's website to describe the heritage of the Coastal Commission staff. This information was included in the December 2014 report of the Commission.

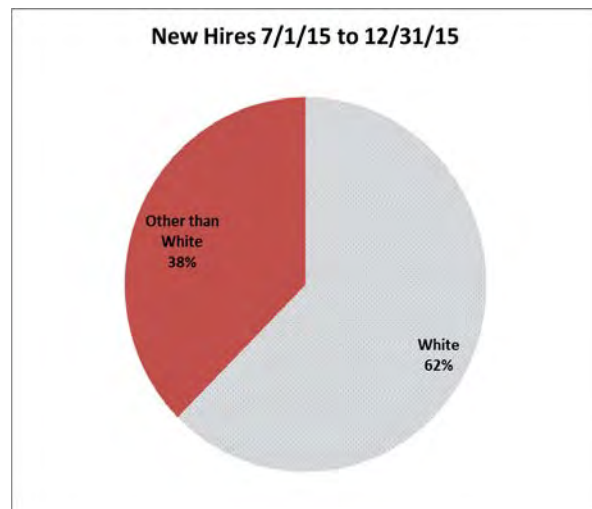
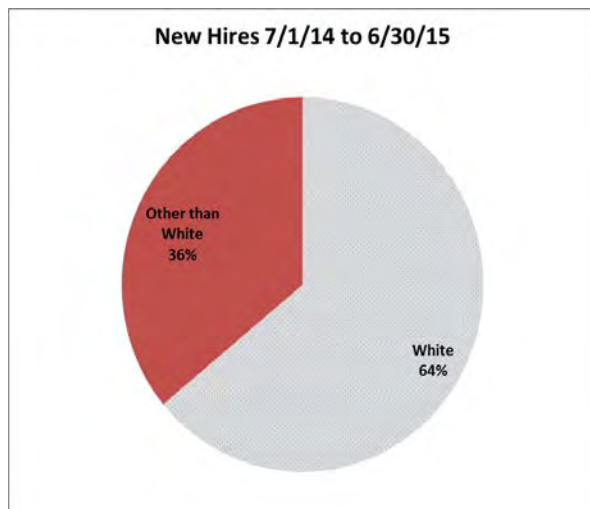
CALHR publishes this hiring data on their website on a report described as *CalHR Report 5112: Intake and Promotion of All Employees by Department*. Coastal Commission staff has been working with CalHR because the information previously listed for intake data was inconsistent with the Commission's internal confidential hiring data. CalHR has acknowledged that there are problems with the hiring intake data and the CalHR website no longer has the 5112 intake data for any State agency posted. As of February 2016, the CalHR website states:

Report 5112

"Please note: CalHR has been made aware of possible issues with some of the data in this report. Accordingly, we have temporarily removed this report. We are working to resolve the issue and hope to post updated data in our first Quarter Report in April 2016."

In order to be most protective of our employees' personal information, we have always only used publicly available CalHR data. Because the CalHR data for intake and hiring data is not currently available, the Commission's Human Resources Unit has compiled hiring data in a general and broad way to protect confidentiality of individuals.

In fiscal year 2014/2015, the Coastal Commission hired 25 new staff members. Of these 25 new hires voluntarily completing CalHR Form 1070, 9 (36%) identified heritages other than white and 16 (64%) identified their heritage as white. Currently through December 31, 2015, in fiscal year 2015/2016, the Coastal Commission has hired 16 new staff members. *Of these 16 hires voluntarily completing CalHR Form 1070, 6 (38%) identified heritages other than white and 10 (62%) identified their heritage as white. Thus, the two most recent fiscal years show that the Coastal Commission has reached a broader candidate pool through the additional outreach efforts staff has implemented.*



Interns

In 2015 we continued to utilize the paid internships as a recruitment mechanism and have posted the Environmental Services Intern announcement. These job announcements are posted on a variety of college and university websites as well as our own website and the State's job website. We employed a total of eight Environmental Services Interns statewide in 2015. These interns gain valuable hands-on exposure to the Commission's regulatory, planning and enforcement work. Most of our interns use this work experience to participate in our Coastal Program Analyst civil service examinations which leads to eligibility to be hired into state service. Of the eight interns we employed, we hired five of them into our Coastal Program Analyst positions.

Fellowships

The Coastal Commission is continuing to take full advantage of fellowship opportunities. We recently gained a Sea Grant Fellow and are looking forward to selecting a new NOAA fellow for our program in 2016.

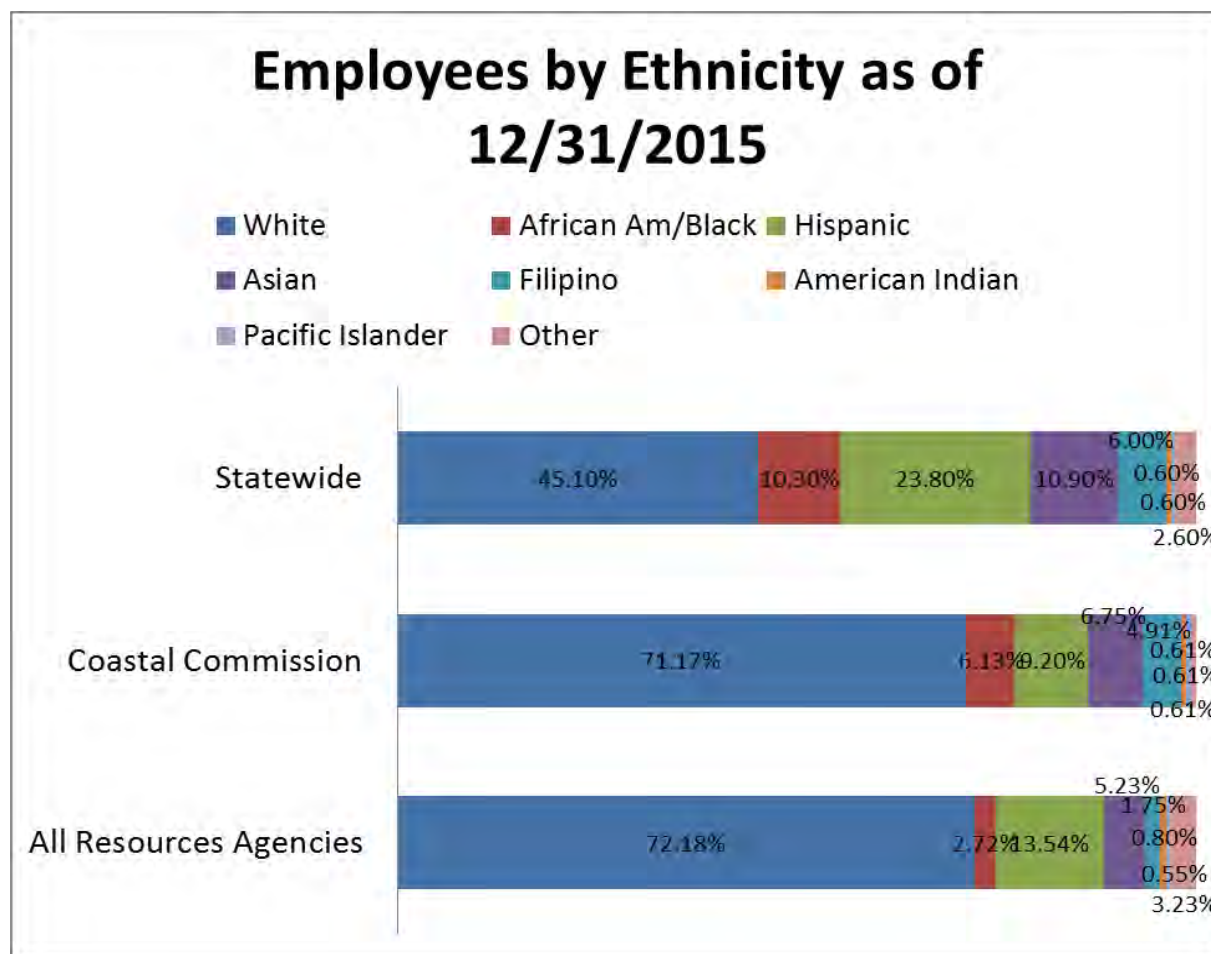
III. Diversity of the California Coastal Commission

As of December 31, 2015, the Cal HR website data shows that ethnic minorities currently make up approximately 28.83% of the Coastal Commission staff. It is important to note that this is a point in time picture of the ethnic diversity of the Commission staff, because the percentage changes as new staff members are added and existing staff members resign, transfer or retire. Regardless of the ethnicity of staff hired in any one year, the overall ethnic diversity of the Commission staff changes with those staffing changes.

Compiling the available data from the California Office of Civil Rights as of December 31, 2015 for all agencies with available data within the California Natural Resources Agency, ethnic minorities make up approximately 27.82% of the California Natural Resources Agency workforce.³ While the 2015 figure for the State civil service overall is at 54.9%, a larger

³ Afro-American Museum, Baldwin Hills Conservancy, California Coastal Commission, California Conservation Corps, California Science Center, California Tahoe Conservancy, Colorado River Board, Delta Protection Commission, Delta Stewardship Council, Department of Conservation, Department of Fish and Wildlife, Department of Forestry and Fire

percentage of positions in the California Natural Resources Agencies are environmentally related.



IV. Job Analysis and Salary Compensation Study

As discussed above, in our efforts to address difficulties in recruiting and retaining coastal planning staff, we have been collecting data and evidence to bolster our case for increasing salaries throughout the Coastal Program Analyst series of classifications. Many managers have indicated that they have lost talented staff members to city or county agencies who can offer better wages. In addition to losing valuable, trained staff, the Coastal Commission has also lost exceptional candidates who indicated that the cost of living and the salaries being offered were factors in their decisions not to accept job offers. Gathering this data will be key in supporting our proposal for increased salaries.

The Coastal Commission contracted CPS HR Consulting to perform job analyses for the Coastal Program Analysts series from Coastal Program Analyst I through Coastal Program Manager. Using the information provided by these four job analyses, CPS HR Consulting also

Protection, Department of Parks and Recreation, Native American Heritage Commission, Natural Resources Agency, Sacramento-San Joaquin Delta Conservancy, San Francisco Bay Conservation and Development Commission, San Gabriel Lower LA Rivers & Mountains Conservancy, San Joaquin River Conservancy, Sierra Nevada Conservancy, State Coastal Conservancy, State Lands Commission and State Water Resources Control Board

conducted salary data for these classifications to compare with local governmental agencies. The salary comparison report was finalized in January 2016 and documented that Coastal Commission salaries and state salaries in general are below salaries for comparable positions in local government as well as the private sector. Commission staff will be submitting a special salary adjustment request using the report produced by CPS HR Consulting.

V. Next Steps

We welcome the opportunity to work with a Commission subcommittee on diversity as recommended in the Executive Director's February 4, 2016 memo. We will continue to enhance our outreach efforts and as additional data becomes available, we will update the Commission.

STATE EMPLOYEE RACE/ETHNICITY QUESTIONNAIRE

(For All New Hires and Rehires)

SPB 1070, State Employee Race/Ethnicity Questionnaire (5/03)

DATE: **INSTRUCTIONS:**

All new/rehired employees are requested to voluntarily self-identify their race/ethnicity and gender in order to monitor and evaluate the provision of equal employment opportunity and non-discriminatory employment practices within the State civil service. If you do not provide this information, the department will make the designation for you based on visual identification. Complete the form promptly and return it to your Department Personnel Office with your other hiring documents. (Do Not Return to the State Personnel Board)

DEPARTMENT NAME	EMPLOYEE'S NAME (print)	SOCIAL SECURITY NUMBER	GENDER <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE
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Please check one or more of the boxes below that best describes your race/ethnicity heritage and enter the indicated letter(s): _____

If Hispanic check below:

Racial Groups

If Asian, check below:

If Pacific Islander, check

[Note: Hispanic does not include persons of Portuguese or Brazilian origin or persons who acquire a Spanish surname.]

E. ☐ WhiteI. ☐ JapaneseP. ☐ HawaiianF. ☐ Black/African AmericanJ. ☐ ChineseQ. ☐ SamoanA. ☐ Mexican, Mexican/American, ChicanoG. ☐ FilipinoK. ☐ KoreanR. ☐ Guamanian/
ChamorroB. ☐ Puerto RicanH. ☐ American Indian/Nat AmericanL. ☐ VietnameseT. ☐ Other Pac IslanderC. ☐ CubanN. ☐ EskimoM. ☐ Asian IndianX. ☐ Other Racial GroupD. ☐ Any Other Spanish/HispanicO. ☐ AleutS. ☐ Other Asian

Please check the method of identification

☒ Self-identification☐ Department Identification [This is only used if the employee does not self-identify.]

UNDER PENALTY OF PERJURY, I DECLARE THAT I HAVE EXAMINED THIS STATEMENT AND TO THE BEST OF MY KNOWLEDGE AND BELIEF, IT IS TRUE, CORRECT, AND COMPLETE.

EMPLOYEE SIGNATURE

DATE

SIGNATURE OF DEPARTMENT REPRESENTATIVE
APPROVING EMPLOYEE IDENTIFICATION

DATE

PRIVACY STATEMENT**AGENCY NAME:**

The State Personnel Board is responsible for this form.

**UNIT RESPONSIBLE
FOR FORM MAINTENANCE**

The Personnel Office of the employing department is responsible for maintaining this form.

AUTHORITY

Collection of race/ethnicity and gender information on state employees is authorized pursuant to Government Code Section 19792(h), which requires the State Personnel Board to "Maintain a statistical information system designed to yield the data and the analysis necessary for the evaluation of equal employment opportunity programs in the state civil service."

The data is encoded by the department Personnel Office and becomes part of the Employment History System kept by the State Controller's Office. It is shared only with the State Personnel Board and the employing department and may be used only for statistical purposes in evaluating the extent to which the state is complying with state and federal equal employment opportunity and non-discrimination requirements.

**EFFECT OF NOT PROVIDING
THE INFORMATION**

If you fail to self-identify, another method of identification will be used by the State Personnel Board, since Government Code Section 19792 requires the collection of race/ethnic origin for all employees.

SOCIAL SECURITY NUMBER

Providing your Social Security Number is voluntary in accordance with the Privacy Act of 1974 (PS 93-579). If you do not provide your Social Security Number, however, your race/ethnicity and gender information may not be accurately tabulated and included in your department's workforce statistics.

ACCESS

You may access your records through your departmental Personnel Office.

EXAMINATION / EMPLOYMENT APPLICATION

STD. 678 (REV. 10/2013) Page 5

EQUAL EMPLOYMENT OPPORTUNITY
(For Examination Use Only)

APPLICANT: To assist the State of California in its commitment to Equal Employment Opportunity, applicants are asked to voluntarily provide the following information. This questionnaire will be separated from the application prior to the examination and will not be used in any employment decisions. Government Code Section 19705 authorizes the California Department of Human Resources to retain this information for research and statistical purposes.

SOCIAL SECURITY NUMBER	AGE <input type="checkbox"/> Under 21 ⁽¹⁾ <input type="checkbox"/> 21 - 39 ⁽³⁾ <input type="checkbox"/> 40-69 ⁽⁶⁾ <input type="checkbox"/> 70 and Over ⁽⁷⁾	GENDER <input type="checkbox"/> Male <input type="checkbox"/> Female
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PLEASE CHECK ONE OF THE BOXES THAT BEST DESCRIBES YOUR RACE/ETHNICITY HERITAGE:

ASIAN GROUP**HISPANIC GROUP****PACIFIC ISLANDER GROUP****OTHER GROUPS**☐ Asian Indian^(M)☐ Cuban^(C)☐ Guamanian or Chamorro^(R)☐ Aleut^(O)☐ Cambodian^(U)☐ Mexican/Mexican American^(A)☐ Hawaiian^(P)☐ American Indian/Native American^(H)☐ Chinese^(J)☐ Puerto Rican^(B)☐ Samoan^(Q)☐ Black/African American^(F)☐ Filipino^(G)☐ Other Hispanic/Latino Groups^(D)☐ Other Pacific Islander Group^(T)☐ Eskimo^(N)☐ Japanese^(I)☐ White^(E)☐ Korean^(K)☐ Other Racial Group^(X)☐ Laotian^(V)☐ Choose not to Identify^(Z)☐ Vietnamese^(L)☐ Other Asian Group^(S)

☐ **DISABILITY^(Y)**—A person with a disability is an individual who: (1) has a physical or mental impairment or medical condition that limits one or more life activities, such as walking, speaking, breathing, performing manual tasks, seeing, hearing, learning, caring for oneself or working; (2) has a record or history of such impairment or medical condition; or (3) is regarded as having such an impairment or medical condition.

☐ **MILITARY**—A military veteran; a widow or widower of a veteran; or a spouse of a 100% disabled veteran.

THANK YOU FOR COMPLETING THIS QUESTIONNAIRE

MEMORANDUM OF AGREEMENT

**PURSUANT TO THE
NATIONAL MARINE SANCTUARIES ACT
16 U.S.C. 1442(a)**

AND THE

**CALIFORNIA FISH AND GAME CODE
SECTION 703.5 AND 15200**

AND THE

CALIFORNIA COASTAL ACT PUBLIC RESOURCES CODE SECTION 30000 ET. SEQ.

AND THE

**PUBLIC RESOURCES CODE
SECTIONS 35615 AND 35621**

AMONG THE

**U.S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
NATIONAL OCEAN SERVICE
OFFICE OF NATIONAL MARINE SANCTUARIES**

AND THE

**STATE OF CALIFORNIA
NATURAL RESOURCES AGENCY**

OCEAN PROTECTION COUNCIL

CALIFORNIA FISH AND GAME COMMISSION

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

CALIFORNIA COASTAL COMMISSION

CALIFORNIA STATE LANDS COMMISSION

FOR THE PURPOSE OF

**DESCRIBING THE CONSULTATION PROCESS FOR ONMS'S AUTHORIZATION OF COMMERCIAL
SHELLFISH AQUACULTURE PROJECTS APPROVED THROUGH CALIFORNIA PERMITS AND
LEASES FOR NON-INVASIVE INTRODUCED SPECIES WITHIN GULF OF THE FARALLONES AND
MONTEREY BAY NATIONAL MARINE SANCTUARIES**

NOS Agreement Code: MOA-2015-064/9176

I. PARTIES AND PURPOSE

- A. This Memorandum of Agreement (Agreement) is among the U.S. Department of Commerce (DOC), National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), Office of National Marine Sanctuaries (ONMS), through Gulf of the Farallones National Marine Sanctuary (GFNMS), Monterey Bay National Marine Sanctuary (MBNMS), the California Natural Resources Agency (Resources Agency), the Ocean Protection Council (OPC), the California Department of Fish and Wildlife (CDFW), California Fish and Game Commission (CFGC), California Coastal Commission (CCC), and California State Lands Commission (CSLC). The Resources Agency, OPC, CDFW, CFGC, CCC, and CSLC are collectively referenced as the State Parties.
- B. The purpose of this Agreement is to develop a process whereby State Parties will coordinate and consult with ONMS when they process permit or lease applications for commercial shellfish aquaculture projects in Tomales Bay in GFNMS. Such process is intended to ensure State Parties have full knowledge of and opportunity to address any concerns ONMS has with proposed state actions regarding commercial shellfish aquaculture projects in Tomales Bay.
- C. The further purpose of this Agreement is to develop a process whereby ONMS coordinates and consults with the State Parties when it processes an authorization for commercial shellfish aquaculture projects in State Waters of MBNMS. Such process is intended to ensure that ONMS's and State Parties' assessments of such projects rely on and are consistent with the best available information and methodologies.

II. BACKGROUND

- A. The ONMS is responsible for managing a network of 14 nationally significant marine areas encompassing more than 170,000 square miles of marine and great lakes waters from Washington state to the Florida Keys and Lake Huron to American Samoa. The network includes a system of 13 national marine sanctuaries and a marine national monument. GFNMS was designated by NOAA as a national marine sanctuary in 1980. MBNMS was designated by NOAA as a national marine sanctuary in 1992.
- B. The Resources Agency is a cabinet level entity whose mission is to restore, protect and manage the state's natural, historical and cultural resources for current and future generations using creative approaches and solutions based on science,

collaboration and respect for all the communities and interests involved. All of the state Departments, Commissions and Councils represented as State Parties to this Agreement are within the umbrella of the Resources Agency.

- C. The OPC is responsible for adopting policy recommendations that will ensure that California maintains healthy, resilient, and productive ocean and coastal ecosystems for the benefit of current and future generations.
- D. The CFGC is the agency that regulates the sport take and possession of birds, mammals, fish, amphibians, and reptiles. The CFGC regulates certain aspects of commercial fishing including: fish reduction; shellfish cultivation; take of herring, lobster, sea urchins and abalone; kelp leases; lease of state water bottoms for oyster allotments; aquaculture operations; and other activities. The CFGC oversees the establishment of wildlife areas and ecological reserves and regulates their use. It also prescribes the terms and conditions under which permits or licenses may be issued by the CDFW and considers the revocation or suspension of commercial and sport licenses and permits of individuals convicted of violating Fish and Game laws and regulations.
- E. The CDFW is the public trustee agency that maintains the Aquaculture Coordinator; maintains aquaculturist registrations; prohibits aquaculture operations at any location where it is determined it would be detrimental to adjacent native wildlife; issues stocking permits; sells wild aquatic plants or animals for aquaculture use; approves the collection of aquatic plants and animals by registered aquaculturists; designates public areas for digging clams; processes water bottom lease applications; conducts activities relating to aquaculture disease detection, control, and eradication; appoints an Aquaculture Disease Committee and an Aquaculture Development Committee; establishes disease quarantines and takes related actions regarding control and eradication; and approves the importation of live aquatic plants and animals.
- F. The CCC is a state agency established under Division 20 of the Public Resources Code (Section 30000, et. seq.) that is charged with implementing the California Coastal Act ("Coastal Act"), the California Environmental Quality Act, and the federal Coastal Zone Management Act throughout California's coastal zone.
- G. The CSLC is an independent, quasi-legislative state agency that has exclusive control, jurisdiction and administration authority over all ungranted tide and submerged lands and the reversionary and residual interest of the State as to public trust lands legislatively granted to local governments. The CSLC serves the people of California by providing stewardship of the lands, waterways, and resources entrusted to its care through economic development, protection,

preservation, and restoration. Its members include the Lieutenant Governor, the State Controller and the Governor appointed State Director of Finance.

III. AUTHORITIES

- A. The legal and programmatic authority for the ONMS to enter into this Agreement is the National Marine Sanctuaries Act (NMSA), 16 U.S.C. 1442(a), which allows the Secretary of Commerce, whenever appropriate, to enter into an agreement with a State to carry out purposes and policies of the NMSA, including subparagraphs 1, 2, 3, 6, and 7 of 16 U.S.C 1431(b)):
- a. (1) to identify and designate as national marine sanctuaries areas of the marine environment which are of special national significance and to manage these areas as the National Marine Sanctuary System;
 - b. (2) to provide authority for the comprehensive and coordinated conservation and management of these marine areas, and the activities affecting them, in a manner which complements existing regulatory authorities;
 - c. (3) to maintain the natural biological communities in the national marine sanctuaries, and to protect, and where appropriate, restore and enhance natural habitats, populations, and ecological processes;
 - d. (6) to facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities;
 - e. (7) to develop and implement coordinated plans for the protection and management of these areas with appropriate agencies, organizations, and other public and private interests concerned with the continuing health and resilience of these marine areas.
- B. The Resources Agency is authorized by Government Code section 12805.2 to advise and assist the Governor in establishing major policies relative to marine resources where such policies may be implemented or undertaken by a department, office, or other unit within the Resources Agency designated with the protection and stewardship of such resources. This includes recommendation as to

whether the Governor should object to changes in terms of sanctuary designation in state waters pursuant to 16 U.S.C. 1434 (b)(1), as well as policies on the management and protection of state coastal resources.

- C. The OPC is authorized by Public Resources Code sections 35615 and 35621 to coordinate activities of state agencies that are related to the protection and conservation of coastal waters and ocean eco-systems to improve the effectiveness of state efforts to protect ocean resources and to share and exchange relevant scientific data that can further enhance and promote the public trust. The Council is comprised of two cabinet level secretaries, the Lieutenant Governor, two public members, and two legislative members all with the independent authority to direct and shape policy within their various spheres of influence.
- D. CDFW is authorized by California Fish and Game Code section 703.5 to enter into this Agreement, which provides:
 - (a) That the department and the commission seek to create, foster, and actively participate in effective partnerships and collaborations with other agencies and stakeholders to achieve shared goals and to better integrate fish and wildlife resource conservation and management with the natural resource management responsibilities of other agencies.
 - (b) That the department and commission participate in interagency coordination processes that facilitate consistency and efficiency in review of projects requiring multiple permits, including, but not necessarily limited to, joint state, federal, and local permit review teams that enable early consultation with project applicants, and provide improved sharing of data, information, tools, and science to achieve better alignment of planning, policies, and regulations across agencies.
 - (c) California Fish and Game Code section 1802 also provides that:
The department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. The department, as trustee for fish and wildlife resources, shall consult with lead and responsible agencies and shall provide, as available, the requisite biological expertise to review and comment upon environmental documents and impacts arising from project activities, as those terms are used in the California Environmental Protection Act and section 15200, which requires the CFGC to regulate and the Department therefore to manage aquaculture lease practices.
- E. The legal authority for the CFGC to enter into this Agreement is the California Fish and Game Code sections 703.5 as cited above, and 15200, which provides that "the Commission may regulate the placing of aquatic plants and animals in

waters of the state.”

- F. The legal authority for the CCC to enter into this Agreement is Public Resources Code sections 30006.5, 30335.5, 30337 and 30339, which together require the CCC to seek expert scientific recommendations regarding matters before it and to coordinate with and provide recommendations to other agencies. Public Resources Code section 30003 requires all state agencies to comply with the Coastal Act, and section 30334 empowers the CCC to enter into contracts.
- G. The CSLC has jurisdiction and authority over all ungranted tidelands, submerged lands, and the beds of navigable rivers, sloughs, and lakes. Uses and restrictions of these lands are governed by Article X, Sections 3 and 4, of the California Constitution, the common law Public Trust doctrine, and the Public Resources Code sections 6000 et seq. The CSLC has an oversight responsibility for tide and submerged lands legislatively granted in trust to local jurisdictions (Pub. Resources Code § 6301). All tide and submerged lands, granted or ungranted, as well as navigable rivers, sloughs, and lakes, are subject to the Public Trust. Additionally, the CSLC is the state entity responsible for locating the offshore federal-state boundary. The Public Trust is a sovereign public property right held by the State or its delegated trustee for the benefit of all the people. This right limits the uses of these lands to waterborne commerce, navigation, fisheries, open space, recreation, or other recognized Public Trust purposes. In some cases, other uses not inconsistent with the Public Trust may be authorized. A lease from the CSLC is required for any portion of a project extending onto state-owned sovereign lands, which are under its exclusive jurisdiction; use of lands under the jurisdiction of legislative grantees requires permission from that grantee/trustee of sovereign public trust lands.

IV. SCOPE

This Agreement will apply to:

- A. State actions to consider amendments, renewals, or expansions of existing leases or permits, or any new lease or permit for a commercial shellfish aquaculture project in any portion of Tomales Bay within GFNMS.
- B. ONMS’s authorization of an aquaculture permit or lease issued for commercial shellfish aquaculture operations by any State entity in waters partially or wholly within California’s seaward boundary in MBNMS, provided those waters are regulated by 15 C.F.R. § 922 (herein referred to as “State Waters” or “Waters of

the State,” interchangeably). For purposes of this Agreement, “aquaculture” or “aquaculture activity” includes any commercial shellfish aquaculture activity in State Waters within MBNMS.

V. TERMS AND CONDITIONS

A. INTENT OF THE PARTIES

1. The Parties agree that while it is necessary to describe the process steps in V(B) in detail, the ultimate goals of this Agreement are collaboration, cooperation and sharing of information among ONMS and the State Parties in reviewing commercial shellfish aquaculture lease or permit applications. The Agreement helps achieve these ultimate goals with a collaborative review process for such lease and permit applications as the best way to avoid unnecessary delays in making decisions on permit applications and to ensure resource protection.
2. ONMS is proposing to adopt concurrently with or subsequent to the execution of this Agreement regulations that would prohibit introduction of introduced species into State Water of GFNMS and MBNMS.
3. For the purposes of this Agreement, the phrase “non-invasive introduced species” means “an introduced species whose introduction will not cause significant adverse effects to sanctuary resources or qualities”. This definition is intended to apply to any state authorization of a lease or permit for commercial shellfish aquaculture, whether the project proposes introduction of a species that is already being cultivated in Tomales Bay within GFNMS or MBNMS or if the project proposes introduction of an entirely new species (i.e. if significant adverse effects are demonstrated for a species already under cultivation, ONMS could deny the new authorization if the species did not meet this definition). The term “introduction” includes placing a species in GFNMS or MBNMS for the purpose of cultivation.
4. ONMS has the authority to allow the introduction of non-invasive introduced species as part of a commercial shellfish aquaculture project into State Waters of MBNMS consistent with the process for collaboration, assessment and appeal identified in this Agreement and CFR § 922.49. ONMS does not have the authority to prohibit or otherwise regulate the introduction of an introduced species as part of a commercial shellfish aquaculture project in portions of Tomales Bay within GFNMS.

5. The Parties further agree that assessment by ONMS whether an introduced species is not likely to cause significant adverse effects to sanctuary resources or qualities shall be conducted consistent with the terms and conditions in this Agreement, to the extent it is consistent with all applicable laws.

B. THE PARTIES AGREE TO THE FOLLOWING ROLES AND RESPONSIBILITIES:

1. Consultation and Coordination:

- a. **Initial Receipt and Notice to other Parties of Proposed Aquaculture Project:** Whenever a permit, permit amendment, lease, or lease amendment is sought for aquaculture activities or development in either Tomales Bay in GFNMS or in State waters of MBNMS, the receiving Party will immediately, but no later than 7 calendar days from the date of receipt of an initial application or request (regardless of its level of completeness), notify all signatories to this Agreement consistent with the Contact and Notice provision in section VII of this Agreement. This Initial Notice shall include a copy of the pending request for approval or application and any other supporting documentation received appended to it, and shall be distributed to all other Parties under this Agreement. Within 20 calendar days of receipt of the Initial Notice, ONMS may request the State Party or Parties providing the notice to obtain additional information from the applicant germane to its review. If a permit, lease or other approval is sought from a State Party or Parties for activities within the Scope of this Agreement, ONMS agrees such applications or other requests for approval, once completed, can be sent to GFNMS and/or MBNMS, and that no additional applications will be required by ONMS. GFNMS or MBNMS may request additional information regarding the applications.
- b. **Initial Consultation:** Within 7 days of a State Party determining that an application or request is complete, it shall notify all signatories to this Agreement. No later than 30 days from the date the completeness notification is sent to the Parties, the Parties will agree upon and coordinate on assembling a scientific review team comprising at least one scientific reviewer and one staff-level

policy or permit analyst from each Party (the scientific reviewer and permit analyst may be the same person representing any one Party), and which may include any other relevant governmental permitting agency or agencies also reviewing the proposed activity, such as the U.S. Army Corps of Engineers, National Marine Fisheries Service, and California Department of Public Health. The team will engage in an initial environmental review and risk assessment consistent with existing laws and obligations for developing permits, leases or other approvals, sharing any pertinent or relevant information or concerns already made apparent through the application for lease or permit processes. At this Initial Consultation the Parties will establish a schedule for sharing information and discussing possible concerns or data relevant to the application, as well as a timeline for ONMS to submit final comments to the State Parties regarding the proposed project.

- c. **Scoping and Comments:** At the Initial Consultation described in provision (V)(B)(1)(b) of this Agreement, or at a date determined appropriate by the Parties present at that meeting, but not more than 60 days after the date of the Initial Consultation, CDFW and CFGC will provide all parties with their assessment whether or not the proposed shellfish aquaculture species is likely to cause significant adverse impacts to sanctuary resources or qualities. Within 30 days of receipt of the CDFW and CFGC assessment, ONMS will provide Parties with written comments that explain whether it concurs with the CDFW and GFGC assessment. If ONMS believes that the proposed project would include cultivation of a species that does not meet the definition of non-invasive introduced species in section (V)(A)(4) of this Agreement, ONMS's assessment must describe the significant adverse effect(s) to sanctuary resources or qualities that it believes could result from the cultivation of such species and identify ways to eliminate those effects, or if they cannot be eliminated, to mitigate them such that cultivation of the species will not cause significant adverse effects to sanctuary resources or qualities. Each State Party will include and analyze these written comments from ONMS in its environmental analysis. A final determination as to whether an introduced shellfish species will not cause significant adverse impacts to sanctuary resources or qualities may require completion of a final environmental review document consistent

with the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA).

- d. **Collaborate to Resolve Conflicts:** The Parties will work to resolve conflicts through inter-agency consultation and discussion prior to the publication of staff reports or draft permits, or, if necessary, during the scheduled public comment period regarding lease or permit terms and conditions. For each comment or concern provided to the State Parties by ONMS, the appropriate State Party or Parties will, consistent with existing law, either modify its staff recommendation regarding the proposed lease agreement or permit accordingly, or will respond to ONMS in writing about each comment not so accommodated.
- e. **Timing of ONMS's Authorization:** Consistent with existing law, ONMS will not authorize an aquaculture project in the State Waters of MBNMS until all required State-level permits, licenses, leases or other approval documents have been issued. Except as provided in the Dispute Resolution and Appeals sections of this Agreement or as required by applicable law, ONMS will make its determination whether to authorize an aquaculture project in MBNMS within 30 days of the final State-level decision.
- f. **Review of Existing State Leases and Permits:** ONMS will not independently review for significant adverse effects from introduced shellfish species grown in existing aquaculture projects in Tomales Bay that were permitted prior to execution of this Agreement independent of an amended or new lease or permit application. Starting on October 1, 2015 and every year thereafter, the State Parties will provide ONMS with a list of leases and permits set for expiration and a timeline for review of those that have sought or are likely to seek renewal. The State Parties will also provide a list of any operations, leases, or permits it will be reviewing independently for consistency with its public trust obligations, should it deem this necessary.
- g. **State Coordination:** For aquaculture projects in State waters of GFNMS and MBNMS, the State Parties will coordinate a concurrent process of review consistent with existing State law.

2. **Assessment of Harm:**

- a. **Standard of Review:** The determination of significant adverse effects to sanctuary resources or qualities could include both spatial considerations (i.e., the percent of an area or habitat affected by the introduced species) or temporal (i.e., the amount of time an area or habitat would be affected), or both. Economic costs to human infrastructure or activities could also be considered. Examples of how an introduced species could cause significant adverse effects include reproduction of the species that allows it to become established in a portion of the sanctuary, harm to the natural ecosystem caused by predation on or predation by the organism, displacement of native organisms due to competition or alteration of habitat, or transmission of a parasite or disease vector that harms native organisms.
- b. **ONMS's Administrative Record:** Where the State has complied with the early consultation and coordination provisions in section (V)(B)(1) of the Agreement, the ONMS final review and determination shall be based on the administrative record(s) presented to the State Parties during their various administrative approval and review processes unless any of the following conditions is met: (1) information that is not in the State administrative record is available and would require consideration by ONMS consistent with the Information Quality Act and related regulations and policies; (2) new information which was not known or could not have been known is discovered by ONMS after the State Parties have made their decisions, and which may establish that the project under review will have an adverse effect not considered by the State Parties on resources of the sanctuary, (3) that a significant adverse effect already identified will be substantially more severe than previously understood by a State Party at the time of its approval, or (4) mitigation measures or alternatives previously found to be infeasible would in fact be feasible, and would substantially reduce one or more significant effects of the project that was not fully mitigated through other means.
- c. Such record shall include the work of the scientific review team, any and all information that ONMS itself provided to the State Parties during the coordination and consultation process described

in this Agreement, and comments made during applicable comment periods, as directed by this Agreement or permitted by existing law.

3. Procedures for Dispute Resolution and Appeal

- a. **Incorporation of ONMS's Recommended Mitigation:** In most cases, the concerns of the ONMS and the State Parties will be addressed at the staff level during the Initial Consultation and subsequent review by the scientific review team.
 1. **For Projects within State Waters of MBNMS:** Consistent with 15 C.F.R. § 922 for projects within State waters of MBNMS, ONMS has the authority to authorize or conditionally authorize commercial shellfish aquaculture projects involving non-invasive introduced species that have been approved through valid State leases or permits. If ONMS determines that all of its comments have not been addressed in State leases or permits, it may initiate the Dispute Resolution Process or Procedures for Appeal, as described in Sections (V)(B)(3)(b) and (c) of this Agreement, before determining whether to authorize, conditionally authorize or deny a proposed aquaculture project, consistent with 15 C.F.R. § 922. ONMS must initiate the Dispute Resolution Process within 30 days of approval of the final State-required permit or lease.
 2. **For Projects within Tomales Bay in GFNMS:** If ONMS determines that all of its comments have not been addressed in consultations in advance of issuance of State leases or permits, it may initiate the Dispute Resolution Process or Procedures for Appeal, as described in Sections (V)(B)(3)(b) and (c) of this Agreement. ONMS must initiate the Dispute Resolution Process or Procedures for Appeal within 15 days of approval of the final State required permit or lease.
 3. **For All Projects Approved by State Parties:** State Parties shall include a condition on any new or amended lease or permit that allows the State to re-open and amend the lease or permit should ONMS initiate this Dispute Resolution Process or Procedures for Appeal, as described in Sections (V)(B)(3)(b) and (c) of this Agreement.

- b. **Dispute Resolution Process:** In accordance with all applicable State and Federal laws, policies, and procedures, the State Parties and ONMS will coordinate and consult closely with each other prior to issuing any State permits or leases, or for projects within State Waters of MBNMS, prior to ONMS conditionally authorizing or denying approval of a State approved lease or permit. In the event of disagreement between ONMS and the State Parties, ONMS or the State may trigger this Dispute Resolution Process. ONMS shall not be obligated to take action on a proposed aquaculture project in MBNMS if ONMS has initiated this Dispute Resolution Process.
1. The Parties agree that all reasonable attempts will be made to resolve the disagreement as part of this Dispute Resolution Process. Depending on the nature of the disagreement and the persons involved, the superintendents of GFNMS or MBNMS, the Manager of the CDFW Marine Region, the State Aquaculture Coordinator, and the Executive Directors for the CFGC, CCC, and CSLC may attempt resolution. Where necessary to the efficient scheduling of meetings to resolve a dispute, the Parties involved in the Dispute Resolution Process will make every effort to facilitate discussions within 15 days of the initiating Party's request, but no later than 30 days from its request.
 2. In the event the Parties involved in the first round of dispute resolution are unable to resolve the disagreement, the matter shall be elevated to the ONMS West Coast Regional Director and include among the existing Parties the CDFW Director.
- c. **Appeal:** If this initial Dispute Resolution Process has been exhausted, and ONMS still believes any State permit or lease does not adequately reduce or eliminate significant adverse effects to sanctuary resources or qualities, or one or more State Parties disagree with a term of an ONMS conditional approval or an ONMS denial of an aquaculture project, ONMS or the State may file an appeal with the Joint Review Board (JRB) within 30 days of completion of the Dispute Resolution Process described in Section V(B)(3)(b). The JRB shall consist of the Administrator of NOAA

(or designee), and the Secretary of California Natural Resources Agency (or designee), on behalf of the involved State Parties.

- d. **JRB Review on Appeal:** The JRB shall review the State and ONMS administrative records, and any information (including new information) that meets the standard in section (V)(B)(2)(a) of this Agreement, as well as the appealing party's written statement, along with any relevant rebuttals. The JRB may seek the views from any other party or person. The JRB's review may also include whether any or both Parties failed to comply with the review processes in this Agreement.
 - 1. **For Projects within State Waters of MBNMS:** After considering the record before it, the JRB will recommend either ONMS authorize, conditionally authorize, or deny a proposed aquaculture project, or the appropriate State Party amend or deny an approved permit or lease. The JRB will make such recommendation within 30 days of receipt of the appeal.
 - 2. **For Projects within Tomales Bay within GFNMS:** After considering the record before it, if the JRB determines the State lease(s) or permit(s) should be amended or denied, it will recommend that the appropriate State Party re-open the permit or lease to amend or deny it in response to the concerns raised in the ONMS appeal.
- e. **Response to JRB Recommendation:** For projects within the State Waters of MBNMS, within 15 days of receipt of the JRB decision, ONMS or the appropriate State Party will determine how it may adopt any recommendations or actions issued by the JRB consistent with existing law. This paragraph shall not apply if such action is prohibited by law.
 - 1. For projects within Tomales Bay, State Parties may adopt any recommendations or actions issued by the JRB consistent with permit or lease conditions and existing law. This paragraph shall not apply if such action is prohibited by law.
- f. These procedures do not modify the limitations period for ONMS or the State to challenge a determination made by the other party.

VI. FUNDING, PROGRAMMING, PAYMENT, AND REIMBURSEMENT ARRANGEMENTS

This Agreement is not a fiscal or funds obligation document. Any activities involving reimbursement or transfer of funds among the Parties to this Agreement will be handled in accordance with applicable laws, regulations, and procedures. Such activities will be documented in a separate legal instrument.

VII. CONTACTS

- A. All notices or other correspondence required by this Agreement will be issued by certified U.S. mail unless the Parties agree that electronic communication is preferred. The points of contact for activities under this Agreement are:

GFNMS
Maria Brown
Superintendent
991 Marine Drive, The Presidio
San Francisco, CA 94129
(415) 561-6622
maria.brown@noaa.gov

MBNMS
Paul Michel
Superintendent
99 Pacific Street, STE 455A
Monterey, CA 93940
(831) 647-4258
paul.michel@noaa.gov

CA Resources Agency/OPC
Cat Kuhlman, Deputy Secretary
OPC Executive Director
1416 Ninth Street Suite 1311
Sacramento, CA, 95814
(916) 653-8152
Cat.Kuhlman@resources.ca.gov

CA Department of Fish and Wildlife
Randy Lovell
State Aquaculture Coordinator
1416 Ninth Street
Sacramento, CA 95814
(916) 445-2008
randy.lovell@wildlife.ca.gov

CA Fish and Game Commission
Sonke Mastrup, Executive Director
1416 Ninth Street, Room 1320
Sacramento, CA 95814
(916) 653-4899
sonke.mastrup@fgc.ca.gov

California Coastal Commission
Alison Dettmer, Deputy Director
45 Fremont St., Suite 2000
San Francisco, CA 94105
(415) 904-5200
alison.dettmer@coastal.ca.gov

State Lands Commission
Nicholas Lavoie, Public Land Manager
100 Howe Avenue, Suite 100 South
Sacramento, CA 95825-8202
(916) 574-1900
nicholas.lavoie@slc.ca.gov

- B. The Parties agree that if there is a change regarding the information in this section, the Party making the change will notify the other Party in writing of such change. A change to this section will not require an amendment.

VIII. RESERVATION OF RIGHTS

The Parties each retain full authority and reserve all rights to take whatever actions deemed necessary to pursue, preserve, and protect any legal right, interest, or remedy. Nothing in this Agreement is intended nor shall be construed to waive or foreclose any such authority, right, interest, or remedy.

IX. DURATION OF AGREEMENT, AMENDMENTS OR TERMINATION

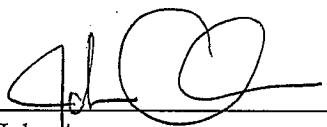
- A. This Agreement shall become effective on the date of the last signature of the Parties and will expire on May 1, 2020 unless terminated by mutual consent, one Party's written notice six months in advance, or completion of the terms of the Agreement.
- B. The Parties agree to review this Agreement every three years to determine whether it should be revised.
- C. This Agreement may be amended within its scope and prior to its expiration by the written mutual consent of the Parties, including extending the duration of the agreement for another five year period

X. OTHER PROVISIONS

Nothing in this Agreement is intended to conflict with current State or Federal laws, policies, regulations, or directives. If any of the terms and conditions of this Agreement is deemed inconsistent with existing Federal or State laws, policies, regulations, or directives, then those portions of this Agreement determined to be inconsistent, shall be invalid. The remaining terms and conditions of this Agreement that are not affected by the inconsistency shall remain in full force and effect. At the first opportunity for review of this Agreement, all necessary changes will be accomplished by either an amendment to this Agreement or by entering into a new agreement or some other arrangement.

APPROVALS

ACCEPTED AND APPROVED FOR THE
U.S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND
ATMOSPHERIC ADMINISTRATION
NATIONAL OCEAN SERVICE

BY: 
John Armor
Acting Director
Office of National Marine Sanctuaries

DATE: 12/17/2015

ACCEPTED AND APPROVED FOR THE
STATE OF CALIFORNIA NATURAL
RESOURCES AGENCY

BY: _____
John Laird
Secretary
California Natural Resources Agency


DATE: _____

ACCEPTED AND APPROVED FOR THE
CA DEPARTMENT OF FISH & WILDLIFE

BY: _____
Charlton Bonham
Director
CA Department of Fish and Wildlife

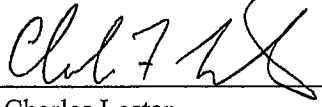
DATE: _____

ACCEPTED AND APPROVED FOR THE
CALIFORNIA FISH & GAME COMMISSION

BY: 
Sonke Mastrup
Executive Director
California Fish & Game Commission

DATE: 12/21/2015

ACCEPTED AND APPROVED FOR THE
CALIFORNIA COASTAL COMMISSION

BY: 
Charles Lester
Executive Director
California Coastal Commission

DATE: 1/29/2016

ACCEPTED AND APPROVED FOR THE
CA STATE LANDS COMMISSION

BY: _____
Jennifer Lucchesi
Executive Officer
California State Lands Commission

DATE: _____

ACCEPTED AND APPROVED FOR THE
CALIFORNIA OCEAN PROTECTION COUNCIL

BY: _____
Catherine Kuhlman
Executive Director
California Ocean Protection Council

DATE: _____

2015/2016 El Niño Summary, for February 2016

The 2015/2016 El Niño season has already resulted in significant incidents of flooding and erosion along much of the coast. As of February 5, 2016, Commission staff has issued 52 El Niño related permits and waivers. Most of the permit actions in the early months of September into November were for preparation efforts such as clearing flood channels, undertaking facilities maintenance and construction of temporary sand berms. Some of these were done through emergency permits and others through regular permits. By December and January the El Niño related permit requests were all for emergency responses, mostly for shoreline protection in response to damage from some of the large storms or combination of storms and high tide events. Most of the recent emergency permits have authorized the temporary placement of rock, concrete blocks or sand bags. Tables 1 and 2 show the temporal and spatial distribution of El Niño related permit actions. All Commission offices have responded to at least one El Niño related concern and have issued emergency permits to allow rapid attention to imminent threats.

Table 1. El Niño Permit Actions, by Month

	Emergency Permits	Waivers	Regular Permits	Total
September			1	1
October	3	1	7	11
November	6	1	1	8
December	6			6
January	10	1		11
February	15			15
TOTAL	40	3	9	52

Table 2. El Niño Permit Actions, by District

	Emergency Permits	Waivers	Regular Permits	Total
North Coast	2			2
North Central	5			5
Central	8			8
South Central	10	1	2	13
South Coast	8	1	7	16
San Diego	6	1		7
Energy	1			1
TOTAL	40	3	9	52

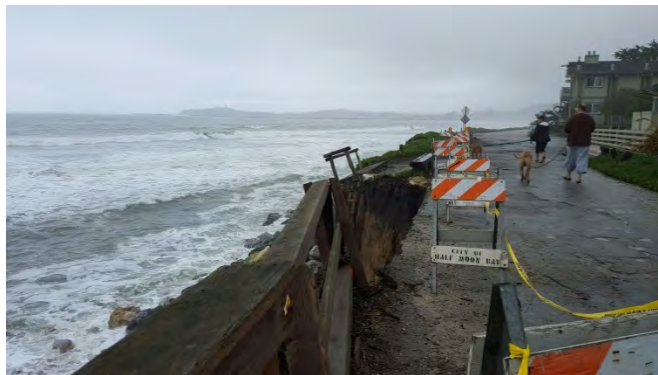
The community of Pacifica has experienced significant bluff retreat in conjunction with the high waves and elevated water levels. Pacifica experienced significant and rapid bluff erosion events in the 1982/83 El Niño, the 1997/98 El Niño and major storms in 2010. In anticipation of additional erosion this El Niño season, staff from the Commission and the City have been working together since late summer to prepare for, and more recently, respond quickly to rapid erosion. To date, three emergency permits

have been issued for actions in Pacifica and staff has been coordinating with the City concerning damaged public infrastructure along Beach Boulevard and the ongoing threat to three apartment buildings along Esplanade. The City has posted yellow or red tags on several properties to limit occupancy for life-safety reasons. Several areas of the City's coast remain vulnerable to further erosion or wave attack. The City has been keeping staff apprised of these areas and staff anticipates issuing additional emergency permits as the need arises.

El Niño conditions persist and significant storm activity can occur in the following months. All offices have been working closely with agencies, communities and individual property owners to anticipate possible El Niño threats and prepare to issue emergency permits as needed. Most offices have requests for emergency permits where possible permit action is pending additional input from the applicant or for the applicant to make decisions on the actions they want to recommend for consideration. Most emergency responses are considered temporary and will require either removal following the emergency conditions or review through a follow-up permit. Thus work on El Niño related permit actions will continue long after the storms have ended.

Many photographs, news clips and videos have helped to document the erosion and shoreline change. The attached photos are a small sampling of the significant changes and damage that have been experienced throughout the coast.

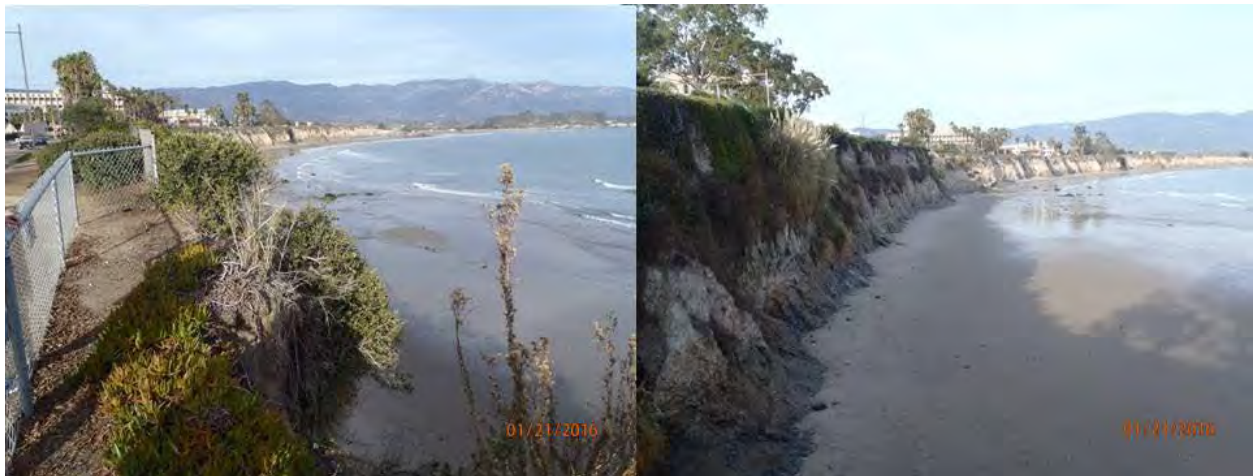
The photo on the right shows erosion of a section of the California Coastal Trail at Mirada Road, Half Moon Bay. An emergency permit was issued for temporary protection.



The three photos above capture erosion in Pacifica, where emergency permits have been issued to the City for rock placement. The photo on the left looks north at 1112 Palmetto, a home red-tagged by the City. The center photo provides another perspective, looking south at 1112 Palmetto. The photo on the right looks north at the red brick single family home at 1070 Palmetto, also red-tagged by the City. The patio and back deck have been undermined by erosion and sheared off.



The photo on the left looks south at damage on Beach Boulevard, near the Pier in Pacifica. Wave overtopping caused erosion and loss of back fill material behind the seawall, resulting in a localized wall collapse and deep scour hole inland of the wall. Photos provided by North Central Staff.



The photos above show Campus Drive, UCSB, where cliff erosion has narrowed the pedestrian walkway and may eventually threaten Campus Drive. The University has alerted Commission staff to the situation and is watching for further changes to the bluff, but has not yet requested an emergency permit. Photos provided by Technical Services.



The two photos above capture erosion and subsequent parking lot damage to the Capistrano County Beach in December, 2015. Photos provided by the County of Orange.



The photo above shows the beach berm constructed at Seal Beach to protect the inland development from flooding. The berm will be removed prior to the summer tourist season. Photo provided by Technical Services..



The photo above shows one of the locations along PCH where erosion is occurring. Emergency permits allowed rock protection for the winter months. Photo provided by San Diego Staff.

2015 – 2016 El Nino – Commission Actions, as of January 29, 2016

September 2015 (Note – Months indicate when actions were reported to the Commission)

South Coast Office

5-14-1345 – LA County Beaches & Harbors --Venice, Dockweiler and Hermosa Beaches - Construction of 9 seasonal sand berms

October 2015

Central Coast Office

G-3-15-0024 – Monterey County -- Manage the sandbar at Carmel River

South Central Office

4-14-1806 – City of Carpinteria -- Winter sand berm on Carpinteria City Beach

G-4-15-0028 – City of Santa Barbara -- -- Removal of sediment and vegetation from existing channel from Laguna Pump Station, E. Cabrillo Blvd.

South Coast District

5-15-1026 – LACFCD -- Trash, debris and non-native/invasive vegetation removal from the San Gabriel River.

5-15-1028 – LACFCD -- Trash, debris and vegetation removal from Rustic Creek.

5-15-1029 – LACFCD -- Minor structural repairs to the channel of Rustic Creek.

5-15-1046 – LACFCD -- Minor structural repairs of the riprap levees and outlet structures along San Gabriel River.

5-15-1064 – LACFCD -- Minor structural repairs throughout the riverside slopes of the channel reach of Ballona Creek.

5-15-1065 – LACFCD -- Trash, debris and non-native/invasive vegetation removal from Ballona Creek.

5-15-1577-W - LA County Beaches and Harbors -- Construction of a berm on the Dockweiler Beach, south of Ballona Creek.

G-5-15-0025 – D & E Bruno -- Foundation underpinning of an existing single-family residence.

November 2015

North Central Coast

G-2-15-0026 – San Mateo County – Culvert replacement at Sharp Park Culvert, Pacifica, CA,

South Central Coast

4-15-1346 – City of Santa Barbara Public Works Department – Removal of sediment and vegetation from the channel bottom at Laguna Pump Station (Follow-up to EP action)

G-4-15-0035 – Caltrans – New 75 linear foot rock revetment at Postmile 4.2, Ventura County.

4-15-1602-W – LA County Beaches and Harbors -- Sand berm at Surfrider Beach, Malibu Lagoon.

South Coast

G-5-15-0031 – City of Laguna Beach, CA, Orange County – Removal of dead and non-native vegetation.

G-5-15-0032 – City of Laguna Beach, CA, Orange County – Removal of dead and non-native vegetation.

G-5-15-0033 – LAFCO – Repairs to Storm Drain #5241 at Dockweiler State Beach in Playa Del Rey.

G-5-15-0030 – Santa Catalina Island Company -- Timber shoring to temporarily support the Bluewater Grill Restaurant, Avalon.

December 2015

Central Coast

G-3-15-0041-- Reinforced concrete cutoff wall along the toe of the existing Rockview Drive seawall, Pleasure Point, Santa Cruz.

G-3-15-0038 – RJ Walker Trust -- Demolition of distressed masonry stairs at Opal Cliffs, Santa Cruz.

South Central

G-4-15-0036 – Caltrans -- Slope repair and shoreline protection along of PCH, Santa Monica Mountains.

G-4-15-0037 – Caltrans -- Relocate/reconstruct the rock revetment approximately 25 feet landward, along PCH in Ventura County.

G-4-15-0039 – County of Santa Barbara – Winter sand berm on Goleta Beach, west of Goleta Pier.

San Diego

G-5-15-0022 – City of San Diego, water pipeline repair

January 2016

North Coast

G-1-15-0046 – Wildlands Conservancy – Remove sediment from Eel River Estuary Preserve, Humboldt County and place on historic berm.

Central Coast

G-3-15-0047 – San Luis Obispo County – Breaching sandbar at the mouth of San Luis Creek, Avila Beach.

G-3-15-0051 -- Monterey County Water Resources Agency -- Repair of the existing culvert tide gates at Moss Landing Road.

South Central

G-4-15-0045 – City of San Buena Ventura – Rock revetment along Promenade, Surfers Point

South Coast

G-5-15-0042 – LA County Flood Control – Replacement of damages section of White Point Storm Drain.

G-5-15-0043 – Capistrano Bay District -- Placement of either sand bags and/or water filled K-rails in front of up to 196 single family residences along Beach Road in the City of Dana Point.

G-5-15-0044 – Orange County – Rock revetment to protect parking lot at Capistrano County Beach Park.

San Diego

6-15-2099-W – Wigmore and Blondin – Winter sand berm at base of coastal bluffs in Encinitas.

G-6-15-0048 – Camino Del Mar, LLC – Rock revetment along the shore in Del Mar, San Diego County.

G-6-15-0049 – City of Carlsbad – Rock revetment seaward of Carlsbad Boulevard.

Energy Ocean Resources and Federal Consistency

9-16-0005-X – PG&E Humboldt Bay Power Plant -- Signage and Temporary Closure of Shoreline Trail in Eureka.

February 2016

North Coast

G-1-15-0003 – City of Eureka -- Rock slope protection along the Humboldt Bay shoreline near the mouth of the Elk River.

North Central

G-2-16-0007 – J. West – New rock revetment at 1112 Palmetto, Pacifica.

G-2-16-0014 – Fickers/Smith – New rock revetment at 1070 Palmetto, Pacifica.

G-2-16-0011 – Aimco Corp. – Augment existing revetment and new soil nail wall at 380 Esplanade, Pacifica.

G-2-16-0018 – City of Half Moon Bay – Rock revetment seaward of Mirada Road and CA Coastal Trail, Half Moon Bay.

Central

G-3-16-0017 – Candau Property, Pleasure Point – Concrete and shotcrete cave fill and new seawall.

G-3-16-00xx – Moss Landing Boat Yard – New rock revetment to protect boatyard facilities.

G-3-16-0015 – Monterey County -- Carmel River Sandbar Management (supersedes G-3-15-0024)

South Central

G-4-16-0012 – N. Williams – Replacement of short section of sewer lateral.

G-4-16-0004 – City of Santa Barbara – Breach of sand bar at Laguna Channel, Santa Barbara.

G-4-16-0020 – Mark Magidson Trust- Rock revetment at 30822 Broad Beach Road, Malibu

G-4-16-0013 – Trancas Property Owners Association – Repair rock revetment that crosses 26 properties on Broad Beach, Malibu.

San Diego

G-6-16-0008 - City of Encinitas - revetment between inlet to San Elijo Lagoon and Coast Highway

G-6-16-0009 - City of Encinitas - revetment to fill in gap in existing rip rap on seaward side of Coast Highway

G-6-16-0010 - City of Encinitas - sand berm and revetment in front of Moonlight Beach lifeguard tower

Open Space/Conservation Offers to Dedicate (to be accepted)*

Jurisdiction	CDP#	Applicant	Purpose	Location	Term Date
North Coast District					
Del Norte County	1-13-009	Border Coast Regional Airport Authority	open space		2/18/2036
			open space		2/26/2036
			open space		3/9/2036
			open space		3/10/2036
			open space		3/10/2036
			open space		3/12/2036
			open space		3/17/2036
			open space		3/18/2036
			open space		3/20/2036
			open space		4/1/2036
			open space		4/3/2036
			open space		4/3/2036
			open space		4/3/2036
			open space		4/3/2036
Humboldt County	A-141-78	Arras	open space	near Big Lagoon	no term date
	79-P-127	Leo Fredrickson	open space	Pine Hill	no term date
	79-P-053	Sullivan	open space	Pine Hill	no term date
	79-CC-201	Edwin Frederickson	open space	Pine Hill	no term date
Mendocino County	A-1-MEN-94-042	David Springer & Maryellen Sheppard	open space	Inglenook	3/26/2017
North Central Coast District					
Sonoma County	284-78	Loren Berry	open space	Russian River	no term date
Marin County	2-02-010	Whitt, Michael	open space	Inverness	6/10/2029
San Mateo County	A-2-SMC-99-066	David Lee and Cheryl Moser	habitat protection		4/10/2023
City of Half Moon Bay	A-1-HMB-99-022	Ailanto Properties	open space		5/23/2032
Central Coast District					
Santa Cruz County	A-3-SCO-98-101	Bailey and Steltenpohl	habitat protection		11/19/2023
City of Monterey	3-93-028-A1 & 3-93-028	Sy Bram	open space	Del Monte Beach	4/2/2017
City of Pacific Grove	3-96-102-A2	Douglas Johnson	conservation	Asilomar Dunes	8/5/2024
City of Morro Bay	A-4-MRB-91-044	Keyoto Morro Bay, Inc./Morro Bay Natalie, Inc.	open space fee title		10/8/2017
San Luis Obispo/Santa Barbara Counties	D980558D	Unocal	open space/public use	Guadalupe Oil Field	9/17/2025

Open Space/Conservation Offers to Dedicate (to be accepted)*

Jurisdiction	CDP#	Applicant	Purpose	Location	Term Date
South Central Coast District					
Santa Barbara County	A-4-STB-06-054	Chase, Christopher & Kathryn	open space	Isla Vista	8/16/2034
			open space	Isla Vista	8/16/2034
Los Angeles County, Santa Monica Mountains (all offers expected to be accepted by MRCA)	5-91-755	PREFERRED FINANCIAL	TDC		3/8/2017
			TDC		4/3/2017
			TDC		5/3/2017
			TDC		5/3/2017
	5-91-030	RING FINANCIAL/TAZON	TDC		5/13/2017
			TDC		6/4/2017
			TDC		6/17/2017
			TDC		6/28/2017
			TDC		7/9/2017
			TDC		7/15/2017
	5-81-011	JACK MARTIN, CO.	TDC		8/12/2017
	5-91-095	RAPHAEL, GABRIEL	TDC		8/12/2017
	5-89-025	Tiger Andrews	TDC		8/12/2017
			TDC		8/12/2017
	5-88-273	Kanan Properties	TDC		8/12/2017
	5-89-1227	Steve Cavalleri	TDC		8/12/2017
	5-89-216	Zumirez Malibu Partnership	TDC		8/12/2017
	5-90-685	Alvaro & Linda Pascotto	TDC		8/12/2017
	5-90-846	ASKEW/DIX	TDC		8/12/2017
	5-90-327	Javid Development	TDC		8/12/2017
	5-90-058	Richard Williams	TDC		8/12/2017
	5-89-1227	Steve Cavalleri	TDC		8/12/2017
	P-81-7701	Ben Johnson's Western Estates	TDC		8/12/2017
	5-91-030	RING FINANCIAL/TAZON	TDC		9/6/2017
	5-83-559	Burton Burton	open space		1/14/2018
	4-93-206	STEVENS, JOHN	TDC		3/13/2018
			TDC		5/30/2018
			TDC		5/30/2018
	4-94-195-A3	EIDE, BARBARA/HAROLD	TDC		10/1/2018
	4-95-173	MHAB TRUST	TDC		10/9/2018
			TDC		10/9/2018
			TDC		10/9/2018
	5-90-1136	RICCIARDONE, DOMINIC	TDC		10/17/2018
	4-97-113	EISENSTEIN, GRACE	TDC		10/28/2018
	4-96-167	SIMON T.	TDC		10/28/2018
	4-94-111	Peter & Nadia Laden	TDC		10/28/2018
	4-97-138	RICCIARDONE, DOMINIC	TDC		11/14/2018
	4-97-073	KEENAN, WILLIAM	TDC		12/22/2018
	4-93-206	STEVENS, JOHN	TDC		3/27/2019

Open Space/Conservation Offers to Dedicate (to be accepted)*

Jurisdiction	CDP#	Applicant	Purpose	Location	Term Date
Los Angeles County, Santa Monica Mountains (all offers expected to be accepted by MRCA)	4-92-121	Florerfina Sahafi/Nikkho Mehrangiz	TDC		8/13/2019
	4-98-281	CARIKER, JAMES	TDC		9/25/2019
			TDC		1/19/2020
	5-89-878	CARIKER & KINZER	TDC		1/19/2020
	5-91-755	PREFERRED FINANCIAL	TDC		3/24/2020
	5-91-436	BMIF/BSLF II Rancho Malibu Ltd	TDC		6/9/2020
			TDC		6/9/2020
			TDC		6/9/2020
	5-91-755	PREFERRED FINANCIAL	TDC		6/30/2020
	5-90-525	Fred Winograd	TDC		6/30/2020
	4-98-196	Omata	TDC		6/30/2020
	5-91-755	PREFERRED FINANCIAL	TDC		6/30/2020
	5-91-436	BMIF/BSLF II Rancho Malibu Ltd	TDC		7/1/2020
	5-91-755	PREFERRED FINANCIAL	TDC		7/27/2020
			TDC		7/27/2020
			TDC		7/27/2020
	5-91-436	BMIF/BSLF II Rancho Malibu Ltd	TDC		11/16/2020
	5-91-755	PREFERRED FINANCIAL	TDC		12/20/2020
	5-91-436	BMIF/BSLF II Rancho Malibu Ltd	TDC		2/16/2021
	4-99-263	Groisman, Guillermo	GSA		7/3/2021
	5-89-878	CARIKER & KINZER	TDC		7/12/2021
			TDC		7/12/2021
	5-91-436	BMIF/BSLF II Rancho Malibu Ltd	fee title		8/2/2021
	5-85-214-A3	GHOSN, MICHAEL	TDC		8/14/2021
			TDC		8/14/2021
			TDC		8/14/2021
			TDC		8/14/2021
			TDC		8/14/2021
			TDC		8/14/2021
			TDC		8/14/2021
			TDC		8/15/2021
	4-00-028	Layman Financial	TDC		10/12/2021
			TDC		10/12/2021
			TDC		10/30/2021
	5-91-436	BMIF/BSLF II Rancho Malibu Ltd	TDC		11/17/2021
			TDC		12/7/2021
			TDC		12/7/2021
			TDC		12/7/2021
			TDC		12/7/2021
			TDC		12/14/2021

Open Space/Conservation Offers to Dedicate (to be accepted)*

Jurisdiction	CDP#	Applicant	Purpose	Location	Term Date
Los Angeles County, Santa Monica Mountains (all offers expected to be accepted by MRCA)	4-00-097	Everett Rollins	TDC		2/8/2022
			TDC		2/8/2022
	5-91-436	BMIF/BSLF II Rancho Malibu Ltd	TDC		2/8/2022
	4-00-013	Gary & Jennine Isbell	TDC		7/17/2022
	5-88-273	Kanan Properties	TDC		8/14/2022
	4-01-046	PCH-Tyler Associates, Inc	TDC		9/18/2022
			TDC		9/18/2022
	4-01-080	Amber Asfour	TDC		2/21/2023
	4-00-195	Mr. & Mrs. John Simons & Philip Rundel	TDC		7/17/2023
	4-00-044	Blank Par-E LLC	TDC		7/23/2023
	4-00-115	Stewart, Raymond	TDC		10/25/2023
	4-00-234	Rochester Fund	TDC		2/11/2025
	4-06-001	Philip Embleton	TDC		6/18/2028
	4-04-121	Miran Enterprises	TDC		9/24/2028
	5-88-639	Barry Cappello	TDC		9/24/2028
	4-05-141	Jeffrey Biebuyck	TDC		9/24/2028
	4-06-034	Neil, Ed	TDC		7/21/2029
South Coast District					
City of Rancho Palos Verdes	A-5-RPV-02-324-01	Long Point	habitat protection		5/10/2028
	A-5-RPV-93-005	Palos Verdes Land Holdings Co. & Zuckerman Bldg Co	open space		12/18/2018
			conservation		9/18/2021
			fee title		10/17/2021
Orange County	5-05-020	Hearthside Homes/Signal Landmark	fee-open space	Bolsa Chica	12/5/2026
City of Newport Beach	5-95-219	City of Newport Beach/Fletcher Jones Motorcars	open space		1/19/2017
City of Irvine	5-93-253 & 5-93-253-A	Hoag Memorial Hospital	open space	San Joaquin Marsh	6/29/2016
San Diego Coast District					
San Diego County	6-93-155	County of San Diego Public Works	open space		9/6/2016
			open space		10/1/2018
			open space		10/1/2018
City of Carlsbad	6-95-125	Pacwest Group, Inc.	open space		1/16/2018
City of Encinitas	6-93-155	County of San Diego Public Works	open space		10/1/2018
City of Solana Beach	6-98-001	Rusell & Ruth Silz Skerritt	fee title		7/30/2019
City of San Diego	6-98-124	BRE Properties	open space		6/29/2020
	6-03-098	Pardee Homes	fee title-open space		7/24/2029
			fee title-open space	Lopez Canyon	5/7/2030
	A-6-NOC-12-005	Sorrento Pointe I and II L.P.	open space	Torrey Pines	4/9/2036