

CALIFORNIA COASTAL COMMISSION

455 Market Street, Suite 300
San Francisco, CA 94105
FAX (415) 904-5400



W6e

**Public Trust Guiding Principles & Action Plan (May 2023
Hearing)**

April 20, 2023

**CORRESPONDENCE ON PUBLIC COMMENT DRAFT
RECEIVED AFTER JUNE 2022 HEARING**

From: [Jennifer Blackman](#)
To: [Coastal Statewide Planning](#)
Cc: [Brownsey, Donne@Coastal](#); [Hart, Caryl@Coastal](#); [Aminzadeh, Sara@Coastal](#); [dayna.bocho@coastal.ca.gov](#); [Escalante, Linda@Coastal](#); [Groom, Carole@Coastal](#); [Harmon, Meagan@Coastal](#); ["Erik.Howell@coastal.ca.gov"](#); [Padilla, Stephen@Coastal](#); [Rice, Katie@Coastal](#); [effie.turnball-sanders@coastal.ca.gov](#); [Uranga, Roberto@Coastal](#); [Wilson, Mike@Coastal](#); [Rodoni, Dennis](#); [Lai, Thomas](#); [Liebster, Jack \(JLiebster@marincounty.org\)](#)
Subject: ACMV Comment letter - Public Trust Guiding Principles & Action Plan
Date: Saturday, July 23, 2022 6:44:01 PM
Attachments: [ACMV Comment Letter - CCC Public Trust Guidance.pdf](#)

To the California Coastal Commission:

Attached please find a comment letter from the Alliance of Coastal Marin Villages re: the June 2022 Draft Public Trust Guiding Principles & Action Plan.

Thank you very much for the opportunity to submit these comments.

Best regards,

Jennifer Blackman
Chair, Alliance of Coastal Marin Villages

Alliance of Coastal Marin Villages¹

*Bolinas, Dillon Beach, Inverness, Inverness Park, Marshall, Muir Beach, Olema,
Point Reyes Station, Stinson Beach, Tomales*

July 23, 2022

Via email: statewideplanning@coastal.ca.gov

California Coastal Commission
455 Market Street
Suite 300
San Francisco, CA 94105

Re: June 2022 Draft Public Trust Guiding Principles & Action Plan.

Dear California Coastal Commissioners:

The Alliance of Coastal Marin Villages ("ACMV") is composed of representatives from the ten villages in the Coastal Zone of Marin County and our mission is to advocate with regard to issues of common concern to our communities. We are writing to comment on the June 2022 Draft Public Trust Guiding Principles and Action Plan ("Draft Public Trust Guidance"), which the California Coastal Commission ("CCC" or "Commission") proposes to adopt as "interpretive guidance" pursuant to Section 30620(a)(3) of the Coastal Act. The ACMV has both substantive and procedural comments.

First, our substantive comments: throughout the Draft Public Trust Guidance, the authors refer to a variety of "uses" and "values", the protection of which they contend is consistent with implementation of the public trust doctrine, such as public access to the coast, environmental protection, and coastal dependent uses such as maritime trade and commerce, and tourism related uses (boating, fishing) essential for coastal economies. The authors also identify certain "coastal resources" at risk from sea level rise, such as public recreational areas and coastal habitats. While we agree that these and other uses, values and resources cited in the Draft Public Trust Guidance are appropriately identified, **the authors have failed to include or recognize a critical coastal resource recognized and protected under the Coastal Act (and also at risk from sea level rise): our coastal communities.**

When the Commission adopted its 2021-2025 Strategic Plan on November 6, 2020, consistent with the Coastal Act, it explicitly acknowledged in its Vision Statement the core value of "the coastal communities and neighborhoods that attract so many visitors", noting they must "retain their unique character, social and economic viability." The Commission rightly recognizes that coastal communities by their very nature are coastal resources experienced by millions of visitors to the California coast; the public enjoys driving out to our communities on the world-famous scenic Highway 1, recreating on the beaches, docks, piers and seawalls that front portions of our coastal villages, renting beach homes or staying in small motels near the shore, participating in surfing or kayak lessons, enjoying locally-caught fish and other agricultural products harvested/grown by coastal residents and

¹ The Alliance of Coastal Marin Villages represents the villages located in unincorporated West Marin County that are in the Coastal Zone: Bolinas, Dillon Beach, Inverness, Inverness Park, Marshall, Muir Beach, Olema, Point Reyes Station, Stinson Beach and Tomales. The ACMV meets regularly to discuss and address issues of common concern and on a quarterly basis with Marin County Supervisor Dennis Rodoni. The ACMV also endeavors to closely follow Marin County and California Coastal Commission ("CCC") actions that have the potential to impact our communities, including but not limited to updates to the Marin County Local Coastal Program ("LCP"), the governing land use document for our communities.

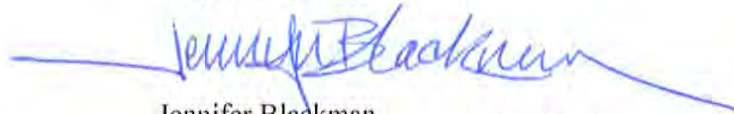
served in our locally-owned restaurants, and much more. The public's coastal experience is not limited to accessing a specific stretch of beach that may be covered from time to time by high tides, now or more fully in the future as a result of sea level rise and, importantly, the experience of accessing specific stretches of beach will remain available to the public notwithstanding sea level rise on the hundreds of miles of beach front that are not adjacent to any coastal communities or other built environments. The coastal experience is multifaceted and we believe the general public is overwhelming supportive of balancing the protection of resources under the Coastal Act rather than "stacking the deck" against one coastal resource in favor of others by implementing the public trust doctrine in an absolutist manner that could lead to the abandonment of our communities (as a reasonable reading of some sections of the Draft Public Trust Guidance suggest, given that coastal local governments and residents may not be allowed to maintain their properties if the Commission should make the sort of public trust "findings" described in the guidance document when considering coastal development permits).

We respectfully submit that it is not an exercise of "Coastal Act consistency" to enact guidelines encouraging the Commission to apply a rigid, inflexible interpretation of the public trust doctrine that fails to fully and fairly consider the objectives of the Coastal Act. *We therefore urge the Commission to revise the Draft Public Trust Guidance to expressly require the Commission to consider all of the objectives of the Coastal Act, including but not limited to the protection of coastal resources as reiterated in the 2021-25 Strategic Plan, when enforcing the public trust doctrine.* Yes, it may be necessary to recognize some conflicting uses of public trust resources in order to preserve coastal communities and other protected coastal resources for as long as reasonably possible – that sort of balancing is precisely what the Coastal Act envisioned when it was enacted.

Finally, our procedural comment: in prior comment letters the ACMV has questioned the propriety of the Commission enacting guidelines pursuant to Section 30620(a)(3) of the Coastal Act and claiming such guidelines are not regulatory, but then subsequently applying the guidelines in a regulatory manner. Indeed, the Draft Public Trust Guidance is replete with references to prior guidelines the Commission has enacted, all of which have been applied to expand its authority over development applications and Local Coastal Program reviews, among other things. We respectfully urge the Commission to adhere to the full text of Section 30620(a)(3), which does authorize the issuance of "interpretive guidance" but includes the following qualifying statement: "However, *the guidelines shall not supersede, enlarge or diminish the powers or authority of the commission or any other public agency.*"

Thank you for this opportunity to comment on the June 2022 Draft Public Trust Guidance.

Very truly yours,



Jennifer Blackman
Chair, Alliance of Coastal Marin Villages

cc: Donne Brownsey, Chair, California Coastal Commission, Donne.Brownsey@coastal.ca.gov
Dr. Caryl Hart, Vice Chair, California Coastal Commission, Caryl.Hart@coastal.ca.gov
Sara Aminzadeh, Commissioner, California Coastal Commission, Sara.Aminzadeh@coastal.ca.gov
Dayna Boecho, Commissioner, California Coastal Commission, Dayna.Boecho@coastal.ca.gov
Linda Escalante, Commissioner, California Coastal Commission, Linda.Escalante@coastal.ca.gov

Letter to the California Coastal Commission

July 23, 2022

Page Three

Carole Groom, Commissioner, California Coastal Commission, Carole.Groom@coastal.ca.gov
Meagan Harmon, Commissioner, California Coastal Commission, Meagan.Harmon@coastal.ca.gov
Erik Howell, Commissioner, California Coastal Commission, Erik.Howell@coastal.ca.gov
Steve Padilla, Chair, California Coastal Commission, Stephen.Padilla@coastal.ca.gov
Katie Rice, Commissioner, California Coastal Commission, Katie.Rice@coastal.ca.gov
Effie Turnbull-Sanders, Commissioner, California Coastal Commission, Effie.Turnball-Sanders@coastal.ca.gov
Roberto Uranga, Commissioner, California Coastal Commission, Roberto.Uranga@coastal.ca.gov
Mike Wilson, Commissioner, California Coastal Commission, Mike.Wilson@coastal.ca.gov
Dennis Rodoni, Marin County Supervisor, drodoni@marincounty.org
Tom Lai, Director, Marin County Community Development Agency, tlai@marincounty.org
Jack Liebster, Planning Manager, Marin County Community Development Agency,
jliebster@marincounty.org

From: [Steven Wallauch](#)
To: [Coastal Statewide Planning](#)
Subject: CAPA Comments on Draft Public Trust Guiding Principles
Date: Thursday, July 21, 2022 3:11:05 PM
Attachments: [image001.png](#)
[CAPA Comments on Draft Public Trust Guiding Principals and Action Plan.pdf](#)

Please find attached, comments on behalf of the California Association of Port Authorities (CAPA).

If you have any questions, or need additional information, please let me know.

Thanks,
Steve

Steven T Wallauch, Legislative Advocate
Sacramento + San Francisco | 916.443.8891 cell 916.402.7958

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CALIFORNIA ASSOCIATION OF PORT AUTHORITIES
CaliforniaPorts.org

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Danny Wan
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Wei Chi
Treasurer
Martha Miller
Executive Director

July 15, 2022

California Coastal Commission
John Ainsworth, Executive Director
45 Fremont Street, Suite 2000
San Francisco, CA 94105

RE: Draft Public Trust Guiding Principles & Action Plan – COMMENTS

Dear Coastal Commission,

On behalf of the California Associations of Port Authorities (CAPA), we are submitting these comments to the California Coastal Commission's (CCC) consideration as part of the development of the Draft Public Trust Guiding Principles & Action Plan on sea level rise. Specifically, CAPA urges the Commission to make clarifications that expressly allow for Ports to install necessary shoreline protection structures even if those structures coincidentally protect private property.

CAPA is a statewide association representing the 11 port authorities in California. CAPA members collective are responsible for 40% of all container imports and 30% of all exports in the U.S. Our members are also on the forefront of developing sustainable ports through the development and commercialization of shore-power and zero emission trucks and port handling equipment.

During the June 9, 2022 CCC meeting, staff presented its Draft Public Trust Guiding Principles & Action Plan (Plan) on sea level rise planning. One of the principles listed in the Plan to guide the CCC in its sea level rise adaptation work addresses "shoreline protective devices adversely impacting public trust resources," and aims to prevent the development of shoreline protective devices that may adversely affect public access and natural habitats.

CAPA acknowledge that the CCC considers Ports to be statewide critical infrastructure. Additionally, the CCC acknowledges the following on page 14 of the Plan:

"In some cases, protective devices serve public uses that are consistent with the Coastal Act and the public trust, such as bulkheads in ports and harbors that increase opportunities for fishing, boating, water-dependent commerce, and public access. . . . Shoreline armoring built to protect private property that does not serve public trust or statewide purposes, however, will not generally have corresponding public benefits, and a large-scale loss of

coastal habitat and public recreational spaces to shield private property would not adequately protect public trust resources and uses.”

CAPA notes that private property does exist within Ports, and that shoreline armoring built around the Port to protect public uses may also coincidentally protect private property.

CAPA therefore request that the CCC add specific clarifying language to the Plan to expressly allow for Ports to install necessary shoreline protection structures (e.g. breakwaters), in order to protect and maintain Port terminals, and serve their water-dependent, public trust purposes, and that such shoreline protection devices are intended to protect public trust resources and uses, even though they may also coincidentally protect private property within a Port’s geographic jurisdiction.

On behalf of CAPA we look forward to working with the Commission on the development of this plan to ensure the protection of public trust resources as we adjust to sea level rise.

Sincerely,

A handwritten signature in dark ink, appearing to read "Martha Miller". The signature is fluid and cursive, with a large initial "M" and a stylized "M" for the last name.

Martha Miller
Executive Director
California Association of Port Authorities

cc: Jennifer Lucchesi, Executive Officer, State Lands Commission

From: [Lucy Lefkowitz](#)
To: [Coastal Statewide Planning](#)
Cc: [Hillary Hauser](#); [Hillary Hauser](#)
Subject: CCC Draft Public Trust Guiding Principles & Action Plan - Heal the Ocean Comment Letter
Date: Thursday, July 14, 2022 12:53:05 PM
Attachments: [CCC_DraftPubTrustGuidingPrinciplesActionPlan_2022.pdf](#)

Dear California Coastal Commission,

Please accept the attached PDF as Heal the Ocean's public comment on the Draft Public Trust Guiding Principles & Action Plan (June 2022).

Thank you.

Sincerely,
Lucy



1430 Chapala Street, Santa Barbara, CA 93101;
PO Box 90106, Santa Barbara, CA 93190; Telephone (805) 965-7570; fax (805) 962-0651
www.healtheocean.org

July 14, 2022

California Coastal Commission
455 Market Street, Suite 300
San Francisco, CA 94105
Attn: Jack Ainsworth, Executive Director, and Honorable Commissioners
via email: statewideplanning@coastal.ca.gov

RE: Draft Public Trust Guiding Principles and Action Plan (June 2022)

Dear Director Ainsworth and Honorable Commissioners,

On behalf of Heal the Ocean (HTO), I submit the following comments on the Draft Public Trust Guiding Principles and Action Plan (June 2022) (Guiding Principles and Action Plan). **We invite the California Coastal Commission (Commission) to consider our three recommendations.**

HTO is a non-profit organization founded in 1998. We advocate for a cleaner ocean – and all watersheds feeding the ocean – through engagement with policymakers, scientists, industry, and the public. HTO is committed to forming diverse and genuine partnerships with others to accomplish our mission to ensure a clean ocean for all.

Discussion

In reviewing the Guiding Principles and Action Plan, HTO identifies three recommendations for the Commission to consider when drafting the final document. HTO commends the Commission on taking the initiative to develop the ten proposed Guiding Principles (principles). The principles provide an effective foundation for the Commission's future efforts to address sea level rise. The proposed next steps and research and policy questions provide an appropriate roadmap for the Commission to begin acting on sea level rise. However, HTO invites the Commission to re-draft suggestive language (i.e., "may") with language that will ensure definitive action.

Recommendation 1: [Guiding Principle Four] The plan to include public trust topics within all decision-making by the Commission is necessary to ensure it fulfills its affirmative duty to uphold the public trust doctrine. However, the Commission should seek to include stronger language to the present language of "will consider the impacts of sea level rise over the full lifetime of each proposed project and plan..." HTO recommends the Commission include language such as, "will address" or "will mitigate"



to ensure sea level rise is not only considered but that an appropriate response is implemented.

Recommendation 2: [Guiding Principle Five] The Commission should seek to remove suggestive language, i.e., “may limit uses and development.” The present language of “may” has no teeth and will not be effective to ensuring the Commission carries out its’ duty under the public trust doctrine and California Coastal Act to respond appropriately to sea level rise concerns. HTO recommends the Commission use language such as, “should” or perhaps even, “will limit.” HTO does commend the Commission on including a requirement that the permit applicants themselves must assess sea level rise concerns.

Recommendation 3: [Guiding Principle 7] The language in principle 7 is unfortunately weak. The Commission seeks to recognize the inequities environmental justice communities will face due to sea level rise. However, the Commission responds by only seeking to “continue working toward appropriately balancing” public and private interests. This vagueness is unacceptable. HTO recommends the Commission use stronger language that will result in definitive action to address environmental justice concerns. The Commission should include language that describes the fact that environmental justice communities are often located in perilous coastal-flooding zones in commercial or industrial areas and will be on the frontlines of groundwater rise contamination as the ocean rises. Heal the Ocean urges the Commission to at least describe the situation and provide an outline for a plan of action to address this rising concern.

Finally, HTO thanks the Commission for including Principle 10 which encourages the use of nature-based adaptation strategies to help support public trust uses and values. This is Significant. HTO appreciates the Commission realizing the harm of human-made preventative/adaptative devices and methods to push back an incoming ocean. The Commission might want to adopt as a guiding philosophy the words of Jane Goodall, who emphasized the importance of creating a world where we can live in harmony with nature

Conclusion

We thank the Commission for considering our three recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lucy Lefkowitz', is located below the word 'Sincerely,'. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Lucy Lefkowitz
Policy Director

From: [Norton Sloan](#)
To: [Coastal Statewide Planning](#)
Cc: [Wayne Brechtel](#)
Subject: CCC Draft Report TH6e-6-22
Date: Saturday, July 23, 2022 3:32:23 PM

Dear California Coastal Commission,

This email in regards to a recent CCC Notice and Draft Report TH6e-6-22 regarding sea level rise and how it affects property boundaries and property rights.

We have extreme concerns regarding this proposed action plan and the impact on our property. Specifically we would draw your attention to the following:

The rate of sea level rise has been exaggerated for political ends

Private coastal development did not cause of the loss of the beach area. The loss of beach area is primarily caused by sediment supplies being blocked by major government projects.

The policy proposals do not respect private property rights. Protection for property owners need to be added.

The policy proposals if adopted would eventually result in the total elimination of private property along the coast.

Coastal property owners should not be expected to give up there land and homiest make up for sand losses caused most by government projects (dams jetties etc)

A devise to protect private property from erosion can not be equated with an encroachment onto public trust lands. Property owners have no legal or moral obligation to sacrifice their property to the public without just compensation.

The process to apply for a coastal development permit is already to time consuming, expensive and uncertain. A requirement for permit applicants to predict sand movements over the life of the proposed development would not be beneficial and would further complicate an already bloated process.

The coastal commission should apply objective, establish, globally accepted standards for determine mean tides. It should not try to invent a new methodology biased against property owners.

In closing we believe this report relies on unproven suppositions, misapplies California law and proposes policies that are unworkable and unfairly and unconstitutionally

Burdens coastal property owners and therefore should be rejected in its entirety.

Sincerely

Norton Sloan

Gretchen Sloan

201 Pacific ave

Sloan Beach, CA 92075

Norton Sloan

norton.sloan@gmail.com

2017415292

From: [SUSIE WASSON](#)
To: [Coastal Statewide Planning](#)
Subject: CCC Draft Th6e
Date: Saturday, July 23, 2022 7:30:08 PM

Dear California Coastal Commissioners,

This emails is in response to your recent CCC Notice and Draft report Th6e regarding sea level rise and your intended plans for property boundaries and rights. I believe your draft oversteps and is unconstitutional (no private property shall be taken for public use, 5th amendment). Our local Del Mar authorities know the area better and are more capable at implementing what needs to be done for the town.

Our property is located several homes inland from the beachfront homes and is protected by the current homes, installed seawalls at every block, and is at a different elevation.

This draft should be rejected in it's entirety.

Thank you
Susie Wasson
Del Mar homeowner

From: [Bob Ashton](#)
To: [Coastal Statewide Planning](#)
Cc: [Robert Ashton](#)
Subject: CCC Notice and DRAFT Report Th6e-6-22,
Date: Saturday, July 23, 2022 9:15:03 PM

July 24, 2022

Dear California Coastal Commission,

This email is in regards to a recent CCC Notice and DRAFT Report Th6e-6-22, regarding sea level rise and how it affects property boundaries and property rights. We have extreme concerns regarding this proposed action plan and the impact on our property. Specifically I would draw your attention to the following:

- *The rate of sea-level rise has been exaggerated for political ends.*
- *Private coastal development did not cause of the loss of beach area. The loss of beach area is primarily caused by sediment supplies being blocked by major government projects such as dams and jetties. Sea-level rise is a only minor factor.*
- *The California Coastal Commission's Draft Public Trust Guiding Principles & Action Plan outlines a one-sided agenda of forced managed retreat.*
- *The policy proposals do not respect private property rights. Protections for property owners need to be added.*
- *The policy proposals, if adopted, would eventually result in the total elimination of private property along the coast.*
- *Coastal property owners should not be expected to give up their land and homes to make up for sand losses caused mostly by government projects (dams, jetties, etc.).*
- *A device to protect private property from erosion cannot be equated with an encroachment onto public trust lands. Property owners have no legal or moral obligation to sacrifice their property to the public without just compensation.*
- *The process to apply for a coastal development permit is already too time consuming, expensive, and uncertain. A requirement for permit applicants to predict sand movement over the life of the proposed development would not be beneficial and would further complicate an already bloated process.*
- *The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. It should not try to invent a new methodology biased against property owners.*

In reviewing the California Coastal Act, section 30235 states, "provides for revetments, breakwaters, groins...shall be permitted when required to protect existing structures". Time and time again, the coastal commission steps in to delay, deny or otherwise stall repair of existing protective structures. It is time for the coastal commission to return to their roots in a reasonable approach to supporting not hindering cities in their authority to review/oversee and approve repairs to existing structures that protect and provide resiliency on our California shoreline.

In closing I believe this report relies on unproven suppositions, misapplies California law, and proposes policies that are unworkable and unfairly and unconstitutionally burdens coastal property owners and therefore, should be rejected in its entirety.

Sincerely,

Bob Ashton
(808) 429-1770
rcakalaheo@gmail.com

From: [Cindy](#)
To: [Coastal Statewide Planning](#)
Subject: CCC Notice and DRAFT Report Th6e-6-22
Date: Tuesday, July 19, 2022 3:09:23 PM

I am commenting on the CCC Notice and DRAFT Report Th6e-6- regarding sea level rise and property boundaries and rights. I am extremely concerned about the proposed action and the impact on property rights. Specifically,

- *While the entire issue is politically motivated, the **rate of sea-level rise has been exaggerated for political ends.***
- *The loss of beach area is primarily caused by sediment supplies being blocked by major government projects such as dams and jetties and **Camp Pendleton Harbor** in the case of Oceanside. Private coastal development did not cause of the loss of beach area. Our property never had a problem until after the Harbor was built and the dredging was halted. Sea-level rise is a only minor factor.*
- *The California Coastal Commission's Draft Public Trust Guiding Principles & Action Plan outlines a **one-sided agenda** of forced managed retreat.*
- *The policy proposals do not respect private property rights. Protections for property owners need to be added.*
- *The policy proposals, if adopted, would eventually result in the total elimination of private property along the coast.*
- ***Coastal property owners should not be expected to give up their land and homes to make up for sand losses caused mostly by government projects (dams, jetties, harbors, etc.).***
- *A device to protect private property from erosion cannot be equated with an encroachment onto public trust lands. **Property owners have no legal or moral obligation to sacrifice their property to the public without just compensation.***
- *The process to apply for a coastal development permit is already too time consuming, expensive, and uncertain. **I have been embroiled in trying to obtain a permit since 2017 and have encountered manifestly unreasonable requests for extraordinarily costly reports.** A requirement for permit applicants to predict sand movement over the life of the proposed development would not be beneficial and would further complicate an already bloated process.*
- *The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. **It should not try to invent a new methodology biased against property owners.***

The report relies on wildly overstated projections and unfairly and unconstitutionally burdens coastal property owners and should be completely rejected or completely reworked.

Sincerely,
Cindy Dillion
1301 S Pacific

Oceanside

Sent from my iPhone

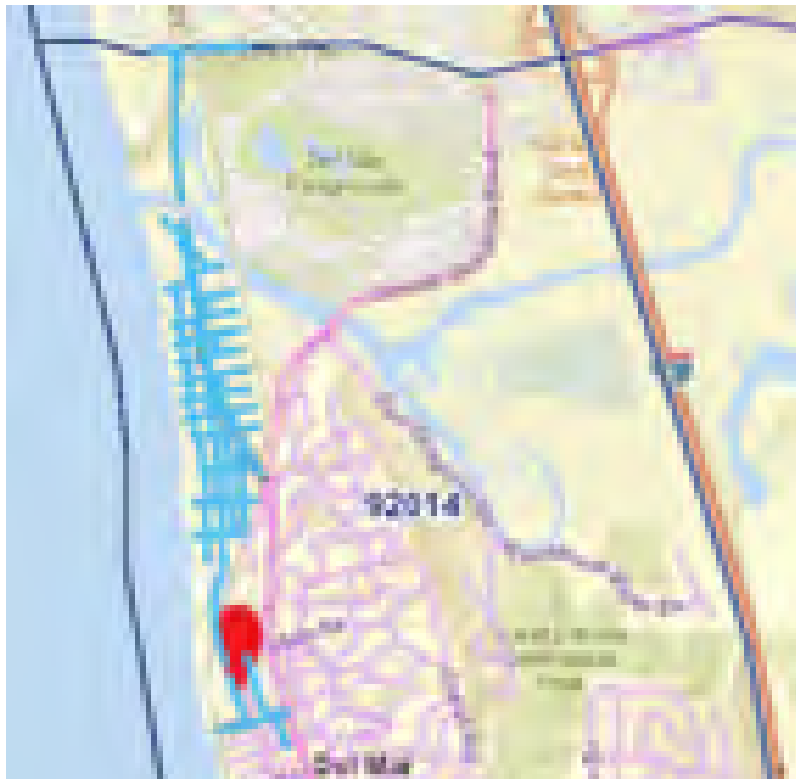
From: [barbiebsj](#)
To: [Coastal Statewide Planning](#)
Subject: CCC Notice and Draft Report Th6e re sea level rise
Date: Saturday, July 23, 2022 6:39:40 PM
Attachments: [image001.png](#)
[image002.png](#)

Dear California Coastal Commissioners,

This email is in response to your recent CCC Notice and DRAFT Report Th6e regarding sea level rise and your policy planning regarding property boundaries and property rights. I think your draft document is too far-reaching; I especially have very serious concerns regarding the proposed action plan and its impact on property rights, as I see no acknowledgment that one size does not fit all [and that local leaders know best how to manage their communities](#). Specifically I draw your attention to the following:

1 – The seawalls that are allowed in Del Mar’s Coastal Commission-approved LCP protect more than just the front line of houses; the seawalls protect the entire Beach Colony neighborhood which as per the USPS EDDM website contains 628 residential properties (over 30% of the 2,033 residences in the 1.8 sq mile city of Del Mar) and 21 business properties. Postal Route C011 data and map are below:

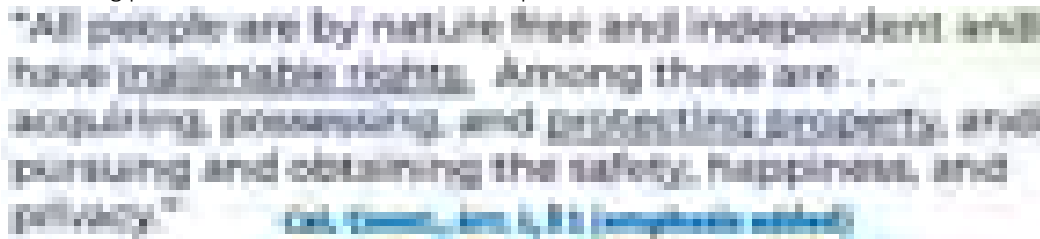
<input type="checkbox"/>	Route 	Residential 	Business 	Total
<input checked="" type="checkbox"/>	92014-C011	628	21	649



Del Mar's seawalls are also different in that they protect public access to the beach at the end of each east/west street from 15th St north to 29th St, as well as protecting public infrastructure such as the railroad tracks which are a major state-wide transportation and shipping corridor. Del Mar's seawalls provide many important public benefits which is why they were approved in the first place. Removal would be a huge mistake [for which there is no mitigation](#).

2 – The Shoreline Preservation Area (SPA) boundary marks where seawalls can and cannot go without need for Coastal Commission approval. The SPA boundary is included in the LCP.

3 – Existing private structures are allowed to be protected in the California State Constitution:


"All people are by nature free and independent and have inalienable rights. Among these are . . . acquiring, possessing, and protecting property, and pursuing and obtaining the safety, happiness, and privacy."
[Cal. Const., art. I, § 19 \(emphasis added\)](#)

and the Federal Constitution:


"No person shall ever be . . . deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."
[U.S. Const., 5th Am. \(emphasis added\)](#)

and cannot be taken without just compensation. I see nothing in your policy proposal that addresses just compensation; nor do I see acknowledgment of constitutionally-granted property rights.

Prohibiting the protection of private property and extrapolating a new mean high tide line both appear to be in conflict with constitutional rights.

I have many other concerns not addressed here. Overall I find your draft policy relies on unproven suppositions, misapplies State and Federal law, ignores property rights law, and proposes policies that are unworkable especially in Del Mar, doesn't allow for exceptions, assumes all California coastal property is the same, and unfairly and unconstitutionally burdens coastal property owners, and therefore **SHOULD BE REJECTED IN ITS ENTIRETY.**

Thank you for your time, attention, and hard work on this most important matter. **It needs more work please.**

Sincerely,
Barbara Jaffe
Del Mar Beach Colony resident
Sent from my iPad

From: [Matt Caulfield](#)
To: [Coastal Statewide Planning](#)
Subject: CCC Notice and Draft Report Th6e-6-22
Date: Friday, July 22, 2022 12:06:49 PM

July 22, 2022

Dear California Coastal Commission,

I object to the recent CCC Notice and DRAFT Report (Th6e-6-22) regarding sea level rise and how it affects property boundaries and property rights. The document contains serious methodological errors and presents several assumptions as fact. These errors and assumptions strip the DRAFT Report of any merit. The report's implications are harmful to future generations of beachgoers, particularly the group of Californians it purports to serve.

Many of the most egregious errors are contained in Exhibit 1, Public Trust Guidance and Action Plan. The Action Plan assumes the worst-case rate of sea level rise over a non-prescribed or indefinite length of time, whereas the scientific consensus is that the rate of seal level rise over the long time is impossible to predict. Even if the Action Plan's estimate were accurate, its do-nothing response robs beach access from generations in the intervening years. To presume that the only effective adaptative measures are passive, such as managed retreat ignores thousands of years of human experience in adapting to sea level rise. Examples abound right here in California, including Santa Monica, Newport Beach, Carlsbad and even Camp Pendleton. As one scientist put it, "the widest beaches in California were constructed by [humans]." [insert footnote reference]

The Action Plan assumes that the loss of beach sand is caused by private development. No distinction is made between urban and non-urban shorelines. Nor is there recognition of the fact that the loss of beach sand is beach specific. The "one size fits all" approach ignores numerous scientific studies that show where and how major government projects such as dams and jetties caused loss of beach sand. For example, the construction of the Camp Pendleton harbor caused loss of beach sand in the Oceanside Littoral Cell, as is affirmed legislatively in the Water Resources Development Act of 2010, and reaffirmed by federal agencies on numerous occasions since then.

The Action Plan's underlying concept for responding to sea level rise is "managed retreat." This has become a meaningless slogan that is individually interpreted and conceptualized as though it were a plan of action. A plan of action would analyze and respond to events within a specified time frame and would include cost benefit analysis of alternative courses of action. The concept of managed retreat has none of these elements. Until a plan is developed that includes constitutional safeguards for the "taking" of private property and a clear line of statutory legitimacy, managed retreat will be a source of hostile litigation and a controversial obstacle rather than a reasoned approach to coping with the California coast.

The Action Plan weakens the goal of providing "maximum access and recreational opportunities for all, and to protect, encourage, and provide lower-cost visitor and recreational opportunities." The reason is simple: it results in fewer beaches. The Action Plan's absolute prohibition on shoreline protection devices, regardless of individual beach conditions or previous effectiveness, will diminish useable acreage of public beaches. Put another way, there will be fewer opportunities to protect, encourage and provide maximum access for all. Nature-based adaptation strategies, in appropriate circumstances, may be a preferred alternative to hard shoreline armoring

but emphasis should be on “appropriate circumstances.” Nature-based adaptation bases strategies have not been proven over the long term. Shoreline protection devices have successfully been utilized as an effective way to protect and reinforce public beaches.

A case in point are the City of Oceanside’s beaches. It’s public transportation system which includes a transit center with rail and surface transportation and public parking, both walking distance to the beach makes its beaches more accessible to the underserved population than any location in North County. Over the past twelve years due to the concept of managed retreat over half of Oceanside’s beaches are no longer accessible to the public. Plans to ameliorate the situation are “killed in the cradle” by the perceived intransigence of the Coastal Commission.

The Action Plan lists at least ten additional responsibilities for the Coastal Commission without an analysis of the costs in terms of personnel and expenses as well as the effect in the current staff’s workload. Long before publication of the Action Report, Director Ainsworth indicted publicly that the staff is overworked. The length of time it takes to approve permits and the assumption by the Coastal Commission of former city responsibilities in the LCP recertification process indicates the staff functions go well beyond what was envisaged in the Coastal Act.

In conclusion, I recommend the Draft Report be rejected in its entirety. Furthermore, I recommend the state conduct a management audit of the California Coastal Commission to ensure its functions are in accord with the intent of the Coastal Act, subsequent legislation, and case law.

Sincerely,

Matthew P. Caulfield

M. P. Caulfield Major General US Marine Corps (Ret) PH:760 613 9887

From: [THOR STENSRUD](#)
To: [Coastal Statewide Planning](#)
Cc: [Susie + Terry Pagel](#); [Susan Parker](#); [Steve Parker](#); [Tige Karl](#); [Carolyn Wilt](#); [Neil Brandom](#)
Subject: CCC Th6e-6-22
Date: Sunday, July 24, 2022 5:16:48 PM

Dear California Coastal Commission,

This email is in regards to a recent CCC Notice and DRAFT Report Th6e-6-22, regarding sea level rise and how it affects property boundaries and property rights. We have extreme concerns regarding this proposed action plan and the impact on our property. Specifically we would draw your attention to the following:

- *The rate of sea-level rise has been exaggerated for political ends.*
- *Private coastal development did not cause of the loss of beach area. The loss of beach area is primarily caused by sediment supplies being blocked by major government projects such as dams and jetties. Sea-level rise is a only minor factor.*
- *The California Coastal Commission's Draft Public Trust Guiding Principles & Action Plan outlines a one-sided agenda of forced managed retreat.*
- *The policy proposals do not respect private property rights. Protections for property owners need to be added.*
- *The policy proposals, if adopted, would eventually result in the total elimination of private property along the coast.*
- *Coastal property owners should not be expected to give up their land and home to make up for sand losses caused almost exclusively by government projects (dams, jetties, etc.).*
(Please note the actual wording and intent of the CA Coastal Act's goals (more than one goal) are to maximize public access while maintaining the "constitutionally protected rights of private property owners." If private property is affected by CCC action, then CA shall provide "payment of just compensation.")
- *A device to protect private property from erosion cannot be equated with an encroachment onto public trust lands. Property owners have no legal or moral obligation to sacrifice their property to the public without just compensation.*
- *The process to apply for a coastal development permit is already too time consuming, expensive, and uncertain. A requirement for permit applicants to predict sand movement over the life of the proposed development would not be beneficial and would further complicate an already bloated process.*
- *The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. It should not try to invent a new methodology biased against property owners.>*

We believe this report relies on unproven suppositions, misapplies California law, and proposes policies that are unworkable and unfairly and unconstitutionally burdens coastal property owners and therefore, should be rejected in its entirety.

Respectfully submitted,

Thor A. Stensrud & Tige Kahler
Spokespersons of The Association of Concerned Beachfront Homeowners of South Pacific Street

Six other Spokespersons:
f,

Susan and Steve Parker
Terry and Susie Pagel
Carolyn Wilt

From: [Yvette Brooks](#)
To: [Coastal Statewide Planning](#)
Subject: California Sea Coast
Date: Friday, July 22, 2022 11:01:54 AM

July 22, 2022

Dear California Coastal Commission,

This email is in regards to a recent CCC Notice and DRAFT Report Th6e-6-22, regarding sea level rise and how it affects property boundaries and property rights. We have extreme concerns regarding this proposed action plan and the impact on our property. Specifically we would draw your attention to the following:

- *The rate of sea-level rise has been exaggerated for political ends.*
- *Private coastal development did not cause of the loss of beach area. The loss of beach area is primarily caused by sediment supplies being blocked by major government projects such as dams and jetties. Sea-level rise is a only minor factor.*
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- *The process to apply for a coastal development permit is already too time consuming, expensive, and uncertain. A requirement for permit applicants to predict sand movement over the life of the proposed development would not be beneficial and would further complicate an already bloated process.*
- *The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. It should not try to invent a new methodology biased against property owners.>*

In closing we believe this report relies on unproven suppositions, misapplies California law, and proposes policies that are unworkable and unfairly and unconstitutionally burdens coastal property owners and therefore, should be rejected in its entirety.

Sincerely,
Yvette Hernandez-Brooks

From: [Amanda Lee](#)
To: [Coastal Statewide Planning](#)
Cc: [Ashley Jones](#); [Karen Brindley](#); [Clement Brown](#)
Subject: City of Del Mar Comments on Draft Public Trust Guiding Principles and Action Plan
Date: Sunday, July 24, 2022 11:22:25 AM
Attachments: [Final Del Mar Comments on CCC Public Trust Policy 7.24.2022.pdf](#)

Good afternoon,

Please find attached a copy of comments submitted by the City of Del Mar related to the Draft Public Trust Guiding Principles and Action Plan. Thank you for your consideration.

Amanda Lee | Principal Planner
City of Del Mar | Planning and Community Development Department
1050 Camino del Mar
Del Mar, CA 92014
858.755.9313 ext. 1167 | 858.704-3645 | alee@delmar.ca.us

Effective July 1, 2021, Planning and Building Services will resume in-person at the City Hall public counter on a limited basis only Monday and Wednesday between 1:00 PM to 5:30 PM. Remote services will continue to be provided during regular City hours. Please check our City website at www.delmar.ca.us for more information.



CITY OF DEL MAR

July 24, 2022

California Coastal Commission
455 Market Street, Suite 300
San Francisco, CA 94105
statewideplanning@coastal.ca.gov

VIA EMAIL & MAIL

SUBJECT: Comments on Draft Public Trust Guiding Principles and Action Plan

Dear Executive Director Ainsworth and Members of the Coastal Commission,

On behalf of the City of Del Mar, I am writing to provide comments on the Commission's draft public trust-related policies and five-year action plan in process. Del Mar is a small coastal city that is critically linked to its shoreline. The anticipated impacts of projected sea level rise have been studied and considered at the local level. The City, with help from Coastal Commission grant funding, invested significant resources to plan ahead to adapt and protect local coastal resources including preparation of a vulnerability assessment, sea level rise analysis, adaptation plan, wetland migration assessment, and sediment management plan.

The City understands that application of the public trust principles set forth under State law may lead to future circumstances where a shift in ownership boundaries may occur. Further, the City understands the Commission's obligation under its enabling law to assure that public rights are not unnecessarily lost, and where appropriate, are mitigated as a result of boundary line migration. The City also recognizes that this is a complicated matter with many unknown factors and associated legal uncertainties that make it difficult to fully evaluate potential impacts.

The public trust guidelines must be flexible and adaptive, and must afford local jurisdictions the ability to determine the best approach for adaptation in accordance with their certified Local Coastal Programs (LCP) as is provided for by the Coastal Act. A one-size fits all approach may limit a community's ability to prepare adaptation policies and plans best suited for their respective community.

After careful consideration following a multi-year process, the City's adopted Adaptation Plan identifies protection of both public access and flood control for its existing beach level neighborhood as a top priority. This includes prioritization of the maintenance of the existing system of shoreline protection in this neighborhood. This system facilitates public beach access for over three million annual visitors to Del Mar beach and protects the

existing streets and over 600 homes in the North Beach neighborhood against flooding from significant storm and flood events.

The proposed policies under guiding principles #5 and #8 raise concern for Del Mar due to the potential for conflict with the City's voter-adopted Beach Preservation Initiative (BPI) from 1988, as incorporated within the City's certified LCP. The BPI removed previously existing private encroachments from the public beach and provides a system of public access at each street end in its beach level neighborhood.

Following is a brief explanation of potential unintended consequences that could occur if the policy document is adopted.

- Guiding Principle #5 includes consideration of “future public tidelands” in addition to anticipated impacts to current public tidelands. However, while the City understands generally what is meant by this phrase in the draft document—tidelands that may appear in the future as the boundary line migrates inland—“future tidelands” have not been defined with any specificity as to what that might mean in Del Mar. This creates uncertainty for implementation, particularly if interpreted in a manner that conflicts with existing boundary line agreements and property rights of existing developed neighborhoods (i.e., Del Mar's North Beach neighborhood), and regional-serving development (i.e. State Fairgrounds) that conforms to the local LCP.
- Guiding Principle #8 states “shoreline protection devices adversely impact public trust resources”, but it does not have any clarifying language to reflect site-specific context. Further, it does not account for any associated mitigation that provides beneficial long-term benefits to public trust resources. The concern is that a strict interpretation of this policy could potentially inhibit the implementation of desirable natural adaptation strategies (e.g., use of “living levee” berms for flood protection) and coastal access improvements (e.g., trails adjacent to wetlands).
- Further, the Principles should acknowledge that policies that may result in reduction or removal of historic flood control measures that then cause private or public land to be permanently inundated, may expose the Coastal Commission and local jurisdictions to claims for damage and takings.

The City respectfully requests that the Coastal Commission's draft public trust guidelines maintain sufficient flexibility to afford local jurisdictions the ability to determine the best approach for local adaptation in accordance with certified LCP, public trust doctrine, and the Coastal Act. The City requests that such flexibility be cited as a high priority and goal in the guidelines.

The City looks forward to continuing working together with the Commission and coastal jurisdictions statewide to protect coastal resources, coastal access, public safety, and maintain a sustainable future for our coastal communities.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "D. Dwight Worden". The signature is written in a cursive, slightly slanted style.

Dwight Worden
Mayor

cc: Del Mar City Council
Ashley Jones, City Manager, City of Del Mar
Karen Brindley, Planning & Community Development Director
Amanda Lee, Principal Planner

From: [Bill Koman](#)
To: [Coastal Statewide Planning](#)
Subject: Coastal Commission Draft Report Th63-6-22
Date: Saturday, July 23, 2022 11:21:42 AM

July 22, 2022

Dear California Coastal Commission,

This email is in regards to a recent CCC Notice and DRAFT Report Th6e-6-22, regarding sea level rise and how it affects property boundaries and property rights. We have extreme concerns regarding this proposed action plan and the impact on our property. Specifically we would draw your attention to the following:

- *The rate of sea-level rise has been exaggerated for political ends.*
- *Private coastal development did not cause of the loss of beach area. The loss of beach area is primarily caused by sediment supplies being blocked by major government projects such as dams and jetties. Sea-level rise is a only minor factor.*
- *The California Coastal Commission's Draft Public Trust Guiding Principles & Action Plan outlines a one-sided agenda of forced managed retreat.*
- *The policy proposals do not respect private property rights. Protections for property owners need to be added.*
- *The policy proposals, if adopted, would eventually result in the total elimination of private property along the coast.*
- *Coastal property owners should not be expected to give up their land and homes to make up for sand losses caused mostly by government projects (dams, jetties, etc.).*
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- *The process to apply for a coastal development permit is already too time consuming, expensive, and uncertain. A requirement for permit applicants to predict sand movement over the life of the proposed development would not be beneficial and would further complicate an already bloated process.*
- *The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. It should not try to invent a new methodology biased against property owners.>*

In closing we believe this report relies on unproven suppositions, misapplies California law, and proposes policies that are unworkable and unfairly and unconstitutionally burdens coastal property owners and therefore, should be rejected in its entirety.

Sincerely,

Bill and Amy Koman

355 Pacific Ave

Solana Beach, CA 92075

Bill Koman

Bkoman@komangroup.com

From: [Julie Tomanpos](#)
To: [Coastal Statewide Planning](#)
Subject: Comment Letter on CCC's Public Trust Guidance - Smart Coast California
Date: Friday, July 22, 2022 5:20:23 AM
Attachments: [CCC Public Trust Guidance - Smart Coast CA Comment Letter.pdf](#)
Importance: High

Please see attached letter submission on the California Coastal Commission's Public Trust Guidance from [Smart Coast California](#).

Thank you for the opportunity to comment.





July 22, 2022

From: Smart Coast California

To: California Coastal Commission

Submission via Email to StatewidePlanning@coastal.ca.gov

RE: Comments on Draft Public Trust Guiding Principles and Action Plan

Honorable Chair Brownsey and Honorable Commissioners,

On behalf of Smart Coast California ("SCCa"), we thank you for the opportunity to submit these comments on the Draft Public Trust Guiding Principles and Action Plan ("Draft Plan"). SCCa is a 501(c)(6) organization established in 2019 to promote and advocate for property rights and smart land-use policies affecting California's 1,100 miles of coastline. Having carefully reviewed the Draft Plan created by the California Coastal Commission staff, SCCa respectfully urges consideration of the following points.

Takings of Private Property:

One of SCCa's objectives is to protect a beautiful and healthy California coastline. SCCa strongly supports the Draft Plan's goal of preserving functional and accessible beaches in the face of climate change, as those beaches and public trust lands are a core part of what makes our coastal communities so iconic. However, SCCa takes issue with the Draft Plan's omission of other important goals and considerations regarding private property. Upholding the public trust doctrine does not take place in a policy vacuum.

For example, the Draft Plan's Guiding Principle 8 includes, "The Coastal Act requires the Coastal Commission to protect maximum shoreline public access, including public recreational and water-oriented activities" (pp. 14-15), ostensibly referring to Coastal Act section 30210. What the Draft Plan's discussion critically misses are the balancing priorities explicitly included in that section of the Coastal Act. Section 30210 reads, "In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, **rights of private property owners**, and natural resource areas from overuse" (Coastal Act § 30210, emphasis added). The Draft Plan must be revised to give due consideration to balancing public trust principles with the rights of private property owners or compensating owners when the challenge of a rising sea and fixed, developed land results in a taking of private property for public benefit.

While the Coastal Act clearly incorporates public trust principles, this is not the exclusive standard of review for coastal zone policy that the act sets forth. It also unequivocally protects the rights of private property owners, highlighting the need to balance the application of the public trust doctrine with explicitly defined protections for owners of private property in section 30010.¹

Furthermore, application of the Coastal Act and public trust common law principles must adhere to State and Federal Constitutional protections. The California Constitution provides an “inalienable right [...]” to “protecting property,”² and specifies that “Private property may be taken or damaged for a public use and **only when just compensation**, ascertained by a jury unless waived, **has first been paid to [...] the owner**” (art. 1 § 19(a), emphasis added). The Fifth Amendment of the United States Constitution protects against uncompensated takings³ and the Fourteenth Amendment protects against deprivations of property without due process of law.⁴ The Supreme Court has also interpreted the Fourth Amendment’s seizure clause to protect against policies that cause a “meaningful interference with an individual’s possessory interests in [their] property.”⁵

The Draft Plan notes, “Case law recognizes that the public trust doctrine prioritizes public uses and interests over private ones” (pg. 8), but this does not erase the requirement that just compensation be provided when prioritization of the public interest causes a taking of private property. The Draft Plan’s Guiding Principles 1, 4, 5, and 9 and Action Plans 3, 5, and 6 discuss the landward migration of the public trust boundary as sea levels rise, including using the tool of rolling easements. SCCa emphasizes that policies imposing rolling easements must include provisions for just compensation when they could result in a per se taking or undermine the

¹ “The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner **which will take or damage private property for public use, without the payment of just compensation therefor.**” California Coastal Act § 30010, emphasis added.

² “All people are by nature free and independent and have **inalienable rights**. Among these are enjoying and defending life and liberty, acquiring, possessing, and **protecting property**, and pursuing and obtaining safety, happiness, and privacy.” Art. 1 § 1, Constitution of the State of California, emphasis added.

³ “No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; **nor shall private property be taken for public use, without just compensation.**” Amd. V, Consitution of the United States of America, emphasis added.

⁴ “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or **property, without due process of law**; nor deny to any person within its jurisdiction the equal protection of the laws.” Amd. XIV, § 1, Constitution of the United States of America, emphasis added.

⁵ *Soldal v. Cook City*, 506 U.S. 56, (1992), at 61.

investment-backed expectations of owners of an existing development. For such owners of preexisting structures, imposing a post hoc rolling easement may inflict high costs when forcing the relocation of those structures, or significant financial losses when limiting the area of the property able to be privately used.

Shoreline Protective Devices:

SCCa is highly concerned with Guiding Principle 8, “Shoreline Protective Devices Adversely Impact Public Trust Resources,” as this claim is inaccurate in many scenarios. Depending on the design, shoreline protective devices can be the most beneficial option to protect public trust land in areas of dense existing development. SCCa agrees that shoreline protective devices are not appropriate in undeveloped stretches of coastline or areas of sparse development that can be easily relocated. But this Guiding Principle neglects the most important question for many of California’s coastal communities—how to balance the need for protection against shoreline and bluff erosion with public trust principles in existing developed areas.

Santa Cruz County illustrates how protective devices can function beneficially, not adversely, to promote both the public’s access to public trust lands and the protection of private property. In 2007, the Coastal Commission approved the East Cliff Parkway Bluff Protection Project to stabilize the bluff between the public trust shoreline and the existing development along East Cliff Drive. The soil-nail bluff wall minimized obstruction of beach area (relative to a revetment, for example) and incorporated stairways that actually improved public access to that stretch of beach, in addition to stabilizing the public access bike/walk path feature on top of the bluff. Given the dense community of existing residences along East Cliff Drive that precluded the option of allowing for natural erosion of the bluff, landward beach migration, and relocation of the road/public accessway, constructing this shoreline protective device was the option best able to balance the preservation of public trust land, improvement of public access, and protection of existing private property. It was hardly an adverse impact to the County’s shoreline.

Shoreline protective devices built on private property can also be designed to minimize negative impacts. Owners of existing developments have the right to protect their properties under Coastal Act section 30235⁶ and article 1, section 1 of the California Constitution.⁷ Policies that prevent the protection of private property, for example by shifting the public trust boundary onto private property and subsequently mandating the removal or prohibiting the repair of a private shoreline protective device, would violate these legal protections unless provisioning just compensation to the property owner. To be legally sound and civically practical, the Draft Plan ought to qualify its policy guidance on the landward movement of the public trust boundary (particularly in

⁶ “Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes **shall be permitted** when required to serve coastal-dependent uses or **to protect existing structures or public beaches in danger from erosion**, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.” California Coastal Act § 30235, emphasis added.

⁷ Supra, note 2.

Guiding Principles 4 and 9 and Action Plans 3 and 5) with these considerations of the rights of private property owners.

Nature-Based Adaptation Strategies:

SCCa expresses strong support for Guiding Principle 10, as nature-based solutions can be highly effective at protecting private property, public trust land, public access opportunities, and a healthy shore environment. SCCa applauds the explicit inclusion of artificial reefs as a choice adaptation strategy in the Draft Plan (pg. 17). Artificial reefs, as well as similarly purposed “living breakwaters,” convey a wide range of benefits in addition to shoreline protection and sand retention, such as ecological, recreational, and improved surf conditions if designed with that intent. This wide range of co-benefits makes artificial reefs an ideal adaptation strategy for coastal communities having suitable conditions, and indeed is why they have been implemented all over the world, including elsewhere in the United States, such as Staten Island’s Tottenville Living Breakwaters project.

SCCa encourages the Coastal Commission to increase its support for local jurisdictions seeking to implement artificial reef pilot projects and strive for timely project approvals, as was given to the Port of San Diego for its protection of the Chula Vista Bayfront in 2021.

Conclusion:

SCCa supports many goals and adaptation strategies outlined in the Draft Plan but is concerned with the absence of considerations for the rights of private property owners to protect their existing developments or receive just compensation when their property is taken for public use. SCCa emphasizes that the Draft Plan must include more than merely a discussion of public trust principles. It must explain how those principles can be balanced with constitutional and Coastal Act protections for private property in order to be a useful and legally-sound policy guidance tool for jurisdictions with densely developed coastal communities.

We thank you again for the opportunity to provide comments on the Draft Public Trust Guiding Principles and Action Plan and urge your consideration of our letter.

Respectfully,

A handwritten signature in black ink, appearing to read "Joe Prian", with a stylized flourish at the end.

Joe Prian
President
Smart Coast California

From: [Suzie Whitelaw](#)
To: [Coastal Statewide Planning](#)
Subject: Comment on Draft Public Trust Guiding Principles
Date: Saturday, July 23, 2022 1:39:58 PM

Dear Members of the California Coastal Commission:

I am a resident of south Orange County in California and wish to submit the following comment on the Draft Public Trust Guiding Principles (June 2022).

The basic premise this document is that sea level rise will move the tidelands boundary landward and the CCC's mandate will thus move landwards, taking over public and private property and causing conflicts between the CCC's public trust tidelands and coastal infrastructure. This is an inexorable process that is caused solely by sea level rise (SLR) and is beyond the control of the CCC. As our beaches disappear, the CCC will take a passive approach, offering no positive, affirmative project to protect our coastal resources.

This basic premise is flawed. The significant landward movement of our shoreline (e.g., coastal erosion) over the last 50 years has little to do with the negligible amount of SLR that has occurred over that time period. The erosion of our coast has been caused primarily by the lack of sand delivery to the coast as a result of development and drought.

We can fix this problem: bring in more sand, build nature-based solutions such as groins to maintain that sand, and encourage nature-based solutions such as artificial reefs to reduce wave energy.

Let's not just sit back and watch the tidelands boundary move landward: let's keep it from moving landwards.

The CCC's mandate is to avoid and mitigate impacts on the tidelands, which should include positive, real-world projects to protect our beaches. What I see happening, however, is that the agency's scope seems to be limited to approving/disapproving the projects of entities whose general purpose is to protect infrastructure, not our beaches.

I know the leadership and staff of the CCC care deeply about preserving our natural environment -- why aren't they allowed to propose positive projects to do so?

The public desire, the technology, and the potential funding sources are all available to implement beneficial projects. One such project is the South Orange County Coastal Resilience Committee (SOCCRC), of which the CCC is an active and important participant.

A few tangible suggestions for your consideration:

1. Use the considerable powers of the CCC to encourage public & private entities to work together in a collaborative manner in projects such as the SOCCRC. Work proactively to propose and encourage regional projects that will maintain our coastline.
2. Make it easier for entities to implement nature-based solutions to coastal erosion. Reduce the amount of studies and monitoring involved and streamline the permitting process. The San Diego Association of Governments (SANDAG) has an admirable program to streamline the process for entities wishing to implement beneficial projects.

3. For projects involving coastal armoring that cannot be prevented (for example, projects that protect critical infrastructure and/or public safety) charge mitigation fees according to the harm actually caused to the tidelands. Use those fees to ameliorate the impacts where the impacts occurred. For example, if the armoring results in a loss of beach, restore that beach -- right where it used to be, or at least in the near vicinity. Don't spend mitigation funds on unrelated projects. Protect and restore the natural environment instead of building more infrastructure, even if its good infrastructure. Maintain a focus on protecting the coast.

Coastal squeeze is not an inexorable process. The CCC has a mandate to work affirmatively to protect our coastal resources. Those lands are held in trust and we cannot betray that trust. Let's work together to maintain our coastal resources.

Sincerely,

Suzanne Whitelaw, Ph.D.

From: [john imperato](#)
To: [Coastal Statewide Planning](#)
Cc: [john imperato](#)
Subject: Comments on Public Trust Guiding Principles and Action Plan
Date: Monday, July 25, 2022 7:07:12 AM

California Coastal Commission VIA EMAIL & MAIL

455 Market Street, Suite 300
San Francisco, CA 94105
statewideplanning@coastal.ca.gov

SUBJECT: Comments on **Public Trust Guiding Principles and Action Plan**

Dear Executive Director Ainsworth and Members of the Coastal Commission,

Thank you for protecting California's most precious resource.

As a lifelong surfer, fisher and environmental advocate, I am indebted to the Coastal Commission's for its efforts to protect our California Coast.

All guiding principles relating to the Public Trust and public/private lines of demarcation must include the following considerations that relate to human-made structures that already impact Del Mar's mean high water level:

Del Mar's beaches are already compromised by human-made structures, even in the absence of sea level rise.

In his well-respected books, coastal shoreline expert Gary Griggs states that 70-90% of natural beach sand replenishment comes from the upland watersheds – in Del Mar's case the upper San Deguito River, where there are literally mountains of SAND. Any tour of the upland watershed by any of the Coastal Commissioners or Staff would clearly show nature's impressive storehouse of perfectly- grain-sized sand that the river water would deposit on the beach during heavy rains, but for the human-built **dam up by Lake Hodges**. Experts estimate that there are millions of cubic feet of this precious sand trapped in the upland watersheds. Del Mar beaches have been starved from this needed and major natural source of sand. Without this primary natural beach replenishment mechanism, Del Mar experiences net erosion from wave action. This primary natural sand movement, "the downtown express sand train" has been derailed by the dam.

Cross-sand movement, a secondary natural source of Del Mar's beach sand is provided by the flow of sand parallel to the shore. This secondary natural source of sand replenishment has also been compromised by another human-made structure - the **Oceanside Breakwater**. This secondary lateral sand movement, "the cross-town sand train" has been derailed by the O-side breakwater.

Independent of the added impact of Sea Level Rise, Del Mar's beaches are currently suffering net erosion from these MAJOR human-made structures.

The third human-made threat to Del Mar's beach, is embodied in the ***environmental free-loader***. The country's and the world's environmental loads are expected to make the beach problem at Del Mar worse through sea level rise. While Del Mar is extremely proactive on climate issues, with its sustainability committee and other policies, Del Mar is a small city that suffers disproportionately from people's use of fossil fuels in other parts of the country, which near and far are the main contributors to sea level rise.

Please consider Del Mar's engagement and exemplary advocacy for the Coastal Act's beach access priorities when developing a policy on defining the public trust. With its superb beach access, visitor and lifeguard services, Del Mar is a model host to all seeking beach access.

Sincerely,
John Imperato
Del Mar, Ca.

From: [Mandy Sackett](#)
To: [Coastal Statewide Planning](#)
Subject: Comments on the Draft Public Trust Guiding Principles & Action Plan
Date: Friday, July 22, 2022 2:58:12 PM
Attachments: [Public Trust Guiding Principles and Action Plan - Comments - July 2022.pdf](#)

Dear Executive Director Ainsworth and staff,

Please accept the attached comment letter regarding the draft Public Trust Guiding Principles & Action Plan on behalf of the Surfrider Foundation, Azul, EAC Marin, San Diego Coastkeeper, California Coastal Protection Network and Coastal Environmental Rights Foundation.

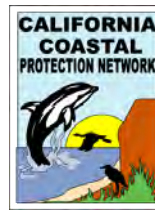
Regards,
Mandy

--

Mandy Sackett | California Policy Coordinator | Surfrider Foundation
(440) 749-6845 | msackett@surfrider.org
Pronouns: she/her/hers ([What's this?](#))



SAN DIEGO
COASTKEEPER



July 24, 2022

To: John Ainsworth, Executive Director Madeline Cavalieri, Chief Deputy Director

CC: Erin Prahler, Statewide Planning Manager

Ashley Reineman, Federal Programs Manager

Awbrey Yost, Climate Change Analyst

Re: Draft Public Trust Guiding Principles & Action Plan

Dear Executive Director Ainsworth and staff,

The Surfrider Foundation is a nonprofit grassroots organization dedicated to the protection and enjoyment of the world's ocean, waves and beaches, for all people, through a powerful activist network. Surfrider and the below signed organizations (Organizations) commend the California Coastal Commission staff for their work to incorporate principles from the [*Protection Public Trust Shoreline Resources in the Face of Sea Level Rise*](#) by the University of California Santa Barbara's Ocean & Coastal Policy Center into the Public Trust Guiding Principles and Action Plan (Plan).

We support the Plan and the recommendations therein. Public trust lands are rapidly disappearing due to coastal development and hardened shoreline armoring. The Plan lays the groundwork for addressing the migrating public trust boundary due to sea level rise and appropriately managing it. We also make several suggestions (in bold) for improvements to the Plan.

For too long we have allowed our coastline and beaches to be chipped away and armored as cumulative pressure increased to privatize the coast. In Solana Beach, for example, more than 90% of the northern bluffs are already walled off. Between these development pressures and sea level rise, the beaches are unrecognizable and even non-existent during higher tides. This is the story for far too many coastal communities in California. This Plan will help address this situation and avoid future degradation of coastal resources.

Affirmative Agency Action

The Organizations strongly support the state's mandate to recognize an affirmative agency duty to protect the public trust and its resources. In *United States v. Milner*, the 9th Circuit ruled that the upland property owner cannot use land in a way that would harm the Lummi nations interest in the neighboring tidelands. Homeowners do not have a right to permanently fix a boundary without consent of an adjacent owner. For beachfront and blufftop

homeowners, that adjacent owner is the state of California, which holds public tidelands in trust for the people.

Technology and Outreach

We strongly support the increased use of technology to determine the public trust boundary and to identify a zone of concern. There is a need for increased collaboration with the State Lands Commission on lease rates and plans for tideland protection, including sea level rise projections, costs and alternatives. New technologies are available and very useful for planning and management purposes, such as drones and LIDAR. **We should use this information for mapping, projecting and creating a zone of concern, recognizing a moving shoreline boundary between public and often private property interests.**

This increased information based on available technology will help to give notice and certainty to current and future coastal property owners. They should know what land may be susceptible to becoming part of public trust land for the next century of their property ownership, for instance.

Further, we strongly support guiding principle 4 in the Plan. **Public outreach and education about what is at stake is crucial in order to protect public resources and to inform all Californians and those who visit about what is at stake.** Frontline and historically marginalized communities who visit the beach should have a voice and a role in its protection.

Protecting Coastal Resources

The Plan points out that, “sea level rise will cause the boundary between public tidelands and private uplands to move landward, resulting in increasing conflict between public and private interests as public tidelands make their way inexorably landward and encounter fixed structures on private property [...] it is clear that without action, the public trust resources on the front lines of sea level rise will be impacted first, and losing these resources is not consistent with the goals and intent of the Coastal Act nor the public trust doctrine”. The Plan also correctly identifies that a good portion of the shoreline armoring exists in light of unresolved conflicts between Coastal Act Sections 30235, 30253, and the definition of “existing development.”

We strongly urge the Coastal Commission to heed the policy approach to conflict resolution taken in the Plan, which is to acknowledge the multiple sections of the Chapter 3 policies of the Coastal Act, as well as numerous case law findings and the California Constitution, in order to meet the public and rulemakers’ intentions, which go well back into the 1800s, to protect our public beaches.

We must acknowledge that Coastal Act Section 30235 was put into place at a time when climate change and sea level rise were largely not deeply understood by state government leaders and especially not by stewards of the California coast.

In light of the reality of sea level rise, it is imperative that rule making authority be used to clarify that 30235 is not an override of other Coastal Act policies, including 30253, 30210, 30214 and other resource protection provisions, not to mention the balancing provision of 30007.5.

We are at an inflection point, and how we act now sends important signals for how we should prioritize the public's right to access our beaches, not prioritizing the protection of private property over public. Now is the time for the Coastal Commission to take a stand against a reckless pattern of coastal development, especially in light of sea level rise. Now is the time to act in a way that is most protective of coastal resources, as instructed by the Coastal Act section 30007.5. In carrying out these provisions, conflicts must be resolved in a manner that is the most protective of significant coastal resources.

Coastal Development Permits and Local Coastal Programs

The Coastal Act very clearly discourages the perpetuation of structures in hazardous locations where armoring is required. **Certain coastal development permits will need to result in denial in circumstances where the migration public trust boundary would restrict the Coastal Commission's ability to enforce the intention of Coastal Act sections 30235 and 30253 over time as sea levels rise and the boundary moves landward.** A special condition stating that the permit does not allow for encroachment on public lands is not the same as disallowing the scenario altogether.

Future permits and programs should not rely on deed restrictions alone, but also include setbacks and rolling easements whenever possible. Deed restrictions are merely a clause in a contract that we are leaving for someone else to enforce in the future. By setting and enforcing increased setbacks, we are not putting off for tomorrow what we can plan for today. According to the Army Corps of Engineers, we could lose two-thirds of Southern California beaches by 2100 if armoring persists and we do not employ a rational and realistic measure of the moving coastline and mechanisms to adapt to that.

Many of California's bluffs and beaches are already public property either by deed or easement. Despite this fact, a majority of the coast is already armored, and public property has been taken from the public for sole use by private property owners.

The Coastal Commission should also incorporate a statewide Public Recreation Mitigation Fee and a tidelands lease fee in order to address existing and future encroachments on public trust land. The public recreation mitigation fee value should be regularly assessed to account for the loss of space on the beaches occupied by shoreline armoring and should be continually updated based on current beach attendance surveys. These updated policies and practices should be reflected in the Plan to improve coastal development permit and local coastal program ability to protect public resources and uphold state law.

Zone of Concern

We strongly recommend including the objective to identify and implement a ‘zone of concern’ in place of static mean high tide or mean high tide lines into the Plan. This is an important opportunity to coordinate with the California State Land Commission. As sea levels rise more quickly and public land migrates inwards, our plans for protecting the public trust must also evolve and adapt. The shoreline high tide line is not a singular, fixed line but a dynamic and adaptive concept, which should be illustrated to the public, regulators, and homeowners alike. This zone of concern will be applicable for both coastal development permits and local coastal programs.

Rulemaking

This Plan sets out a framework that should lead to rulemaking to make the future of coastal management more certain. For instance, the Coastal Commission could define "existing" and the narrow scope of 30235 and how an "emergency permit" will be granted given public trust considerations.

Additionally, rulemaking authority can be used to clarify that section 30235 is not an override of other Coastal Act policies, including 30253, 30210, 30214 and other resource protection provisions, not to mention the balancing provision of 30007.5. However, the fact is that the 30235 was put into place in 1976 when climate change and sea level rise were largely not known, nor studied, nor widely accepted by state government leaders and especially stewards of the California coast.

Now that we know there is a extensive inland migration expected in the next century, that seawalls fix the back of the beach and destroy the beach with sea level rise, and coastal development jeopardizes the towel space for all public beachgoers, the Coastal Act provision of 30235 that promotes static Coastal Development is now out of date and it's obsolesce can allow for resource protection provisions of the Coastal Act to override that section of law.

We remind the Commission of its affirmative duty to protect the public trust and public trust tidelands, as detailed in *Protecting Public Trust Shoreline Resources in the Face of Sea Level Rise*. Of relevance, new development generally must not have significant adverse effects, either individually or cumulatively, on coastal resources, such as tidelands (47 PRC 30250).

Overall, the Plan sets the stage for sound coastal management and protection of the public trust. We hope the Coastal Commission commits resources to implementing this plan expeditiously.

Sincerely,

Laura Walsh
California Policy Manager
Surfrider Foundation

Kristen Northrop
Policy Advocate
Coastal Environmental Rights Foundation

Ashley Eagle-Gibbs
Legal and Policy Director
Environmental Action Committee of West Marin

Andrea Leon-Grossmann
Director of Climate Justice
Azul

Patrick McDonough
Senior Attorney
San Diego Coastkeeper

Susan Jordan
Executive Director
California Coastal Protection Network

From: [Michael Harth](#)
To: [Coastal Statewide Planning](#)
Subject: Comments to DRAFT Report Th6e-6-22
Date: Friday, July 22, 2022 11:51:14 AM

Dear California Coastal Commission,

This email is in regards to a recent CCC Notice and DRAFT Report Th6e-6-22, regarding sea level rise and how it affects property boundaries and property rights. We have extreme concerns regarding this proposed action plan and the impact on our property. Specifically we would draw your attention to the following:

- *The rate of sea-level rise has been exaggerated for political ends.*
- *Private coastal development did not cause of the loss of beach area. The loss of beach area is primarily caused by sediment supplies being blocked by major government projects such as dams and jetties. Sea-level rise is a only minor factor.*
- *The California Coastal Commission's Draft Public Trust Guiding Principles & Action Plan outlines a one-sided agenda of forced managed retreat.*
- *The policy proposals do not respect private property rights. Protections for property owners need to be added.*
- *The policy proposals, if adopted, would eventually result in the total elimination of private property along the coast.*
- *Coastal property owners should not be expected to give up their land and homes to make up for sand losses caused mostly by government projects (dams, jetties, etc.).*
- *A device to protect private property from erosion cannot be equated with an encroachment onto public trust lands. Property owners have no legal or moral obligation to sacrifice their property to the public without just compensation.*
- *The process to apply for a coastal development permit is already too time consuming, expensive, and uncertain. A requirement for permit applicants to predict sand movement over the life of the proposed development would not be beneficial and would further complicate an already bloated process.*
- *The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. It should not try to invent a new methodology biased against property owners.>*

In closing we believe this report relies on unproven suppositions, misapplies California law, and proposes policies that are unworkable and unfairly and unconstitutionally burdens coastal property owners and therefore, should be rejected in its entirety.

Sincerely,

Michael Harth

From: [Heather Lindsey](#)
To: [Coastal Statewide Planning](#)
Subject: Comments to Th6e (Draft Public Trust Guiding Principles & Action Plan)
Date: Saturday, July 23, 2022 5:46:16 PM

Re: Th6e (Draft Public Trust Guiding Principles & Action Plan)

Dear California Coastal Commissioners:

I am writing regarding my concerns with the California Coastal Commission's Draft Public Trust Guiding Principles & Action Plan ("Draft").

Specifically, I respectfully request that California Coastal Commission's Draft should not include

<!--[if !supportLists]-->• <!--[endif]-->Remove any policy requiring removal of existing, privately owned structures.

<!--[if !supportLists]-->• <!--[endif]-->Clarify, that legally, "hard" shoreline protective devices do not violate the public trust doctrine.

<!--[if !supportLists]-->• <!--[endif]-->Remove any policy requiring a prediction of the movement of the MHTL for the expected life of proposed development. Along with being unconstitutional, it is bad policy.

<!--[if !supportLists]-->• <!--[endif]-->Remove the Coastal Commission's attempt to create its own methodology for measuring mean high tide levels inconsistent with NOAA, surveyors, and scientists as the employees of the Commission are not the best positioned to do so.

The Coastal Commission and this Draft continues to ignore that a one-size fits all policy will not work for California given the different unique geomorphic environment that lay up and down the coast. Specifically, it will not work for Del Mar. Del Mar's beach uniquely slopes downward from the western-most beachfront barriers as you move inland. Policy that allows for the removing of structures and eliminating seawalls, flood barriers, or rock revetments that historically have maintained our shorelines will destroy our beach and the neighborhoods east of it. In Del Mar, the private and City seawalls allowed east of the Shoreline Protection Area (SPA) line are critical to prevent flooding and protect hundreds of inland homes that lay in a flood zone at an elevation lower than the homes along the shoreline. The seawalls that are allowed in Del Mar's Coastal Commission-approved LCP protect more than just the front line of houses; the seawalls protect the entire Beach Colony neighborhood which as per the USPS EDDM website contains 628 residential properties (over 30% of the 2,033 residences in the 1.8 sq mile city of Del Mar) and 21 business properties. The homes behind the seawalls offer additional protection given the drop behind the homes.

In contrast to the policies in the Draft, Del Mar's Adaptation Plan places top priority on maintaining a continuous walkable beach and on ensuring public access to that beach. The policies herein will lead to the loss of direct public access to the coast for residents and visitors due to flooding and erosion. Currently, the City of Del Mar maintains access points with drop-off areas and nearby public parking at every street end along a mile of broad, public beach. Further, the City provides Lifeguard services every day of the year to ensure public safety and increase access even further to all beach visitors regardless of their ability to swim and surf. This does the opposite; the Draft looks a lot like a road to the same ends as managed retreat; something the City of Del Mar is against. The end result of the policies outlined in the draft would lead to the flooding of one-third of Del Mar and leave the town with a swamp, not a beach. Additionally, the policies outlined in the Draft threaten public access as the arterial coast highway linking the City of Del Mar with surrounding beach communities, as much of the Pacific Coast Highway and the associated provision of free publicly-available parking spaces would be negatively impacted by flooding.

Additionally, the policies laid forth herein are a taking. Removing the walls and homes will intentionally and negligently reduce flood measures. *"A government act intentionally reducing historic flood control measures, and thereby causing private land to be permanently inundated, is a taking under the California Constitution."* Pacific Shores Property Owners Association v. Department of Fish & Wildlife (2016) 244 Cal.App.4th 12. The seawalls that protect neighborhoods and hundreds of homes and the PUBLIC ACCESS in Del Mar are fully compatible and consistent with the California Coastal Act. Both priorities guided Del Mar's Sea Level Rise Adaptation Plan that was adopted as part of the Community (General) Plan in 2018. It reflects Del Mar's unique local landscape and existing structures.

Thank you for considering my comments.

Respectfully,

Heather Lindsey

Del Mar Resident

From: [Eve Ackerman](#)
To: [Coastal Statewide Planning](#)
Subject: Community Property Rights
Date: Saturday, July 23, 2022 11:27:01 AM

Dear CCC,

This email is in regards to a recent CCC notice and DRAFT report regarding sea level rise and how it affects property boundaries and property rights. We have extreme concerns regarding this proposed action plan and the impact on our property.

- The rate of sea-level rise has been exaggerated for political ends.
- Private coastal development did not cause the loss of beach area. The loss of beach area is primarily caused by sediment supplies being blocked by major government projects such as dams and jetties. Sea-level rise is only a minor factor.
- The California Coastal Commission's Draft Public Trust Guiding Principles & Action Plan outlines a one-sided agenda of forced managed retreat.
- The policy proposals do not respect private property rights. Protections for property owners need to be added.
- The policy proposals, if adopted, would eventually result in the total elimination of private property along the coast.
- Coastal property owners should not be expected to give up their land and homes to make up for sand losses caused mostly by government projects (dams, jetties, etc.).
- A device to protect private property from erosion cannot be equated with an encroachment onto public trust lands. Property owners have no legal or moral obligation to sacrifice their property to the public without just compensation.
- The process to apply for a coastal development permit is already too time consuming, expensive, and uncertain. A requirement for permit applicants to predict sand movement over the life of the proposed development would not be beneficial and would further complicate an already bloated process.
- The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. It should not try to invent a new methodology biased against property owners.

We believe this report relies on unproven suppositions, misapplies California law, and proposes policies that are unworkable and unfairly and unconstitutionally burdens coastal property owners and therefore, should be rejected in its entirety.

Sincerely,

--

Eve Ackerman
REALTOR® | DRE# 02127405
Licensed as: Eve Fae Ackerman

16909 Via De Santa Fe, Suite 100, Rancho Santa Fe, CA 92067
m: 619.347.1014

From: [Bob DeSimone](#)
To: [Coastal Statewide Planning](#)
Subject: Concerned Solana Beach Business and Property Owner
Date: Saturday, July 23, 2022 11:05:51 AM

07/23/2022

Dear California Coastal Commission,

This email is in regards to a recent CCC Notice and DRAFT Report Th6e-6-22, regarding sea level rise and how it affects property boundaries and property rights. We have extreme concerns regarding this proposed action plan and the impact on our property. Specifically we would draw your attention to the following:

- *The rate of sea-level rise has been exaggerated for political ends.*
- *Private coastal development did not cause of the loss of beach area. The loss of beach area is primarily caused by sediment supplies being blocked by major government projects such as dams and jetties. Sea-level rise is a only minor factor.*
- *The California Coastal Commission's Draft Public Trust Guiding Principles & Action Plan outlines a one-sided agenda of forced managed retreat.*
- *The policy proposals do not respect private property rights. Protections for property owners need to be added.*
- *The policy proposals, if adopted, would eventually result in the total elimination of private property along the coast.*
- *Coastal property owners should not be expected to give up their land and homes to make up for sand losses caused mostly by government projects (dams, jetties, etc.).*
- *A device to protect private property from erosion cannot be equated with an encroachment onto public trust lands. Property owners have no legal or moral obligation to sacrifice their property to the public without just compensation.*
- *The process to apply for a coastal development permit is already too time consuming, expensive, and uncertain. A requirement for permit applicants to predict sand movement over the life of the proposed development would not be beneficial and would further complicate an already bloated process.*
- *The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. It should not try to invent a new methodology biased against property owners.>*

In closing we believe this report relies on unproven suppositions, misapplies California law, and proposes policies that are unworkable and unfairly and unconstitutionally burdens coastal property owners and therefore, should be rejected in its entirety.

Sincerely,

Bob and Sue DeSimone

235 Pacific Ave

Solana Beach, Ca 92075

Bob DeSimone, MBA, CPA

The Doctors Insurance Agency

215 S. Highway 101, Suite 117

Solana Beach, CA 92075

(800) 464-2986

(858) 345-1370

(858) 800-4804 facsimile

bdesimone@tdia.com

From: [Gary Greenwald](#)
To: [Coastal Statewide Planning](#)
Subject: Concerns regarding Draft Report Th6e-6-22
Date: Sunday, July 17, 2022 8:47:14 PM

July 18, 2022

Dear California Coastal Commission,

As new regulations and guidelines are implemented by the California Coastal Commission including recent CCC Notice and DRAFT Report Th6e-6-22, please balance the need to protect the public beach against the homeowners' property rights to protect their homes. We also ask you to place public safety with regards to bluff failure as a top priority. Current shoreline structures will become part of the zone of concern due to rising high tide marks partially due to climate change.

We ask that shoreline structures that protect private homes and protect the public from bluff failure remain as originally designed or increased. Public beach access and sand retention are important, but so is human life. Seawalls safeguard the public in some bluff areas. We in Encinitas have had several bluff failures that killed persons on the beach. These failures have all been in areas without a seawall. We ask that all seawalls on the bluff remain to protect life and property. To this end, these sea walls may at some time require repair and that repair should be permitted where life and property will benefit.

Shifting property boundaries create many challenges, and we ask that shoreline structures that safeguard the public safety be given high priority to remain intact.

Furthermore, we specifically mention the following:

- *Private coastal development did not cause most of the loss of beach area. The loss of beach area is primarily caused by sediment supplies being blocked by major government projects such as dams and jetties..*
- *The California Coastal Commission's Draft Public Trust Guiding Principles & Action Plan primarily outlines a one-sided plan of forced managed retreat.*
- *The policy proposals do not adequately also respect private property rights. Protections for property owners need to be added.*
- *The policy proposals, if adopted, would eventually result in the dramatic elimination of private property along the coast.*
- *Coastal property owners should not be forced to give up their land and homes to make up for sand losses caused mostly by government projects (dams, jetties, etc.).*
- *A device to protect private property from erosion cannot be equated with an encroachment onto public trust lands. Property owners have no legal obligation to sacrifice their property without just compensation.*

- *The process to apply for a coastal development permit is already too time consuming, expensive, and uncertain. A requirement for permit applicants to predict sand movement over the life of the proposed development would further complicate an already bloated process.*
- *The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. It should not invent a new methodology biased against property owners.*

In closing we believe this report proposes policies that unfairly and unconstitutionally burdens coastal property owners.

Sincerely,

Gary Greenwald

From: [Zoiner Tejada](#)
To: [Coastal Statewide Planning](#)
Subject: Concerns with DRAFT report Th6e-6-22
Date: Sunday, July 24, 2022 4:17:58 PM

Dear California Coastal Commission,

This email is in regards to a recent CCC Notice and DRAFT Report Th6e-6-22, regarding sea level rise and how it affects property boundaries and property rights. We have extreme concerns regarding this proposed action plan and the impact on our property. Specifically we would draw your attention to the following:

- *The rate of sea-level rise has been exaggerated for political ends.*
- *Private coastal development did not cause the loss of beach area. The loss of beach area is primarily caused by sediment supplies being blocked by major government projects such as dams and jetties. Sea-level rise is a only minor factor.*
- *The California Coastal Commission's Draft Public Trust Guiding Principles & Action Plan outlines a one-sided agenda of forced managed retreat.*
- *The policy proposals do not respect private property rights. Protections for property owners need to be added.*
- *The policy proposals, if adopted, would eventually result in the total elimination of private property along the coast.*
- *Coastal property owners should not be expected to give up their land and homes to make up for sand losses caused mostly by government projects (dams, jetties, etc.).*
- *A device to protect private property from erosion cannot be equated with an encroachment onto public trust lands. Property owners have no legal or moral obligation to sacrifice their property to the public without just compensation.*
- *The process to apply for a coastal development permit is already too time consuming, expensive, and uncertain. A requirement for permit applicants to predict sand movement over the life of the proposed development would not be beneficial and would further complicate an already bloated process.*
- *The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. It should not try to invent a new methodology biased against property owners.*

In closing we believe this report relies on unproven suppositions, misapplies California law, and proposes policies that are unworkable and unfairly and unconstitutionally burdens coastal property owners and therefore, should be rejected in its entirety.

Sincerely,
Ashley Ellis & Zoiner Tejada
Encinitas, CA

From: [Jody Gorran](#)
To: [Coastal Statewide Planning](#)
Subject: DRAFT Report Th6e-6-22 Comments
Date: Sunday, July 17, 2022 9:49:34 AM

July 17, 2022

Dear California Coastal Commission,

This email is in regards to a recent CCC Notice and DRAFT Report Th6e-6-22, regarding sea level rise and how it affects property boundaries and property rights. I have extreme concerns regarding this proposed action plan and the impact on my son Scott Gorran's property on the bluff in Encinitas, CA. Specifically I would draw your attention to the following:

- *The rate of sea-level rise has been exaggerated for political ends.*
- *Private coastal development did not cause of the loss of beach area. The loss of beach area is primarily caused by sediment supplies being blocked by major government projects such as dams and jetties. Sea-level rise is a only minor factor.*
- *The California Coastal Commission's Draft Public Trust Guiding Principles & Action Plan outlines a one-sided agenda of forced managed retreat.*
- *The policy proposals do not respect private property rights. Protections for property owners need to be added.*
- *The policy proposals, if adopted, would eventually result in the total elimination of private property along the coast.*
- *Coastal property owners should not be expected to give up their land and homes to make up for sand losses caused mostly by government projects (dams, jetties, etc.).*
- *A device to protect private property from erosion cannot be equated with an encroachment onto public trust lands. Property owners have no legal or moral obligation to sacrifice their property to the public without just compensation.*
- *The process to apply for a coastal development permit is already too time consuming, expensive, and uncertain. A requirement for permit applicants to predict sand movement over the life of the proposed development would not be beneficial and would further complicate an already bloated process.*
- *The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. It should not try to invent a new methodology biased against property owners.>*

In closing I believe this report relies on unproven suppositions, misapplies California law, and proposes policies that are unworkable and unfairly and unconstitutionally burdens coastal property owners such as my son and therefore, should be rejected in its entirety.

Sincerely,

Jody A Gorran
4985 Poseidon Way
Oceanside, CA 92056

From: [Rick Schrager](#)
To: [Coastal Statewide Planning](#)
Subject: DRAFT Report Th6e-6-22
Date: Sunday, July 24, 2022 8:02:49 AM

July 24, 2022

Dear California Coastal Commission,

This email is in regards to a recent CCC Notice and DRAFT Report Th6e-6-22, regarding sea level rise and how it affects property boundaries and property rights. We have extreme concerns regarding this proposed action plan and the impact on our property. Specifically we would draw your attention to the following:

- *The rate of sea-level rise has been exaggerated for political ends.*
- *Private coastal development did not cause of the loss of beach area. The loss of beach area is primarily caused by sediment supplies being blocked by major government projects such as dams and jetties. Sea-level rise is a only minor factor.*
- *The California Coastal Commission's Draft Public Trust Guiding Principles & Action Plan outlines a one-sided agenda of forced managed retreat.*
- *The policy proposals do not respect private property rights. Protections for property owners need to be added.*
- *The policy proposals, if adopted, would eventually result in the total elimination of private property along the coast.*
- *Coastal property owners should not be expected to give up their land and homes to make up for sand losses caused mostly by government projects (dams, jetties, etc.).*
- *A device to protect private property from erosion cannot be equated with an encroachment onto public trust lands. Property owners have no legal or moral obligation to sacrifice their property to the public without just compensation.*
- *The process to apply for a coastal development permit is already too time consuming, expensive, and uncertain. A requirement for permit applicants to predict sand movement over the life of the proposed development would not be beneficial and would further complicate an already bloated process.*
- *The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. It should not try to invent a new methodology biased against property owners.*

While we appreciate the work you do, this subject matter seems like a huge waste of human resources.

In closing we believe this report relies on unproven suppositions, misapplies California law, and proposes policies that are unworkable and unfairly and unconstitutionally burdens coastal property

owners and therefore, should be rejected in its entirety.

Sincerely,

Laura and Rick Schrager
241 Pacific Ave,
Solana Beach, CA 92075

From: sdcpa989@gmail.com
To: [Coastal Statewide Planning](#)
Subject: Draft Plan Th6e Public Comment
Date: Sunday, July 24, 2022 3:18:23 PM

Hello,

My name is Corbin Donnelley, my wife is Tiffany and we have an 18 month old Daughter named Madison. We are homeowners in the Del Mar Beach Colony. Our home is away from the water and is pushed back east against the railroad tracks, however, we have serious concerns over the Coastal Commission's draft Th6E Public Trust and Guiding Principles and Action Plan. I have read that this plan is proposing a shifting of the coastline and a potential removal of seawalls that protect our entire neighborhood. If the seawalls are removed it will not just impact the people living on the oceanfront but rather the entire beach colony community of over 600 families. The existing Del Mar Colony seawalls also protect public access to the beach up and down the coastline.

We are both wage earning public servants who worked hard to live in this area. We are here not only for the ocean, but also to raise our daughter in an area that is safe, with good schools, and has great community spirit. We do not possess the same wealth as most of the oceanfront homeowners, however, we still oppose any sort of infringement on their property rights. Not only is their private property protected by the constitution, but any intentional shifting of the coast line would greatly disrupt the lives of hundreds of normal Del Mar residents like ourselves. Our entire life savings and the future of our family could be affected by this plan. Please reconsider the Draft Action Plan.

Thank you,

Corbin Donnelley

From: [David Winkler](#)
To: [Coastal Statewide Planning](#)
Cc: mharth@lazparking.com; [gary garber](#); [Chris Hamilton](#); [Tammy Temple](#)
Subject: Draft Public Trust Guiding Principles & Action Plan: (Th6e) Report Comment
Date: Sunday, July 24, 2022 3:39:35 PM
Attachments: [Draft Public Trust Guiding Principles and Action Plan comments by Winkler.docx](#)

Dear California Coastal Commissioners and CCC Staff,

Please include my attached letter in the record relating to the Draft Public Trust Guiding Principles & Action Plan: (Th6e) Report.

Thank you,

David Winkler

521 Pacific Avenue
Solana Beach

Dear California Coastal Commissioners and CCC Staff,

Please add the following comments to The Draft Public Trust Guiding Principles & Action Plan (The) report:

1. The California Coastal Act states protection of existing bluff front homes is required under the Act:

“Section 30235 Construction Altering Natural Shoreline

Revetments, breakwaters, groins, harbor channels, **seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted** when required to serve coastal dependent uses or **to protect existing structures** or public beaches **in danger from erosion**, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply....” (Emphasis added)

Many bluff homes were built even before the Coastal Act was passed. Causing these older homes to fall into the ocean will constitute a taking. The same can be said for homes built after the Act was passed since all owners relied on this provision.

2. Bluff Retention Devices (BRDs) increase the amount of safe, useable beach area. At least 15 deaths have been reported in recent years by bluff collapses between Carlsbad and Torrey Pines State Beach.

Instead of endangering beachgoers, BRDs protect the beach area seaward of a BRD. The exact opposite is true of an unprotected bluff which can collapse up to 30’ seaward from the bluff toe. Beach visitors take a huge risk of being killed or badly injured when a bluff collapses. BRDs eliminate that problem. No one has been killed on the beach below a BRD.

3. A massive Army Corps of Engineers sand replenishment project is underway in North San Diego County. The ACOE project must be factored into the determination of the mean high tide line in the affected area, including points south of the designated replenishment area. This ACOE project will ensure a wide sandy beach for 50 years thus eliminating the need for removal of any BRDs along that section of the beach. Updated LIDAR surveys of mean high tide line must take into account similar sand replenishment programs like this, and others including the recent San Elijo Lagoon sand excavations and deposits on the Cardiff State Beach.

4. Bluff property owners already pay exorbitant sand and recreation mitigation fees which, in the case of Solana Beach, were arbitrary doubled by the CCC notwithstanding a very thorough review of these fees was performed by the City.

5. It is unfair and unreasonable for bluff front owners to bear the entire cost of erosion. Beach erosion has been, and continues to be, caused by the blockage of upstream and upland sand sources. The parties responsible for these blockages should pay mitigation fees for additional sand replenishment to restore the beaches. These responsible parties include:

- A. the water district for dams built (e.g. Lake Hodges) which stop the riparian flow of sand to the beach;
- B. all upland property owners who stopped the flow of sand to the beach from the upland watersheds, including the:
 - 1. owners of the railroad track and culvert barriers whose damming of significant stretches of lagoon openings in San Diego County continue to deprive the beach of sand.
 - 2. Private owners of buildings, parking lots and other surfaces which continue to prevent the erosion and ultimate flow of sand to the beach.
- C. Public entities responsible for impervious upland surfaces such as sidewalks, roads, highways (e.g. 101) and freeways,
- D. Government agencies which built jetties in the littoral cell which protrude from the beach and block the flow of sand.

6. The ultimate culprit in the rise of sea level is global warming. Everyone, including those of us who generate solar and operate an electric car, bear some responsibility. Bluff property owners cannot be held responsible for, or bear the entire burden of, climate change. That is a shared responsibility for which everyone must help to mitigate, even those folks who live inland of the sea and who drive fossil fueled cars, and fly polluting jets, to enjoy California beaches.

In summary, it is unfair for bluff property owners to bear any more of the burden for sea level rise and coastal erosion problems for which we make an infinitesimally small contribution. Loss of any part of a bluff property owner's home will amount to a taking for which compensation must be paid.

Thank you for incorporating these comments in your draft report.

Yours truly,

David Winkler

521 Pacific Avenue

Solana Beach, CA 92075

From: [Steve Maschue](#)
To: [Coastal Statewide Planning](#)
Subject: Draft Report Th6e-6-22 concerning sea level rise
Date: Tuesday, July 19, 2022 11:16:32 AM

Dear California Coastal Commission,

This email is in regards to a recent CCC Notice and DRAFT Report Th6e-6-22, regarding sea level rise and how it affects property boundaries and property rights. We have extreme concerns regarding this proposed action plan and the impact on our property. Specifically, we would draw your attention to the following:

- *The rate of sea-level rise has been exaggerated for political ends.*
- *Private coastal development did not cause the loss of beach area. The loss of beach area is primarily caused by sediment supplies being blocked by major government projects such as dams and jetties. Sea-level rise is only a minor factor.*
- *The California Coastal Commission's Draft Public Trust Guiding Principles & Action Plan outlines a one-sided agenda of forced managed retreat.*
- *The policy proposals do not respect private property rights. Protections for property owners need to be added.*
- *The policy proposals, if adopted, would eventually result in the total elimination of private property along the coast.*
- *Coastal property owners should not be expected to give up their land and homes to make up for sand losses caused mostly by government projects (dams, jetties, etc.).*
- *A device to protect private property from erosion cannot be equated with encroachment onto public trust lands. Property owners have no legal or moral obligation to sacrifice their property to the public without just compensation.*
- *The process to apply for a coastal development permit is already too time-consuming, expensive, and uncertain. A requirement for permit applicants to predict sand movement over the life of the proposed development would not be beneficial and would further complicate an already bloated process.*
- *The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. It should not try to invent a new methodology biased against property owners.>*

In closing, we believe this report relies on unproven suppositions, misapplies California law, and proposes policies that are unworkable and unfairly and unconstitutionally burden coastal property owners and therefore, should be rejected in its entirety.

Sincerely,

Steve Maschue



999 N Pacific #D310
Oceanside CA 92054
Phone 760-216-8017

From: [Bill Voge](#)
To: [Coastal Statewide Planning](#)
Cc: [Bill Voge; Jami \(gmail\) Voge \(jamivoge@gmail.com\)](#)
Subject: Draft Report Th6e-6-22
Date: Saturday, July 23, 2022 10:18:05 AM

Dear California Coastal Commission,

This email relates to a recent CCC Notice and DRAFT Report Th6e-6-22, regarding sea level rise and how it affects property boundaries and property rights.

I have many concerns regarding this proposed action plan. The proposed plan is full of misinformation and ignores well-established legal doctrines. Please note the following items:

- *The rate of sea-level rise has been exaggerated for political ends.*
- *Private coastal development did not cause of the loss of beach area. The loss of beach area is primarily caused by sediment supplies being blocked by major government projects such as dams and jetties. Sea-level rise is a minor factor.*
- *The California Coastal Commission's Draft Public Trust Guiding Principles & Action Plan outlines a one-sided agenda of forced managed retreat.*
- *The policy proposals do not respect private property rights. Protections for property owners need to be added.*
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- *A device to protect private property from erosion cannot be equated with an encroachment onto public trust lands. Property owners have no legal or moral obligation to sacrifice their property to the public without just compensation.*
- *The process to apply for a coastal development permit is already too time consuming, expensive, and uncertain. A requirement for permit applicants to predict sand movement over the life of the proposed development would not be beneficial and would further complicate an already bloated process.*
- *The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. It should not try to invent a new methodology biased against property owners.*

In closing please note that this report is full of misinformation, relies on unproven suppositions, misapplies California law, and proposes policies that unfairly and unconstitutionally burden coastal property owners. It should be rejected in its entirety.

Sincerely,

William H Voge

From: dirk@dirkgray.com
To: [Coastal Statewide Planning](#)
Subject: FW: CCC Notice and DRAFT Report Th6e-6-22
Date: Sunday, July 24, 2022 11:40:29 AM

July 24, 2022

Dear California Coastal Commission,

This email is in regards to a recent CCC Notice and DRAFT Report Th6e-6-22, regarding sea level rise and how it affects property boundaries and property rights. We have extreme concerns regarding this proposed action plan and the impact on our property. Specifically we would draw your attention to the following:

- *The rate of sea-level rise has been exaggerated for political ends.*
- *Private coastal development did not cause the loss of beach area. The loss of beach area is primarily caused by sediment supplies being blocked by major government projects such as dams and jetties. Sea-level rise is a only minor factor.*
- *The California Coastal Commission's Draft Public Trust Guiding Principles & Action Plan outlines a one-sided agenda of forced managed retreat.*
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- *The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. It should not try to invent a new methodology biased against property owners.>*

In closing we believe this report relies on unproven suppositions, misapplies California law, and proposes policies that are unworkable and unfairly and unconstitutionally burdens coastal property owners and therefore, should be rejected in its entirety.

Sincerely,

Dirk Wray

+1 858 602 9311

Skype dirk.wray

Dirk@DirkWray.com

From: EnvironmentalJustice@Coastal
To: [Coastal Statewide Planning](#)
Subject: FW: Sea Level Rise
Date: Monday, July 25, 2022 1:37:26 PM

From: Diane M. Cimarusti <dianecimarusti@gmail.com>
Sent: Monday, July 25, 2022 11:06 AM
To: EnvironmentalJustice@Coastal <EnvironmentalJustice@coastal.ca.gov>
Subject: Sea Level Rise

Dear California Coastal Commissioners,

This email is in response to your recent CCC Notice and DRAFT Report Th6e regarding sea level rise and your policy planning regarding property boundaries and property rights. I think your draft document is too far-reaching; I especially have very serious concerns regarding the proposed action plan and its impact on property rights, as I see no acknowledgment that one size does not fit all [and that local leaders know best how to manage their communities](#). Specifically I draw your attention to the following:

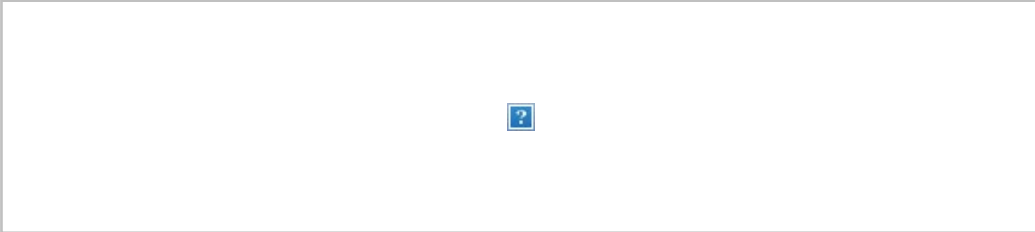
1 – The seawalls that are allowed in Del Mar's Coastal Commission-approved LCP protect more than just the front line of houses; the seawalls protect the entire Beach Colony neighborhood which as per the USPS EDDM website contains 628 residential properties (over 30% of the 2,033 residences in the 1.8 sq mile city of Del Mar) and 21 business properties. Postal Route C011 data and map are below:



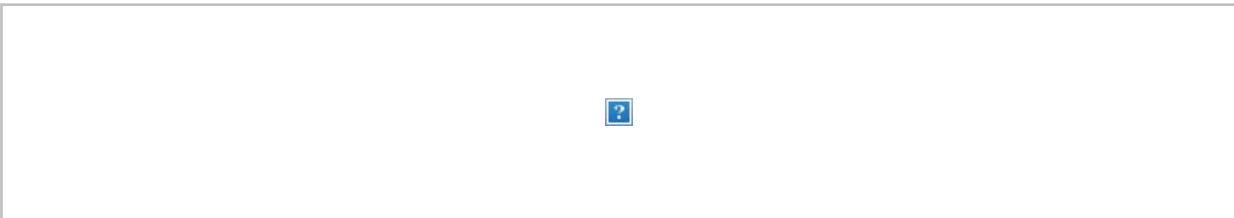
Del Mar's seawalls are also different in that they protect public access to the beach at the end of each east/west street from 15th St north to 29th St, as well as protecting public infrastructure such as the railroad tracks which are a major state-wide transportation and shipping corridor. Del Mar's seawalls provide many important public benefits which is why they were approved in the first place. Removal would be a huge mistake [for which there is no mitigation](#).

2 – The Shoreline Preservation Area (SPA) boundary marks where seawalls can and cannot go without need for Coastal Commission approval. The SPA boundary is included in the LCP.

3 – Existing private structures are allowed to be protected in the California State Constitution:



and the Federal Constitution:



and cannot be taken without just compensation. I see nothing in your policy proposal that addresses just compensation; nor do I see acknowledgment of constitutionally-granted property rights.

Prohibiting the protection of private property and extrapolating a new mean high tide line both appear to be in conflict with constitutional rights.

I have many other concerns not addressed here. Overall I find your draft policy relies on unproven suppositions, misapplies State and Federal law, ignores property rights law, and proposes policies that are unworkable especially in Del Mar, doesn't allow for exceptions, assumes all California coastal property is the same, and unfairly and unconstitutionally burdens coastal property owners, and therefore **SHOULD BE REJECTED IN ITS ENTIRETY**.

Thank you for your time, attention, and hard work on this most important matter. **It needs more work please.**

Diane M. Cimarusti
Del Mar Resident
(760) 908-8236
dianecimarusti@gmail.com

From: [Larry Wolf](#)
To: [Coastal Statewide Planning](#)
Subject: FW: The6e-6-22
Date: Tuesday, July 19, 2022 3:45:01 PM

From: Larry Wolf
Sent: Tuesday, July 19, 2022 3:35 PM
To: statewideplanning@coastala.ca.gov
Subject: The6e-6-22

7/19/2022

Dear California Coastal Commission,

This email is in regards to a recent CCC Notice and DRAFT Report Th6e-6-22, regarding sea level rise and how it affects property boundaries and property rights. We have extreme concerns regarding this proposed action plan and the impact on our property. Specifically we would draw your attention to the following:

- *The rate of sea-level rise has been exaggerated for political ends.*
- *Private coastal development did not cause of the loss of beach area. The loss of beach area is primarily caused by sediment supplies being blocked by major government projects such as dams and jetties. Sea-level rise is a only minor factor.*
- *The California Coastal Commission's Draft Public Trust Guiding Principles & Action Plan outlines a one-sided agenda of forced managed retreat.*
- *The policy proposals do not respect private property rights. Protections for property owners need to be added.*
- *The policy proposals, if adopted, would eventually result in the total elimination of private property along the coast.*
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- *A device to protect private property from erosion cannot be equated with an encroachment onto public trust lands. Property owners have no legal or moral obligation to sacrifice their property to the public without just compensation.*
- *The process to apply for a coastal development permit is already too time consuming, expensive, and uncertain. A requirement for permit applicants to predict sand movement over the life of the proposed development would not be beneficial and would further complicate an already bloated process.*
- *The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. It should not try to invent a new methodology biased against property ow*

In closing we believe this report relies on unproven suppositions, misapplies California law, and proposes policies that are unworkable and unfairly and unconstitutionally burdens coastal property owners and therefore, should be rejected in its entirety.

Sincerely,
Lawrence

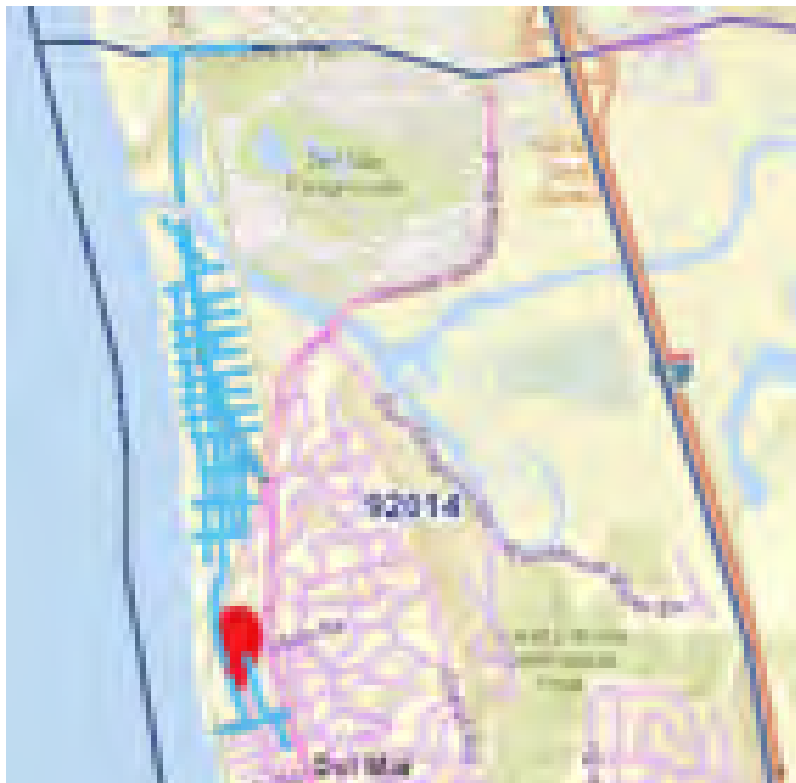
From: bholker@bdholdings.com <bholker@bdholdings.com>
Sent: Saturday, July 23, 2022 5:37 PM
To: EnvironmentalJustice@Coastal <EnvironmentalJustice@coastal.ca.gov>
Cc: 'Diane M. Cimarusti' <dianecimarusti@gmail.com>; jholker@bdholdings.com; peter holker <peter.holker@gmail.com>
Subject: Draft Plan Th6e as it impacts Del Mar, CA

Dear California Coastal Commissioners,

This email is in response to your recent CCC Notice and DRAFT Report Th6e regarding sea level rise and your policy planning regarding property boundaries and property rights. I think your draft document is too far-reaching; I especially have very serious concerns regarding the proposed action plan and its impact on property rights, as I see no acknowledgment that one size does not fit all [and that local leaders know best how to manage their communities](#). Specifically I draw your attention to the following:

1 – The seawalls that are allowed in Del Mar’s Coastal Commission-approved LCP protect more than just the front line of houses; the seawalls protect the entire Beach Colony neighborhood which as per the USPS EDDM website contains 628 residential properties (over 30% of the 2,033 residences in the 1.8 sq mile city of Del Mar) and 21 business properties. Postal Route C011 data and map are below:

<input type="checkbox"/>	Route 	Residential 	Business 	Total
<input checked="" type="checkbox"/>	92014-C011	628	21	649



Del Mar's seawalls are also different in that they protect public access to the beach at the end of each east/west street from 15th St north to 29th St, as well as protecting public infrastructure such as the railroad tracks which are a major state-wide transportation and shipping corridor. Del Mar's seawalls provide many important public benefits which is why they were approved in the first place. Removal would be a huge mistake for which there is no mitigation.

2 – The Shoreline Preservation Area (SPA) boundary marks where seawalls can and cannot go without need for Coastal Commission approval. The SPA boundary is included in the LCP.

3 – Existing private structures are allowed to be protected in the California State Constitution:

"All people are by nature free and independent, and have inalienable rights. Among these are . . . acquiring, possessing, and protecting property, and pursuing and obtaining the safety, happiness, and privacy." Cal. Const., art. I, § 1 (emphasis added)

and the Federal Constitution:

No person shall ever be . . . deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. U.S. Const., 5th Am. (emphasis added)

and cannot be taken without just compensation. I see nothing in your policy proposal that addresses just compensation; nor do I see acknowledgment of constitutionally-granted property rights.

Prohibiting the protection of private property and extrapolating a new mean high tide line both appear to be in conflict with constitutional rights.

I have many other concerns not addressed here. Overall I find your draft policy relies on unproven suppositions, misapplies State and Federal law, ignores property rights law, and proposes policies that are unworkable especially in Del Mar, doesn't allow for exceptions, assumes all California coastal property is the same, and unfairly and unconstitutionally burdens coastal property owners, and therefore **SHOULD BE REJECTED IN ITS ENTIRETY.**

Thank you for your time, attention, and hard work on this most important matter. **It needs more work please.**

Bryan Holker
Del Mar Beach Colony Resident

From: [Alyssa at Kaska Orthopaedics](#)
To: [Coastal Statewide Planning](#)
Subject: Fwd: CCC - Th6e-6-22
Date: Wednesday, July 20, 2022 5:05:58 PM
Attachments: [20220720.pdf](#)

see attached concern.

Serge C. Kaska, MD

This message contains confidential information and is intended only for the individual named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail if you have received this e-mail by mistake and delete this e-mail from your system. E-mail transmission cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. The sender therefore does not accept liability for any errors or omissions in the contents of this message, which arise as a result of e-mail transmission.

7/19/2022

Dear California Coastal Commission,

This email is regarding a recent CCC Notice and DRAFT Report Th6e-6-22, regarding sea level rise and how it affects property boundaries and property rights. We have extreme concerns regarding this proposed action plan and the impact on our property. Specifically, we would draw your attention to the following:

The rate of sea-level rise has been exaggerated for political ends.

Private coastal development did not cause of the loss of beach area. The loss of beach area is primarily caused by sediment supplies being blocked by major government projects such as dams and jetties. Sea-level rise is an only minor factor.

The California Coastal Commission's Draft Public Trust Guiding Principles & Action Plan outlines a one-sided agenda of forced managed retreat.

The policy proposals do not respect private property rights. Protections for property owners need to be added.

The policy proposals, if adopted, would eventually result in the total elimination of private property along the coast.

Coastal property owners should not be expected to give up their land and homes to make up for sand losses caused mostly by government projects (dams, jetties, etc.).

A device to protect private property from erosion cannot be equated with an encroachment onto public trust lands. Property owners have no legal or moral obligation to sacrifice their property to the public without just compensation.

The process to apply for a coastal development permit is already too time consuming, expensive, and uncertain. A requirement for permit applicants to predict sand movement over the life of the proposed development would not be beneficial and would further complicate an already bloated process.

The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. It should not try to invent a new methodology biased against property owners.

In closing we believe this report relies on unproven suppositions, misapplies California law, and proposes policies that are unworkable and unfairly and unconstitutionally burdens coastal property owners and therefore, should be rejected in its entirety.

Sincerely,


Serge Kaska, MD

Thank you for your attention to this time sensitive matter.

From: gclyde11@gmail.com
To: [Coastal Statewide Planning](#)
Cc: mhalleyvn@gmail.com
Subject: June 2022 Draft Public Trust Guiding Principles & Action Plan
Date: Thursday, July 21, 2022 9:41:32 AM
Attachments: [Letter to CCC re Public Trust Guiding Principles 7-19-2022.pdf](#)

Dear Coastal Commission Planners –

On behalf of the East Shore Planning Group, I am attaching a letter regarding the June 2022 “Draft Public Trust Guiding Principles & Action Plan”, which is presently being considered and open for public comment.

Kindly confirm receipt.

Thank you,

George Clyde, Secretary, East Shore Planning Group

East Shore Planning Group
P. O. Box 827
Marshall, CA 94940
[**ESPG@eastshoreplanninggroup.org**](mailto:ESPG@eastshoreplanninggroup.org)

July 19, 2022

California Coastal Commission
455 Market Street
Suite 300
San Francisco, CA 94105

Via email: statewideplanning@coastal.ca.gov

Re: June 2022 Draft Public Trust Guiding Principles & Action Plan.

To the California Coastal Commission:

I write on behalf of the East Shore Planning Group. The East Shore Planning Group ("ESPG") is a California not-for-profit corporation formed in 1984 that has a membership of about 90 owners and tenants of residential, commercial and agricultural properties in the unincorporated area of Marin County along the east shore of Tomales Bay, including Marshall. Many of our members own improved tidelands properties along the East Shore of Tomales Bay, some dating back to the North Pacific Coast Railroad constructed in the 1870s.

The Draft Public Trust Guiding Principles and Action Plan for the California Coastal Commission has an inaccuracy that needs to be corrected. It states at page 16:

"Shoreline protective devices located on or seaward of the mean high tide line are located on public trust land and require a lease from the State Lands Commission or other trustee agency."

The sentence would be correct with this one addition:

"Shoreline protective devices located on or seaward of the mean high tide line are located on public trust land and with a few exceptions require a lease from the State Lands Commission or other trustee agency."

An exception that needs to be recognized is for lands where title is held under land patents. All or almost all of the privately owned tidelands properties along both shores of Tomales Bay, including the Marks property in Marks v. Whitney, were created by land patents. While all of the properties seaward of the mean high tide land are subject to the Public Trust Doctrine, the properties held under land patents are not subject to leasing requirements of the State Lands Commission except to the extent that improvements extend beyond the mean low water mark into submerged lands.

In the landmark case establishing the Public Trust Doctrine, the California Supreme Court noted that Marks' tidelands property on the west shore of Tomales Bay was conveyed to his predecessors under the patent of May 15, 1874, (issued pursuant to the Act of March 28,

1868, Stats. 1867-68, ch. 415, p. 507). Many of the tidelands properties on the east shore of Tomales Bay were part of Rancho Nicasio conveyed to private parties under patents issued in 1861 (H. I. Willey, Surveyor-General, "Report of The Surveyor-General of the State Of California from August 1, 1884, to August 1, 1886" (1886) at 18-19). Except to the extent that improvement extend seaward of the mean low water mark into submerged lands, none (including the Marks property) is subject to State Lands leases.

The State Lands Commission does not exercise leasing authority for the Public Trust easements over those lands. This was confirmed by State Lands Commission Executive Officer Jennifer Lucchesi at a State Lands Commission hearing on January 23, 2014, when the East Shore Planning Group raised concerns about ambiguous language in a proposed regulatory provision (commencing at page 14 of the Transcript, a copy of the relevant portions of which is attached):

EXECUTIVE OFFICER LUCCHESI: Thank you. Mr. Clyde raises some very good points. Just to give some context about Tomales Bay, the State owns the submerged lands.

Mr. Clyde is absolutely correct that the upland private property owners own the fee interest in the tidelands from the ordinary high water mark to the ordinary low water mark. The State holds a Public Trust easement over those fee-owned ownerships.

The State, I think in its -- the State Lands Commission in its 75 years has only exercised the easement and leased that easement interest one time in Morro Bay, and that was to protect the bay and lease it to Fish and Game for habitat and preservation purposes. The State Lands Commission staff and the Commission, as far as I've been with the Commission, has no intention to lease the Public Trust easement interest that the State holds, whether it's in Tomales Bay or Lake Tahoe or other places.

Accordingly, we would appreciate a correction to the proposed language as suggested above.

Thank you for your consideration of these comments.

A handwritten signature in dark ink, appearing to read "Mary Halley". The signature is fluid and cursive, with a large loop at the end.

Mary Halley, President
East Shore Planning Group

MEETING
STATE OF CALIFORNIA
LANDS COMMISSION

TSAKOPOLOUS LIBRARY GALLERIA
EAST MEETING ROOM
828 I STREET
SACRAMENTO, CALIFORNIA

THURSDAY, JANUARY 23, 2014
10:02 A.M.

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

1 criteria.

2 ACTING CHAIRPERSON GORDON: Ms. Lucchesi, are
3 there places around the State where you have come across
4 that situation?

5 EXECUTIVE OFFICER LUCCHESI: The one that comes
6 to mind is Huntington Harbor.

7 ACTING CHAIRPERSON GORDON: And that is where?

8 EXECUTIVE OFFICER LUCCHESI: Southern California.

9 ACTING CHAIRPERSON GORDON: Thank you.

10 Go ahead. Sorry, sir.

11 MR. CLYDE: Good morning, Commissioners and
12 Executive Officer Lucchesi, and Mr. Connor, and staff. My
13 name is George Clyde. I'm with East Shore Planning Group,
14 which is a group of about 90 property owners on the east
15 shore of Tomales Bay in Marin County. If you know Nick's
16 Cove Restaurant, that's our territory.

17 Many of our homes are on stilts over the
18 tidelands of Tomales Bay. They -- some of their -- some
19 other homes on Tomales Bay are in the Inverness area,
20 including the properties that gave uprise to the Marks v.
21 Whitney case.

22 A few of our homes have piers that extend beyond
23 their property lines onto public property, and those have
24 leases. Some have piers that extend into submerged lands,
25 and those have leases. However, most of our properties

1 are within the tidelands, between the low water mark and
2 the high water mark. We all have good title going back to
3 patents of the 19th century. This is my deed. This is my
4 title insurance policy.

5 So we are sitting there very happily, and we
6 happened to come across the regulations that you're
7 proposing. And this is the problem, it's Section 1900,
8 definition of sovereign lands, which is a definition which
9 is considered a term of art for purposes of leasing. It
10 states very specifically that, "The State's sovereign
11 ownership extends landward to the ordinary high water
12 mark". That's our property.

13 There are two exceptions to that, one for fill
14 and accretions and another for agreements with State
15 Lands, but they don't apply. So what this regulation says
16 is that the State owns our properties, which isn't true,
17 because of the patents. The properties have been conveyed
18 to us many, many years ago.

19 This, as I say, just came to our attention as
20 potential lessees. We weren't aware of this until it
21 happened. One of our members was on the agenda in
22 December.

23 So it's simply untrue that the State sovereign
24 fee -- State fee ownership covers our property. We
25 appreciate the fact that all of our properties are subject

1 to the Public Trust doctrine. That's another matter
2 entirely. But as far as whether the State Lands
3 Commission could require leasing or any other property
4 rights with respect to what happens on those tidelands,
5 they can't. They're ours and not the State of California.

6 So the question is at this late date in your
7 process, with no desire I'm sure to make corrections at
8 this point that would impair the process from going
9 forward, what to do?

10 We would ask the Commissioners to inquire of
11 staff as to whether they see these concerns that have been
12 expressed -- and you have a copy of them in your packet,
13 and I have a colored version if you'd be interested that
14 actually shows the homes a little better, if -- but I
15 would ask that the Commissioners ask staff as to whether
16 they view this as a legitimate concern and what their
17 intentions would be about addressing it in the future, so
18 that it's clarified or corrected?

19 Thank you very much.

20 ACTING CHAIRPERSON GORDON: Jennifer.

21 EXECUTIVE OFFICER LUCCHESI: Thank you. Mr.
22 Clyde raises some very good points. Just to give some
23 context about Tomales Bay, the State owns the submerged
24 lands. Mr. Clyde is absolutely correct that the upland
25 private property owners own the fee interest in the

1 tidelands from the ordinary high water mark to the
2 ordinary low water mark.

3 The State holds a Public Trust easement over
4 those fee-owned ownerships. The State, I think in its --
5 the State Lands Commission in its 75 years has only
6 exercised the easement and leased that easement interest
7 one time in Morro Bay, and that was to protect the bay and
8 lease it to Fish and Game for habitat and preservation
9 purposes.

10 The State Lands Commission staff and the
11 Commission, as far as I've been with the Commission, has
12 no intention to lease the Public Trust easement interest
13 that the State holds, whether it's in Tomales Bay or Lake
14 Tahoe or other places.

15 And in terms of the definition of sovereign
16 lands, you know, as I mentioned, Mr. Clyde raises a very
17 good point. I do want to point to the last part of that
18 definition that talks about court orders. And court
19 orders in Tomales Bay - he mentioned the Marks versus
20 Whitney case - have confirmed fee ownership in those
21 upland private property owners.

22 But regardless, I can appreciate the fact that
23 this may cause some consternation among upland property
24 owners and their title to those tideland patents. And so
25 we will continually look to improve these regulations as

1 we move forward. It's been 20 years, I think, since we
2 last updated these land management regulations. That will
3 not happen again. We are continuous -- we are devoted to
4 continuously reviewing and improving these regulations to
5 make it as clear and transparent as possible for the
6 public.

7 So this is on our to-do list to reevaluate that
8 definition in the next go-around for updating the land
9 management regulations.

10 ACTING CHAIRPERSON GORDON: Let me just be sure
11 I'm clear on the issue here. So the issue is the
12 definition that essentially says -- it's the delta between
13 the low water mark and the high water mark.

14 EXECUTIVE OFFICER LUCCHESI: Yes.

15 ACTING CHAIRPERSON GORDON: And our existing
16 regulations say we have fee interest up to the high water
17 mark. Actual law says we would go -- give me the
18 difference between the two. I'm getting lost.

19 EXECUTIVE OFFICER LUCCHESI: The definition in
20 the regulations say we have fee ownership up to the
21 ordinary high water mark, except for where there's been
22 fill or artificial accretion, or there's been an agreement
23 between the State, the Commission, and the upland private
24 homeowner that fixes the boundary and title, or there's
25 been a court order -- a court decision that basically

1 confirms title under different circumstances.

2 And so we believe that covers the situation of a
3 tideland patent -- a valid tideland patent that conveyed
4 the fee ownership to a private individual. But again, I
5 can appreciate the fact that there might be some differing
6 opinions about that. So we're going to continuously look
7 to how to improve that definition without including every
8 single exception that there is to State ownership.

9 This is -- we're talking about tidelands,
10 submerged lands, water boundaries. This is a very complex
11 area of the law, and so we want to make sure that any
12 changes that we do make don't have unintended
13 consequences. And I think that's the very point that Mr.
14 Clyde is trying to make with this language.

15 So like I said, we are going to continually look
16 at this to improve it, to make it more clear and
17 transparent.

18 ACTING CHAIRPERSON GORDON: Mr. Clyde, thanks for
19 coming before us today and raising this issue. We
20 appreciate it.

21 MR. CLYDE: Thank you very much.

22 ACTING CHAIRPERSON GORDON: Mr. Evans, Anthony
23 Evans.

24 MR. EVANS: I won't put you through the agony of
25 watching me read something, as I did before. You were

From: [gary garber](#)
To: [Coastal Statewide Planning](#)
Date: Saturday, July 23, 2022 1:33:40 PM

Dear California Coastal Commission

This email is in regards to a recent CCC Notice and DRAFT Report th6e-22, regarding sea level rise and how it affects property boundaries and property rights
We have extreme concerns regarding this proposed action plan and the impact on our property. Specifically we would draw you attention to the following.

The rate of sea-level rise has been exaggerated for political ends.
Private coastal development did not cause the loss of beach area. The loss of beach area is primarily caused by sediment supplies blocked by major government projects such as dams and jetties. Sea-level rise is a minor factor.

The CCC's Draft Public Trust Guiding Principles & Action Plan outlines a one-sided agenda of forced managed retreat..

The policy proposals do not respect private property rights. Protection for property owners must be added,

Sincerely

Gary and Diane Garber
231 Pacific Ave, Solana Beach, CA 92075
213-300-4704

--

Gary

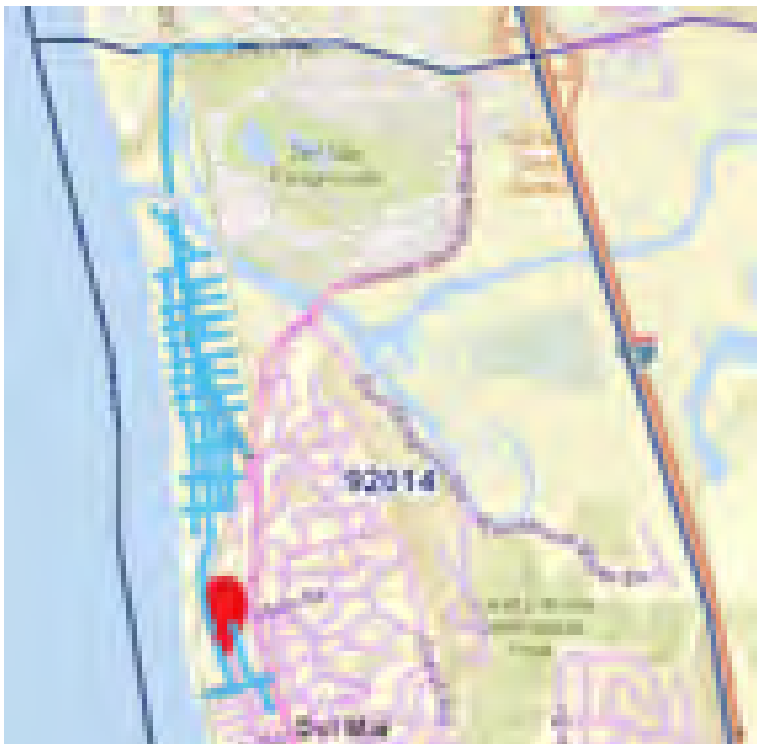
From: [Larry Wolf](#)
To: [Coastal Statewide Planning](#)
Date: Sunday, July 24, 2022 8:54:26 AM
Attachments: [image001.png](#)
[image002.png](#)

Dear California Coastal Commissioners,

This email is in response to your recent CCC Notice and DRAFT Report Th6e regarding sea level rise and your policy planning regarding property boundaries and property rights. I think your draft document is too far-reaching; I especially have very serious concerns regarding the proposed action plan and its impact on property rights, as I see no acknowledgment that one size does not fit all [and that local leaders know best how to manage their communities](#). Specifically I draw your attention to the following:

1 – The seawalls that are allowed in Del Mar’s Coastal Commission-approved LCP protect more than just the front line of houses; the seawalls protect the entire Beach Colony neighborhood which as per the USPS EDDM website contains 628 residential properties (over 30% of the 2,033 residences in the 1.8 sq mile city of Del Mar) and 21 business properties. Postal Route C011 data and map are below:

<input type="checkbox"/>	Route 	Residential 	Business 	Total
<input checked="" type="checkbox"/>	92014-C011	628	21	649



Del Mar’s seawalls are also different in that they protect public access to the beach at the end of each

east/west street from 15th St north to 29th St, as well as protecting public infrastructure such as the railroad tracks which are a major state-wide transportation and shipping corridor. Del Mar's seawalls provide many important public benefits which is why they were approved in the first place. Removal would be a huge mistake [for which there is no mitigation](#).

2 – The Shoreline Preservation Area (SPA) boundary marks where seawalls can and cannot go without need for Coastal Commission approval. The SPA boundary is included in the LCP.

3 – Existing private structures are allowed to be protected in the California State Constitution:

"All people are by nature free and independent, and have inalienable rights. Among these are . . . acquiring, possessing, and protecting property, and pursuing and obtaining the safety, happiness, and privacy." [Cal. Const., art. I, § 1 \(emphasis added\)](#)

and the Federal Constitution:

No person shall ever be . . . deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. [U.S. Const., 5th Am. \(emphasis added\)](#)

and cannot be taken without just compensation. I see nothing in your policy proposal that addresses just compensation; nor do I see acknowledgment of constitutionally-granted property rights.

Prohibiting the protection of private property and extrapolating a new mean high tide line both appear to be in conflict with constitutional rights.

I have many other concerns not addressed here. Overall I find your draft policy relies on unproven suppositions, misapplies State and Federal law, ignores property rights law, and proposes policies that are unworkable especially in Del Mar, doesn't allow for exceptions, assumes all California coastal property is the same, and unfairly and unconstitutionally burdens coastal property owners, and therefore **SHOULD BE REJECTED IN ITS ENTIRETY**.

Thank you for your time, attention, and hard work on this most important matter. **It needs more work please.**

Lawrence Wolf
Del Mar Beach Colony Resident

From: [Kiren Mathews](#)
To: [Coastal Statewide Planning](#)
Cc: [Jeremy Talcott](#); [Jeffrey W. McCoy](#); [Incoming Lit](#)
Subject: PLF's Comment Letter re Draft Public Trust Guiding Principles & Action Plan
Date: Friday, July 22, 2022 2:04:06 PM
Attachments: [2022.07.22 - PLF Comment Letter to CCC Draft Public Trust Guiding Principles & Action Plan.pdf](#)

Good afternoon,

On behalf of attorneys Jeffrey McCoy and Jeremy Talcott, please find attached Pacific Legal Foundation's comment letter related to the above referenced subject matter. A hardcopy has been placed in the mail as well.

Thank you,

Kiren Mathews | Paralegal; Workload Manager
Pacific Legal Foundation
555 Capitol Mall, Suite 1290 | Sacramento, CA 95814
207.992.6328



July 22, 2022

Executive Director Jack Ainsworth
Chair Donne Brownsey
& Commissioners
California Coastal Commission
455 Market Street, Suite 300
San Francisco, CA 94105

VIA EMAIL
StatewidePlanning@coastal.ca.gov
AND FIRST-CLASS MAIL

Re: Draft Public Trust Guiding Principles & Action Plan

Dear Director Ainsworth, Chair Brownsey, and Commissioners:

Pacific Legal Foundation is the nation's leading nonprofit legal organization committed to the protection of property rights. During the past several decades, PLF has litigated numerous cases against the Coastal Commission asserting constitutional and statutory rights of individual homeowners threatened by unlawful actions of the Commission (*e.g.*, *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987)). The undersigned attorneys are members of PLF's Coastal Land Rights Project who have experience litigating Coastal Act matters to protect the private property rights of coastal landowners.

The Commission's recently released Draft Public Trust Guiding Principles & Action Plan document contains many policy positions that, if implemented, will place undue and unconstitutional burdens on coastal property owners. First, the document suggests that the Commission could limit *current* development under the public trust doctrine by using speculative evidence as to the *future* boundaries of public trust lands. Second, the guidance would prohibit any attempt by landowners to protect existing development on private property from an advancing Mean High Tide Line, despite guarantees for shoreline protection under the Coastal Act and the California Constitution.

The Public Trust has never been used to prohibit development based on speculation as to the future boundaries of trust lands

On pages 10–11, the guidance plan suggests that the Commission may begin to limit development based on the “most landward projected location” of public trust lands during the “expected lifetime of the proposed development.” The document further

states that the Commission may use this projected location when considering “whether to authorize development” near existing public trust lands.

The history of the public trust doctrine is a contentious one. *See, e.g.*, James L. Huffman, *Speaking of Inconvenient Truths—A History of the Public Trust Doctrine*, 18 Duke Env'tl. L. & Pol'y F. 1 (2007). And in California, the doctrine has undergone repeated and unprecedented expansions. *See generally* Janice Lawrence, Lyon and Fogerty: *Unprecedented Expansions of the Public Trust*, 70 Cal. L. Rev. 1138 (1982). But PLF is unaware of *any* authority that would justify efforts to regulate concededly non-public trust lands on the determination (whether informed by science or speculation) that the lands will *eventually* become public trust lands. Such limitation on development would be a compensable taking of private property under the Fifth and Fourteenth Amendments to the U.S. Constitution.

The Commission's reasoning appears to be that, because it believes certain lands will become public trust lands in the future, it is authorized to limit development on private property that is decidedly *not* public trust land in the present. But the state's control of tidelands ends at the ordinary high-water mark. *See State of Cal. ex rel. State Lands Comm'n v. Superior Ct.*, 11 Cal. 4th 50, 63 (1995) (“Owners of upland bordering on tidewater take to the ordinary high-water mark.”). The practical effect of the Commission's position will be to destroy the lawful and reasonable development rights of those coastal landowners. In essence, the Commission will be taking the private property rights of those landowners for some period of years between the time it prohibits development and the period where the lands do, in fact, if ever, become public trust lands. Such “temporary takings” have been found to be compensable by the U.S. Supreme Court. *Cf. First Eng. Evangelical Lutheran Church of Glendale v. Los Angeles Cnty., Cal.*, 482 U.S. 304, 322 (1987) (finding a compensable taking where government regulation prohibited development for a period of years, even where that limitation is later removed).

Even if the Commission is correct that the land in question will, one day, become public trust tidelands, those lands are now private property. *State of Cal. ex rel. State Lands Comm'n* 11 Cal. 4th at 63. Prohibiting development on that private land for the period of decades *before* the land may become public trust lands will destroy lawful development rights protected by *First English*.

The California Constitution and Coastal Act both afford landowners the right to protect their private property from advancing waters

The Commission also looks to *United States v. Milner*, 583 F.3d 1174 (9th Cir. 2009), a federal case arising out of Washington state, for the proposition that the state has a

right to an ambulatory shoreline, such that any shoreline protective devices that “fix the shoreline” will require formal action from a trustee agency, “as well as a permit from the Coastal Commission,” to remain in place. The practical effect of this policy will be to empower the Commission to require removal of shoreline protective devices when the high-tide line reaches their location (in other words, the time at which such devices will be most needed for the owners of existing structures).

But California landowners have both constitutional and statutory protections in place that were not present for the Washington landowners in *Milner*. Article 1, Section 1 of the California Constitution recognizes an individual right to protect property, including from natural hazards. Section 30235 of the Coastal Act codifies this right by requiring the Commission to approve permits for the construction of shoreline protective devices to safeguard existing structures in danger from erosion, with certain conditions. Such a requirement is meaningless if the Commission may use its new public trust guidance to refuse such permits—or even worse, to require the removal of existing, lawfully permitted shoreline protective devices.

Homeowners along California’s 1,100 miles of coastline have built, restored, or enhanced their coastal properties since 1977, relying on Section 30235’s promise of shoreline protection for existing structures (and the constitutional right to protect property that it embodies). These homes were built with permits issued by the Coastal Commission or municipalities operating under Commission-approved Local Coastal Programs. If the Commission adopts this new public trust guidance as to shoreline protective devices along the high-water line, the destruction of these homes will inevitably result—and will likely subject the State and local governments to liability when individual homes are damaged.

Coastal resources may be protected without destroying coastal landowners’ private property rights

The California Coastal Act reflects a careful balance between the state’s interest in preserving coastal resources and the reasonable expectations of lawful landowners in the rights to develop and protect their private property. The Commission’s draft public trust guidance unfairly shifts that balance. Any attempt by the Commission to prohibit development in the present based on its belief that private lands may—at some future date—become public trust tidelands will almost certainly result in litigation over the temporary taking of private property. Further, attempts by the Commission to require the removal of lawful, permitted shoreline protective devices under the public trust doctrine will deprive landowners of their constitutional and statutory rights to protect their private property, and will similarly result in litigation and potential liability. We

California Coastal Commission

July 22, 2022

Page 4

urge the Commission to reconsider its guidance with an eye towards the recognition and protection of coastal landowners' private property rights.

Sincerely,



Jeffrey McCoy
Attorney, Pacific Legal Foundation



Jeremy Talcott
Attorney, Pacific Legal Foundation

From: [Wendy Dyer](#)
To: [Coastal Statewide Planning](#)
Subject: Proposed Action Plan impacting our property at 2940 Sandy Lane in Del Mar.
Date: Thursday, July 21, 2022 12:21:14 PM

July 20, 2022

Dear California Coastal Commission,

This email is in regards to a recent CCC Notice and DRAFT Report Th6e-6-22, regarding sea level rise and how it affects property boundaries and property rights. We have extreme concerns regarding this proposed action plan and the impact on our property. Specifically we would draw your attention to the following:

- *The rate of sea-level rise has been exaggerated for political ends.*
- *Private coastal development did not cause the loss of beach area. The loss of beach area is primarily caused by sediment supplies being blocked by major government projects such as dams and jetties. Sea-level rise is only a minor factor.*
- *The California Coastal Commission's Draft Public Trust Guiding Principles & Action Plan outlines a one-sided agenda of forced managed retreat.*
- *The policy proposals do not respect private property rights. Protections for property owners need to be added.*
- *The policy proposals, if adopted, would eventually result in the total elimination of private property along the coast.*
- *Coastal property owners should not be expected to give up their land and homes to make up for sand losses caused mostly by government projects (dams, jetties, etc.).*
- *A device to protect private property from erosion cannot be equated with an encroachment onto public trust lands. Property owners have no legal or moral obligation to sacrifice their property to the public without just compensation.*
- *The process to apply for a coastal development permit is already too time consuming, expensive, and uncertain. A requirement for permit applicants to predict sand movement over the life of the proposed development would not be beneficial and would further complicate an already bloated process.*
- *The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. It should not try to invent a new methodology biased against property owners.>*
- *The dredging performed north of our property (very close to our property) in 2019 created more problems vs solving them. This dredging has increased the problems for homeowners in the close proximity to this area and because of it, the water will continue to cause irreparable damage to ocean front homes in the north area of Del Mar.*

In closing we believe this report relies on unproven suppositions, misapplies California law, and proposes policies that are unworkable and unfairly and unconstitutionally burdens coastal property owners and therefore, should be rejected in its entirety.

Thank you for your attention to this time-sensitive matter.

Sincerely,

Wendy Dyer, President/Co-Owner of Investors Leasing Corporation, 2940 Sandy Lane Del Mar
CA 92014

From: [Chris Burgess](#)
To: [Coastal Statewide Planning](#)
Subject: Public Comment -Draft Report Th6e-6-22
Date: Wednesday, July 20, 2022 2:09:34 PM
Attachments: [CCC Public Comment 7-20-22.pdf](#)

Attached is our comments of the above referenced draft report Th6e-6-22.

Sincerely,

Chris Burgess
1513 So Pacific Street
Oceanside, CA 92054

Chris & Jill Burgess
1513 So Pacific Street
Oceanside, CA 92054

July 20, 2022

California Coastal Commission
455 Market Street, Suite 300
San Francisco, CA 94105.2219

Dear California Coastal Commission:

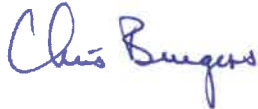
This email is in regards to a recent CCC Notice and DRAFT Report Th6e-6-22, regarding sea level rise and how it affects property boundaries and property rights. We have extreme concerns regarding this proposed action plan and the impact on our property. Specifically we would draw your attention to the following:

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- *The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. It should not try to invent a new methodology biased against property owners.*

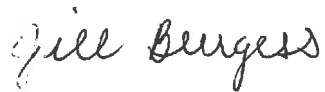
We have experienced long delays on our projects, 1) homebuilding in the coastal area and 2) long delays in revetment repairs at our home. These processes should not take as long as they do (years in the making).

In closing, we believe this report relies on unproven suppositions, misapplies California law and proposes policies that are unworkable and unfairly and unconstitutionally burdens coastal property owners and therefore should be rejected in its entirety.

Sincerely,



Chris Burgess



Jill Burgess

From: [Jack Lampl](#)
To: [Coastal Statewide Planning](#)
Subject: Public Comment DRAFT Report Th6e-6-22
Date: Wednesday, July 20, 2022 10:38:19 AM

Dear California Coastal Commission,

This email is in regards to a recent CCC Notice and DRAFT Report Th6e-6-22, regarding sea level rise and how it affects property boundaries and property rights. We have extreme concerns regarding this proposed action plan and the impact on our property. Specifically we would draw your attention to the following:

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- Private coastal development did not cause of the loss of beach area. The loss of beach area is primarily caused by sediment supplies being blocked by major government projects such as dams and jetties. Sea-level rise is a only minor factor.
- The California Coastal Commission's Draft Public Trust Guiding Principles & Action Plan outlines a one-sided agenda of forced managed retreat.
- The policy proposals do not respect private property rights. Protections for property owners need to be added.
- The policy proposals, if adopted, would eventually result in the total elimination of private property along the coast.
- Coastal property owners should not be expected to give up their land and homes to make up for sand losses caused mostly by government projects (dams, jetties, etc.).
- A device to protect private property from erosion cannot be equated with an encroachment onto public trust lands. Property owners have no legal or moral obligation to sacrifice their property to the public without just compensation.
- The process to apply for a coastal development permit is already too time consuming, expensive, and uncertain. A requirement for permit applicants to predict sand movement over the life of the proposed development would not be beneficial and would further complicate an already bloated process.
- The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. It should not try to invent a new methodology biased against property owners.

Has the Commission completed a long term Cost Benefit analysis projecting the impact of forced retreat that includes:

- Loss of property tax revenue
- Transfer of the costs of coastal stabilization from property owners to local government
- Actual contribution of bluff erosion to beach sand supply
- Cost of expected litigation in response to forced retreat

In closing I believe this report relies on unproven suppositions, misapplies California law, and proposes policies that are unworkable and unfairly and unconstitutionally burdens coastal property owners and therefore, should be rejected in its entirety.

Sincerely,

Jack Lampl


Thank you for your attention to this time sensitive matter.

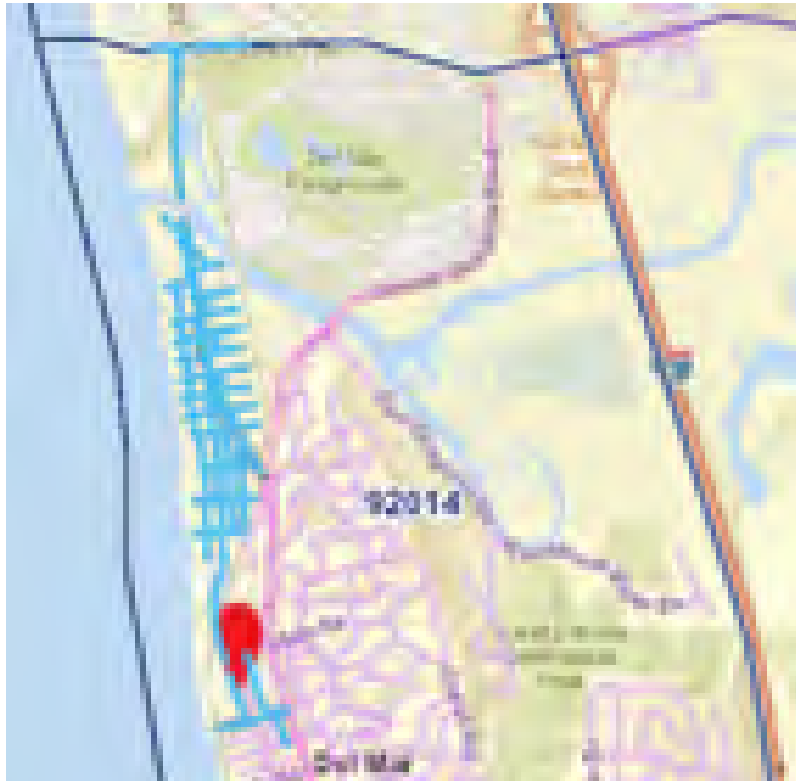
From: [Nancy Stoke](#)
To: [Coastal Statewide Planning](#)
Cc: nancystoke@earthlink.net
Subject: Public Comment Th6e
Date: Saturday, July 23, 2022 12:38:58 PM
Attachments: [image001.png](#)
[image002.png](#)

Dear California Coastal Commissioners,

This email is in response to your recent CCC Notice and DRAFT Report Th6e regarding sea level rise and your policy planning regarding property boundaries and property rights. I think your draft document is too far-reaching; I especially have very serious concerns regarding the proposed action plan and its impact on property rights, as I see no acknowledgment that one size does not fit all [and that local leaders know best how to manage their communities](#). Specifically I draw your attention to the following:

1 – The seawalls that are allowed in Del Mar’s Coastal Commission-approved LCP protect more than just the front line of houses; the seawalls protect the entire Beach Colony neighborhood which as per the USPS EDDM website contains 628 residential properties (over 30% of the 2,033 residences in the 1.8 sq mile city of Del Mar) and 21 business properties. Postal Route C011 data and map are below:

<input type="checkbox"/>	Route 	Residential 	Business 	Total
<input checked="" type="checkbox"/>	92014-C011	628	21	649

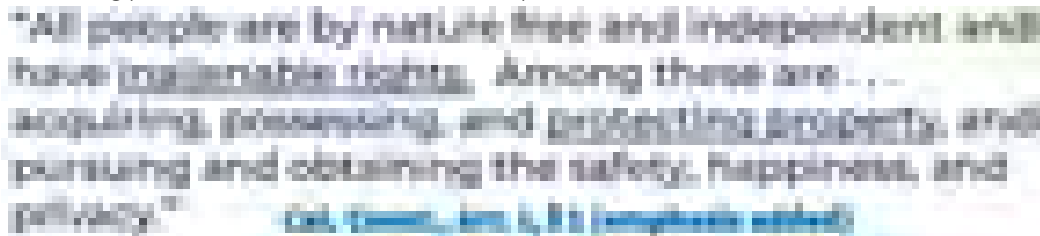


Del Mar’s seawalls are also different in that they protect public access to the beach at the end of each east/west street from 15th St north to 29th St, as well as protecting public infrastructure such as the railroad tracks which are a major state-wide transportation and shipping corridor. Del Mar’s seawalls provide many important public

benefits which is why they were approved in the first place. Removal would be a huge mistake for which there is no mitigation.

2 – The Shoreline Preservation Area (SPA) boundary marks where seawalls can and cannot go without need for Coastal Commission approval. The SPA boundary is included in the LCP.

3 – Existing private structures are allowed to be protected in the California State Constitution:

 "All people are by nature free and independent, and have inalienable rights. Among these are . . . acquiring, possessing, and protecting property, and pursuing and obtaining the safety, happiness, and privacy." *Cal. Const., art. I, § 1 (emphasis added)*

and the Federal Constitution:

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and cannot be taken without just compensation. I see nothing in your policy proposal that addresses just compensation; nor do I see acknowledgment of constitutionally-granted property rights.

Prohibiting the protection of private property and extrapolating a new mean high tide line both appear to be in conflict with constitutional rights.

I have many other concerns not addressed here. Overall I find your draft policy relies on unproven suppositions, misapplies State and Federal law, ignores property rights law, and proposes policies that are unworkable especially in Del Mar, doesn't allow for exceptions, assumes all California coastal property is the same, and unfairly and unconstitutionally burdens coastal property owners, and therefore **SHOULD BE REJECTED IN ITS ENTIRETY.**

Thank you for your time, attention, and hard work on this most important matter. **It needs more work please.**

Nancy Stoke
Del Mar Beach Colony Resident

From: [Rick Kuhle](#)
To: [Coastal Statewide Planning](#)
Subject: Public Trust guiding principles
Date: Sunday, July 24, 2022 3:22:21 PM

To whom it may concern. I reviewed your initial principles and action plan and believe that it is severely lacking. For urban areas it makes no sense to effectively take personal property without compensation by trying to change what the mean high tide is. I could understand it better if it was for rural areas where structures were not being taken. Just a backhanded way of in forcing retreat. Please start being rational.

Get [Outlook for iOS](#)

From: [Steve Parker](#)
To: [THOR STENSRUD](#)
Cc: [Coastal Statewide Planning](#); [Susie + Terry Pagel](#); [Susan Parker](#); [Tige Karl](#); [Carolyn Wilt](#); [Neil Brandom](#)
Subject: Re: CCC Th6e-6-22
Date: Monday, July 25, 2022 6:28:57 AM

Yet the CCC allowed the property owner at 1631 S. Pacific St to build 2 homes 4 feet closer to the ocean than any other home on S. Pacific St. In addition this same property owner has continued to build walls and deck foundations yet another 4 feet even closer to the ocean. To date the City of Oceanside building division has apparently approved this construction. But the CCC wants the rest of us to possibly give up our property because of the perceived rise of the ocean levels.

On Sun, Jul 24, 2022, 5:16 PM THOR STENSRUD <thorskie@aol.com> wrote:

Dear California Coastal Commission,

This email is in regards to a recent CCC Notice and DRAFT Report Th6e-6-22, regarding sea level rise and how it affects property boundaries and property rights. We have extreme concerns regarding this proposed action plan and the impact on our property. Specifically we would draw your attention to the following:

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- *The policy proposals do not respect private property rights. Protections for property owners need to be added.*
- *The policy proposals, if adopted, would eventually result in the total elimination of private property along the coast.*
- *Coastal property owners should not be expected to give up their land and home to make up for sand losses caused almost exclusively by government projects (dams, jetties, etc.). (Please note the actual wording and intent of the CA Coastal Act's goals (more than one goal) are to maximize public access while maintaining the "constitutionally protected rights of private property owners." If private property is affected by CCC action, then CA shall provide "payment of just compensation.")*
- *A device to protect private property from erosion cannot be equated with an encroachment onto public trust lands. Property owners have no legal or moral obligation to sacrifice their property to the public without just compensation.*
- *The process to apply for a coastal development permit is already too time consuming, expensive, and uncertain. A requirement for permit applicants to predict sand movement over the life of the proposed development would not be beneficial and would further complicate an already bloated process.*
- *The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. It should not try to invent a new methodology biased against property owners.>*

We believe this report relies on unproven suppositions, misapplies California law, and proposes policies that are unworkable and unfairly and unconstitutionally burdens coastal property

owners and therefore, should be rejected in its entirety.

Respectfully submitted,

Thor A. Stensrud & Tige Kahler

Spokespersons of The Association of Concerned Beachfront Homeowners of South Pacific
Street

Six other Spokespersons:

f,

Susan and Steve Parker

Terry and Susie Pagel

Carolyn Wilt

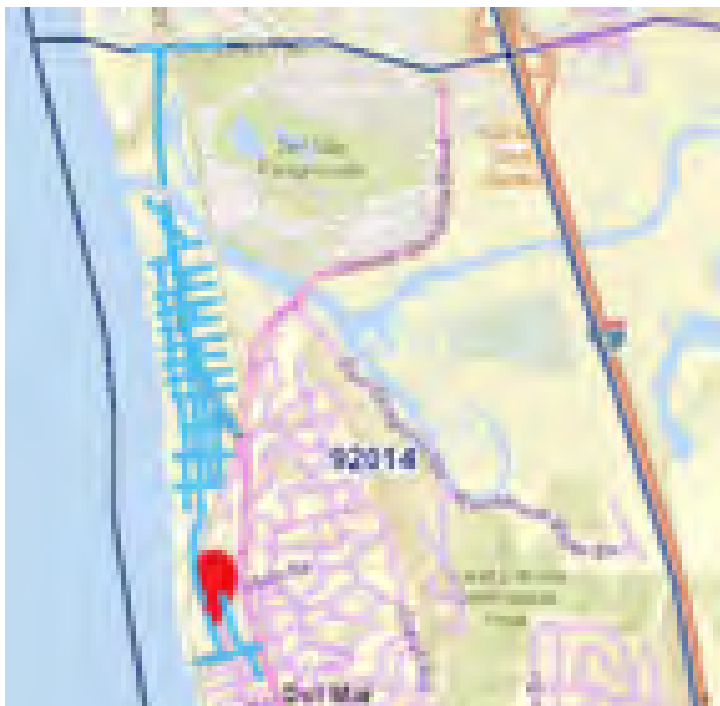
From: [Cathie Hays](#)
To: [Coastal Statewide Planning](#)
Subject: Response to CCC Notice and DRAFT Report Th6e
Date: Saturday, July 23, 2022 6:34:48 PM
Attachments: [image001.png](#)
[image002.png](#)

- Dear California Coastal Commissioners,

This email is in response to your recent CCC Notice and DRAFT Report Th6e regarding sea level rise and your policy planning regarding property boundaries and property rights. We think your draft document is too far-reaching; We especially have very serious concerns regarding the proposed action plan and its impact on property rights, as we see no acknowledgment that one size does not fit all [and that local leaders know best how to manage their communities](#). Specifically we draw your attention to the following:

1 – The seawalls that are allowed in Del Mar's Coastal Commission-approved LCP protect more than just the front line of houses; the seawalls protect the entire Beach Colony neighborhood which as per the USPS EDDM website contains 628 residential properties (over 30% of the 2,033 residences in the 1.8 sq mile city of Del Mar) and 21 business properties. Postal Route C011 data and map are below:

<input type="checkbox"/>	Route 	Residential 	Business 	Total
<input checked="" type="checkbox"/>	92014-C011	628	21	649



Del Mar's seawalls are also different in that they protect public access to the beach at the end of each east/west street from 15th St north to 29th St, as well as protecting public infrastructure such as the railroad tracks which are a major state-wide transportation and shipping corridor. Del Mar's seawalls provide many important public benefits which is why they were approved in the first place. Removal would be a huge mistake [for which there is no mitigation](#).

2 – The Shoreline Preservation Area (SPA) boundary marks where seawalls can and cannot go without need for Coastal Commission approval. The SPA boundary is included in the LCP.

3 – Existing private structures are allowed to be protected in the California State Constitution:

"All people are by nature free and independent and have inalienable rights. Among these are . . . acquiring, possessing, and protecting property, and pursuing and obtaining the safety, happiness, and privacy." Cal. Const., art. I, § 1 (emphasis added)

and the Federal Constitution:

No person shall ever be . . . deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation. U.S. Const., 5th Am. (emphasis added)

and cannot be taken without just compensation. I see nothing in your policy proposal that addresses just compensation; nor do I see acknowledgment of constitutionally-granted property rights.

Prohibiting the protection of private property and extrapolating a new mean high tide line both appear to be in conflict with constitutional rights.

I have many other concerns not addressed here. Overall I find your draft policy relies on unproven suppositions, misapplies State and Federal law, ignores property rights law, and proposes policies that are unworkable especially in Del Mar, doesn't allow for exceptions, assumes all California coastal property is the same, and unfairly and unconstitutionally burdens coastal property owners, and therefore **SHOULD BE REJECTED IN ITS ENTIRETY.**

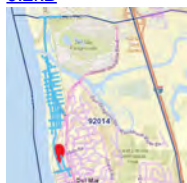
Thank you for your time, attention, and hard work on this most important matter. **It needs more work please.**

Cathie and Tom Hays

[Download all attachments as a zip file](#)

☐ Route 0 ☐ Residential 0 ☐ Business 0 ☐ Total
☒ 00014-0011 603 21 603

[image001.png](#)
6.2kB



[image002.png](#)
268kB

"All people are by nature free and independent and have inalienable rights. Among these are . . . acquiring, possessing, and protecting property, and pursuing and obtaining the safety, happiness, and privacy." Cal. Const., art. I, § 1 (emphasis added)

[image005.jpg](#)
[25.8kB](#)

o Recipient should not be... classified of this identity or property... without due process of law nor shall private property be taken for public use without just compensation
U.S. Const., 5th Am. (emphasis added)

[image007.jpg](#)
[23kB](#)

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- Reply
- ,
- Reply All
- or
- Forward

Thank you. Got it. Cool.

Send

From: [Lea Hennenhoefer](#)
To: [Coastal Statewide Planning](#); EnvironmentalJustice@Coastal
Cc: [Lea Hennenhoefer](#); [Lea Hennenhoefer](#)
Subject: Response to CCC Notice and Draft Report Th6e-6-22 - Lea Hennenhoefer, 1303 S. Pacific St., Oceanside, CA 92054
Date: Wednesday, July 20, 2022 3:34:28 PM

Dear California Coastal Commission,

This email is in regards to a recent CCC Notice and DRAFT Report Th6e-6-22, regarding sea level rise and how it affects property boundaries and property rights. We have extreme concerns regarding this proposed action plan and the impact on our property. Specifically, we would draw your attention to the following:

- *The rate of sea-level rise has been exaggerated for political ends.*
- *Private coastal development did not cause the loss of beach area. The loss of beach area is primarily caused by sediment supplies being blocked by major government projects such as dams and jetties. Sea-level rise is only a minor factor.*
- *The California Coastal Commission's Draft Public Trust Guiding Principles & Action Plan outlines a one-sided agenda of forced managed retreat.*
- *The policy proposals do not respect private property rights. Protections for property owners need to be added.*
- *The policy proposals, if adopted, would eventually result in the total elimination of private property along the coast.*
- *Coastal property owners should not be expected to give up their land and homes to make up for sand losses caused mostly by government projects (dams, jetties, etc.).*
- *A device to protect private property from erosion cannot be equated with encroachment onto public trust lands. Property owners have no legal or moral obligation to sacrifice their property to the public without just compensation.*
- *The process to apply for a coastal development permit is already too time-consuming, expensive, and uncertain. A requirement for permit applicants to predict sand movement over the life of the proposed development would not be beneficial and would further complicate an already bloated process.*
- *The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. It should not try to invent a new methodology biased against property owners.>*

In closing, we believe this report relies on unproven suppositions, misapplies California law, and proposes policies that are unworkable and unfairly and unconstitutionally burden coastal property owners and therefore, should be rejected in its entirety.

Sincerely,

Lea Hennenhoefer
316 S. Melrose Dr. Ste 100
Vista, CA 92081-6668
w-760-941-2260
c-760-519-7267
lea@jahfamilylaw.com

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From: [Casey Journigan](#)
To: [Coastal Statewide Planning](#)
Cc: ["Casey Journigan"](#)
Subject: Sea Level Rise
Date: Friday, July 22, 2022 4:04:57 PM
Attachments: [SprtF5-Fabr22072212420.pdf](#)

Please see the attached PDF file regarding the sea level rise issues.

Thanks -

Casey

Casey Journigan

President

Arcadia | Encore

714.562.8200 ext.216

Caseyj@arcadiacontract.com

www.arcadiacontract.com | www.encoreseating.com

Casey & Cindy Journigan
1513 So Pacific Street
Oceanside, CA 92054

July 20, 2022

California Coastal Commission
455 Market Street, Suite 300
San Francisco, CA 94105.2219

Dear California Coastal Commission:

This email is in regards to a recent CCC Notice and DRAFT Report Th6e-6-22, regarding sea level rise and how it affects property boundaries and property rights. We have extreme concerns regarding this proposed action plan and the impact on our property. Specifically we would draw your attention to the following:

- *The rate of sea-level rise has been exaggerated for political ends.*
- *Private coastal development did not cause of the loss of beach area. The loss of beach area is primarily caused by sediment supplies being blocked by major government projects such as dams and jetties. Sea-level rise is only one minor factor.*
- *The California Coastal Commission's Draft Public Trust Guiding Principles & Action Plan outlines a one-sided agenda of forced managed retreat.*
- *The policy proposals do not respect private property rights. Protections for property owners need to be added.*
- *The policy proposals, if adopted, would eventually result in the total elimination of private property along the coast.*
- *Coastal property owners should not be expected to give up their land and homes to make up for sand losses caused mostly by government projects (dams, jetties, etc.).*
- *A device to protect private property from erosion cannot be equated with an encroachment onto public trust lands. Property owners have no legal or moral obligation to sacrifice their property to the public without just compensation.*
- *The process to apply for a coastal development permit is already too time consuming, expensive, and uncertain. A requirement for permit applicants to predict sand movement over the life of the proposed development would not be beneficial and would further complicate an already bloated process.*
- *The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. It should not try to invent a new methodology biased against property owners.*

We have experienced long delays on our projects, 1) homebuilding in the coastal area and 2) long delays in revetment repairs at our home. These processes should not take as long as they do (years in the making).

In closing, we believe this report relies on unproven suppositions, misapplies California law and proposes policies that are unworkable and unfairly and unconstitutionally burdens coastal property owners and therefore should be rejected in its entirety.

Sincerely,


Casey Journigan


Cindy Journigan

From: [Bryan Kastleman](#)
To: [Coastal Statewide Planning](#)
Subject: Sea level rise
Date: Sunday, July 24, 2022 5:57:10 AM

Dear California Coastal Commission,

This email is in regards to a recent CCC Notice and DRAFT Report Th6e-6-22, regarding sea level rise and how it affects property boundaries and property rights. We have extreme concerns regarding this proposed action plan and the impact on our properties. Specifically we would draw your attention to the following:

- The rate of sea-level rise has been exaggerated for political ends.
- I believe that private coastal development did not cause the loss of beach area. The loss of beach area is primarily caused by sediment supplies being blocked by major government projects such as dams and jetties. Sea-level rise is a only minor factor.
- The California Coastal Commission's Draft Public Trust Guiding Principles & Action Plan outlines a one-sided agenda of forced managed retreat.
- The policy proposals do not respect private property rights. Protections for property owners need to be added.
- The policy proposals, if adopted, would eventually result in the total elimination of private property along the coast.
- Coastal property owners should not be expected to give up their land and homes to make up for sand losses caused mostly by government projects (dams, jetties, etc.).
- A device to protect private property from erosion cannot be equated with an encroachment onto public trust lands. Property owners have no legal or moral obligation to sacrifice their property to the public without just compensation.
- The process to apply for a coastal development permit is already too time consuming, expensive, and uncertain. A requirement for permit applicants to predict sand movement over the life of the proposed development would not be beneficial and would further complicate an already bloated process.
- The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. It should not try to invent a new methodology biased against property owners.

In closing we believe this report relies on unproven suppositions, misapplies California law, and proposes policies that are unworkable and unfairly and unconstitutionally burdens coastal property owners and therefore, should be rejected in its entirety.

Sincerely,
Bryan Kastleman

From: patriciamcpherson1@verizon.net <patriciamcpherson1@verizon.net>

Sent: Friday, May 20, 2022 2:52 PM

To: ExecutiveStaff@Coastal <ExecutiveStaff@coastal.ca.gov>

Cc: saveballona@hotmail.com; todd@tcardiffllaw.com; Lucchesi, Jennifer@SLC

<Jennifer.Lucchesi@slc.ca.gov>; Office of the Secretary CNRA

<secretary@resources.ca.gov>; katharine.moore@sen.ca.gov; ben.allen@sen.ca.gov; olina.wibroe@sen.ca.gov; samuel.liu@sen.ca.gov; hollyjmittchell@bos.lacounty.gov; jwilson@bos.lacounty.gov; sheila@bos.lacounty.gov; executiveoffice@bos.lacounty.gov; jwaldron@bos.lacounty.gov; lmuraida@bos.lacounty.gov; sfreeman@bos.lacounty.gov; zgaidzik@bos.lacounty.gov; lrichards@bos.lacounty.gov

Subject: Public Comment on June 2022 Agenda Item Thursday 6e - June 2022 Draft Public Trust Guiding Principles



Patricia McPherson President

Jeanette@SaveBallona.org (310) 721-3512

Executive Staff,

Grassroots Coalition respectfully provides this informational brochure on Ballona Wetlands/Ballona Wetlands Ecological Reserve as part of its comments to the Draft Public Trust Guiding Principles. The brochure sets forth legal designations that have been acknowledged, approved and registered for the protection of the Public Trust properties known as Ballona Wetlands/ Ballona Wetlands Ecological Reserve. As cited in the Public Trust Principles and Action Plan for the California Coastal Commission, there are Public Resource Codes (PRCs) utilized for protection of Public Trust property. In the case of Ballona Wetlands, numerous PRCs are applicable to Ballona, including but not limited to PRC 31220 which entails watershed restoration, and PRC 31113 Climate Change which also includes protections to biodiversity and protection from greenhouse gases. Neither of these PRCs have been meaningfully addressed by the State Lands Commission(SLC), in its stewardship of the freshwater marsh/ expanded wetland portion of SLC assigned property at Ballona Wetlands. And, these PRCs are not meaningfully addressed by CDFW in the certified FEIR. We look forward to input from the California Coastal Commission to assist in enforcement of these Public Resource Codes as part of the enforcement capability of the CCC and its PUBLIC TRUST ACTION PLAN that we wish for

CCC engagement to protect Ballona Wetlands/ Ballona Wetlands Ecological Reserve from watershed/ freshwater hydrology harm due to ongoing freshwater waste, diversion and throw away of Ballona's natural freshwater resources by the California Department of Fish & Wildlife, Playa Vista, Friends of Ballona--jointly the Ballona Wetlands Conservancy as cited by the State Lands Commission.

Grassroots Coalition provides this electronic correspondence as 1 of 3 for Item 6e.

Thank you for your consideration,

Patricia McPherson, Grassroots Coalition

From: patriciamcpherson1@verizon.net <patriciamcpherson1@verizon.net>

Sent: Wednesday, May 25, 2022 9:34 AM

To: ExecutiveStaff@Coastal <ExecutiveStaff@coastal.ca.gov>; Willis, Andrew@Coastal <Andrew.Willis@coastal.ca.gov>; jack.ainsworth@coastal.ca.gov

Cc: saveballona@hotmail.com; patriciamcpherson1@verizon.net; todd@tcardiffllaw.com; Haage, Lisa@Coastal <Lisa.Haage@coastal.ca.gov>; Revell, Mandy@Coastal <Mandy.Revell@coastal.ca.gov>; westbasinboardsecretary@westbasin.org; edwardc@westbasin.org; geyzzav@westbasin.org; Wilson, Mike@Coastal <mike.wilson@coastal.ca.gov>; Aminzadeh, Sara@Coastal <sara.aminzadeh@coastal.ca.gov>; Rice, Katie@Coastal <katie.rice@coastal.ca.gov>; Uranga, Roberto@Coastal <roberto.uranga@coastal.ca.gov>; Huckelbridge, Kate@Coastal <Kate.Huckelbridge@coastal.ca.gov>; christopher.ward@coastal.ca.gov; Groom, Carole@Coastal <carole.groom@coastal.ca.gov>; mary.luevano@coastal.ca.gov; Bochco, Dayna@Coastal <dayna.bochco@coastal.ca.gov>; Hart, Caryl@Coastal <caryl.hart@coastal.ca.gov>; Turnbull-Sanders, Effie@Coastal <effie.turnbull-sanders@coastal.ca.gov>; Brownsey, Donne@Coastal <donne.brownsey@coastal.ca.gov>; Rivas, Rick@Coastal <rick.rivas@coastal.ca.gov>; Vanderberg-Jones, Sonora@Coastal <sonora.vanderberg-jones@coastal.ca.gov>; aaron.o.allen@usace.army.mil; Taing, Adam@Waterboards <Adam.Taing@Waterboards.ca.gov>; Heath, Arthur@Waterboards <Arthur.Heath@waterboards.ca.gov>; rafiquel.i.talukder@usace.army.mil; Kang, Jim@Waterboards <Jim.Kang@Waterboards.ca.gov>; sheila@bos.lacounty.gov; jwilson@bos.lacounty.gov; hollyjmittchell@bos.lacounty.gov; hamilton.cloud@mail.house.gov; ben.allen@sen.ca.gov; olina.wibroe@sen.ca.gov; katharine.moore@sen.ca.gov; Office of the Secretary CNRA <secretary@resources.ca.gov>; director@wildlife.ca.gov

Subject: June CCC Meeting 2022 Comment Item 6e Public Trust CCC Action--Ballona Wetlands, Grassroots Coalition/ Dr. Griswold Presentation Groundwater Dependent Ecosystem/ SGMA

To: California Coastal Commissioners, and Coastal Commission Staff,
Please include this information & information contained within the YouTube link included below, as part of Grassroots Coalition's submitted comments for June 9, 2022, Item 6e.

The following presentation pertains to Ballona Wetlands and its Sustainable Groundwater Management aspects as a Groundwater Dependent Ecosystem. A presentation to the Groundwater Sustainability Agencies of the Santa Monica Subbasin leads the additional discussion with new information from Grassroots Coalition and Margot Griswold, PhD, a renowned California restoration ecologist with over 27 years of expertise and engagement in positive habitat outcomes including the interagency, highly contentious Owens Valley Dust Control Plan via habitat restoration. Owens Valley became a consensus planning model that now exists and can be utilized for the restoration of Ballona Wetlands Ecological Reserve.

<https://youtu.be/MJ1Aag51EX8>

Key points in the presentation include:

1. The Groundwater Sustainability Plan Final Draft addresses in Appendix F, the data gap that exists which demonstrates that it is not possible, at present to address potential saltwater intrusion issues in the lower Santa Monica Subbasin due to a lack of needed monitoring wells. Neither sea level rise nor the California Dept. of Fish & Wildlife's (CDFW) proposed removal of over 3 million cubic yards of soil has been modeled to determine if CDFW's Plan for lowering the Ballona Wetlands below sea level for creation of a new saltwater bay, will have impacts of saltwater contamination to the Silverado Aquifer or the upper

freshwater aquifers currently classified by the Water Board as Drinking Water and Potential Drinking Water respectively.

The CDFW Final Environmental Impact Report does not include hydrologic evaluation of Ballona itself and does not address the potential negative impacts upon the aquifers and/or the potential impacts upon Ballona Wetlands as a freshwater/ Groundwater Dependent Ecosystem.

2. The Groundwater Sustainability Plan does not yet include data of the Playa Vista ongoing dewatering needed for the Clean Up and Abatement Order 98-125 (for the Howard Hughes/ MacDonald Douglas Aircraft decontamination) or the Playa Vista dewatering for the gas mitigation systems of the Playa Vista Methane Prevention Detection and Monitoring Program (Playa Vista Phase 1 Methane Code) or the Citywide Methane Code dewatering on the Phase 2 area of Playa Vista. No information exists in the GSP per the 20 years of dewatering via the unpermitted drainage wells in the wetlands that the California Coastal Commission cited as a violation of the Coastal Act as harming the hydrology and ecology of Ballona. Essentially, as in many GSPs an adequate evaluation of a Groundwater Dependent Ecosystem has not been done for Ballona Wetlands/ Ballona Wetlands Ecological Reserve.

3. New information regarding the legally required protective laws for Ballona (Title 14, Section 630 Terrestrial/ NonMarine Ecological Reserve status that is Ballona specific) have not had adherence by the California Coastal Conservancy in its oversight and control of the Ballona Environmental Impact Report studies and documents.

The Coastal Conservancy in 2005, narrowed the scope of review by the Southern California Coastal Wetland Research Program and the Science Advisory Committee to a preferred alternative--estuarine, marine goal that was and is inconsistent with the Title 14, Section 630 Terrestrial/ Non Marine Ecological Reserve status that was approved by the Ca. Fish & Game Commission and Registered with the Office of Administrative Law.

(SCCWRP Letter--Slides 28,29 of 31)

<https://saveballona.org/media/California.Coastal.Commission.CCC.Meeting.May.8.2019.Ballona.Wetlands.Restoration.History.Presentation.pdf>

The following website link includes the Audubon article by Dr. Griswold, which contains new information regarding Ballona Wetlands Ecological Reserve status as an Ecological Reserve including the Office of Administrative Law's Registration as a terrestrial/ NONMARINE Ecological Reserve with its own specific Purpose and Goals for its acquisition.

<https://www.laaudubon.org/blog/2021/10/30/inconsistencies-and-missed-opportunities->

Additionally, Fish & Game Code 1745

1745. (a) For purposes of this section, the following terms have the following meanings: (1) "**Department-managed lands**" includes lands, or lands and water, acquired for public shooting grounds, state marine (estuarine) recreational management areas, ecological reserves, and wildlife management areas.

(2) The department may enter into contracts or other agreements for the management and operation of department-managed lands with nonprofit conservation groups, recognized under Section 501(c) of the Internal Revenue Code, or resource conservation districts, as described in Chapter 3 (commencing with Section 9151) of Division 9 of the Public Resources Code.

(B) **The contracts or other agreements authorized pursuant to this paragraph shall adhere to the goals and objectives included in an approved management plan and shall be consistent with the purpose for which the lands were acquired and managed by the department.** Any changes to the management plan shall be subject to public review and comment.

The Goals and Objectives for which the Ballona Wetlands Ecological Reserve was acquired with public funds, over \$140 million, are as follows:

California Regulatory Notice Register 2005, Volume No. 20-Z, Starting on **page 663** Ballona Wetlands Ecological Reserve

[https://www.dhcs.ca.gov/services/medi-cal/Documents/AB1629/ZREG/ZREG 20-Z 5.20.05 notice.pdf](https://www.dhcs.ca.gov/services/medi-cal/Documents/AB1629/ZREG/ZREG%20-Z%205.20.05_notice.pdf)

The Fish & Game Code 1745, above, provides also for adherence to the Title 14, Section 630 status approved for Ballona Wetlands Ecological Reserve and it follows that any/all agreements and actions should abide by the Registered Purpose and Goals. Ecological Reserves require, under Fish and Game Code 1019, that a Land Management Plan (LMP) be prepared for the Reserve after acquisition. The LMP leading language begins with the Purpose and Goals of the (Section 630) acquisition in its requirements for study. Any/all subsequent Environmental Impact Reports for the Ecological Reserve also start with the same premise.

No Land Management Plan was performed for Ballona Wetlands Ecological Reserve and the language of the Title 14, Section 630 Terrestrial/ NONMARINE with specific Ballona Wetlands Purpose and Goals language was not the premise of the Environmental Impact Report controlled and prepared by the California Coastal Conservancy (a Responsible Agency). Instead, the Coastal Conservancy utilized an inconsistent premise of preferred alternative of 'restoring the ebb and flow of the ocean' in its inconsistent narrowing of alternatives

for Ballona's restoration in both its contract language to the Southern California Coastal Waters Research Program/ SAC and in the premise of the Environmental Impact Report.

We believe that the California Coastal Conservancy failed to adhere to Title 14, Section 630 terrestrial/nonmarine Ecological Reserve status for Ballona Wetlands Ecological Reserve and failed to abide by and advise CDFW, in its legal role as an advisory Responsible Agency, and failed to abide by Fish & Game Code 1745.

Please review the materials provided herein and keep this information as necessary information in the consideration by the California Coastal Commission for any/all decision making for Ballona Wetlands Ecological Reserve--restoration.

Thank you,
Patricia McPherson, Grassroots Coalition



BIG DIG - NOT WHAT THE PUBLIC PAID FOR



There are five Ballona Wetlands Ecological Reserve (BWER) Lawsuits against a highly deficient Final Environmental Impact Report. The Preferred Alternative is to convert Ballona into a Saltwater Bay which is inconsistent with the State's registered purpose for acquisition of Ballona as a Terrestrial, NonMarine Ecological Reserve.

These lawsuits could go on for many years at great expense. Instead let's learn from the Owens Lake Collaborative's highly successful habitat restoration, after hiring a professional, impartial facilitator to guide about forty stakeholders through a fair, unbiased, science driven process.

<https://saveballona.org/opposition-ballona-wetland-ecological-reserve-fi...>

Is there the will for a collaborative Ballona approach, among CDFW, State Lands, LA County, NGO's, private businesses? An impartial Facilitator is key to the process. Funding for a Facilitator and for public agency personnel to attend meetings will be necessary, and possibly science and engineering specialists.



In 1908 William Mulholland, a civil engineer began construction of the Los Angeles Department of Water and Power (LADWP) 233 Mile Aqueduct. In 1913 the Aqueduct began bringing freshwater to LA.

Owens Valley farms began to fail due to over-pumping of freshwater. In 1928 the St. Francis Dam Disaster collapsed killing over 450 people. The Lake became a dust bowl, creating huge, life threatening dust storms. Wildlife suffered. Finally, about ten years ago stakeholders, agencies and the LADWP agreed something drastic needed to be done to correct the Dust Bowl which was created by the Aqueduct Project.

Restoration Ecologist Dr. Margot Griswold was part of the successful habitat restoration at Owens Lake. She shares her experience in the collaborative planning of the mitigation for the Dust Storms in the Valley. She wants the process used for Ballona. <https://youtu.be/e2F15wYL6c0> 26 minutes

See Huell Howser of **CALIFORNIA GOLD** explore LA Department of Water & Power Habitat Restoration of Owens Lake from 2002 to 2008 <https://blogs.chapman.edu/huell-howser-archives/2008/08/12/owens-river-h...> 56 minutes

Bolsa Chica's 2021 Sustainability Report raises **Red Flag** after a 15 year experiment of engineered, full-tidal opening– Urgent Closure Remediation is recommended to restore the destroyed Salt Marsh Habitat and Endangered Species Loss.

<https://saveballona.org/lessons-applicable-ballona-wetlands-rehabilitation-bolsa-chica-2021-report-proposed-remediation-2006-full-tidal-restoration.html>

The Bolsa Chica Report provides an immediate **Red Flag** warning for conversion of Ballona Wetlands Ecological Reserve into a Saltwater Bay, below sea level. Like Bolsa Chica, at Ballona an engineered, full tidal opening will destroy Salt Marsh Habitat, and its reliant Endangered Species, to become mudflats and open water.



Bolsa Chica Wetlands in need of immediate remediation to restore sensitive ecology. https://bclandtrust.org/wp-content/uploads/2022/03/BCSAS_Final-Report_Executive-Summary_Final.pdf **FULL BCSAS REPORT**

TATTN statements to the California Coastal Commission:

...“Playa Vista ruined and illegally diverted the fresh water pre-existing for millennia by their illegal freshwater marsh and its illegal water discharges in the Ballona Creek Channel --at approximately 500,000 gallons per day... Playa Vista math-- my math has it way higher.” John Tommy Rosas, TATTN.

Both John Tommy Rosas and Anthony Morales Standing Chief of the Gabrieleno Tongva San Gabriel Band of Mission Indians oppose the “Big Dig” and acknowledge Ballona is a predominantly seasonal freshwater wetland and should remain one. <https://saveballona.org/862020-ccc-anthony-morales-i-have-standing-chief-gabrieleno-tongva-san-gabriel-band-mission-indians.html>



Ballona Wetlands Ecological Reserve is a SACRED NATIVE AMERICAN SITE -

The lands and waters of Ballona are part of the Tongva Village of Saangna.

“This is a **SACRED SITE** registered by the Tongva Ancestral Territorial Tribal Nation...”, states TATTN spokesperson and tribal leader John Tommy Rosas.

**FACT: BWER is a CCR Title 14, Section 630 Terrestrial / NonMarine Ecological Reserve
BWER is not a CCR Title 14, Section 632 Marine Preserve**



**Ballona Wetlands Ecological Reserve
Must be protected by its Legal Designations!**

Ballona Indigenous People call Ballona Wetlands Pwinikpar – Tongva word for “It is full of water”

Ballona Wetlands Ecological Reserve is protected by the

1. SUSTAINABLE GROUNDWATER MANAGEMENT ACT (SGMA)

<https://saveballona.org/sustainable-groundwater-management-act-sgma-plan...>

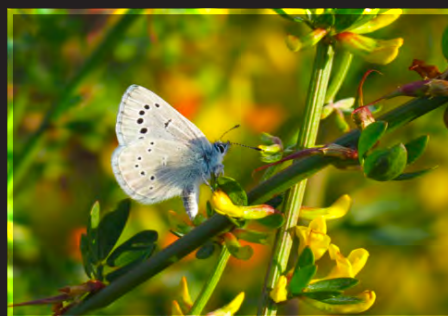
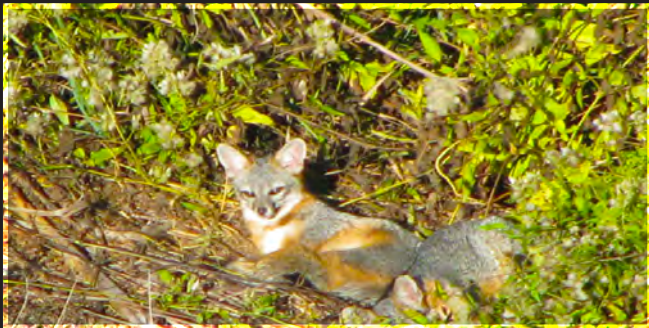
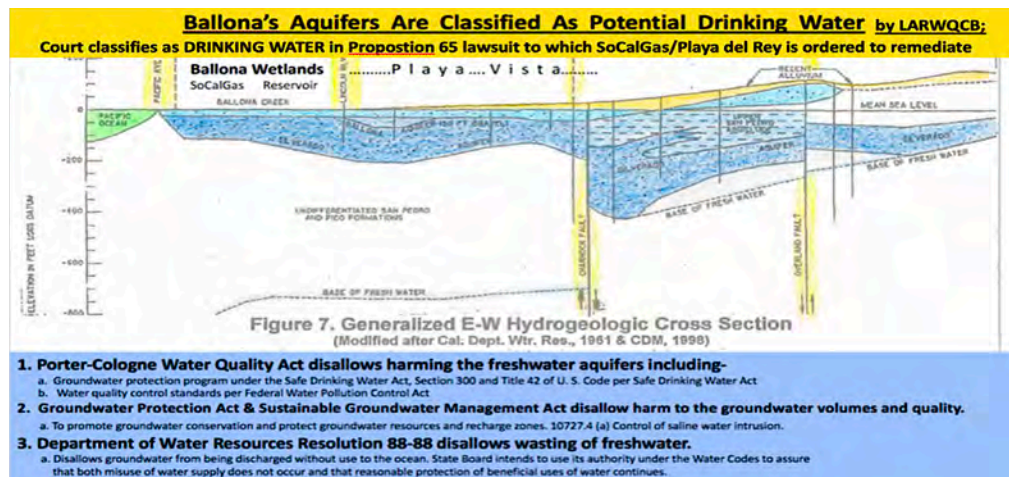
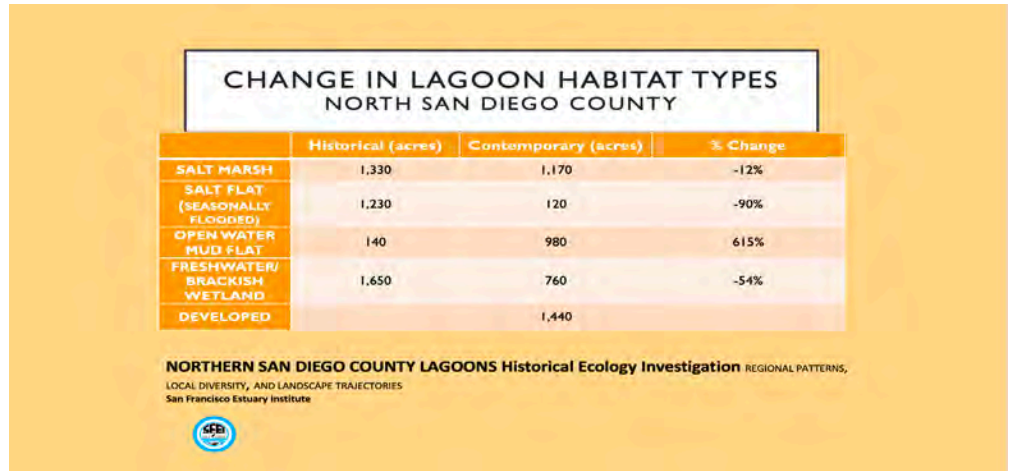
2. GROUNDWATER DEPENDENT ECOSYSTEM (GDE)

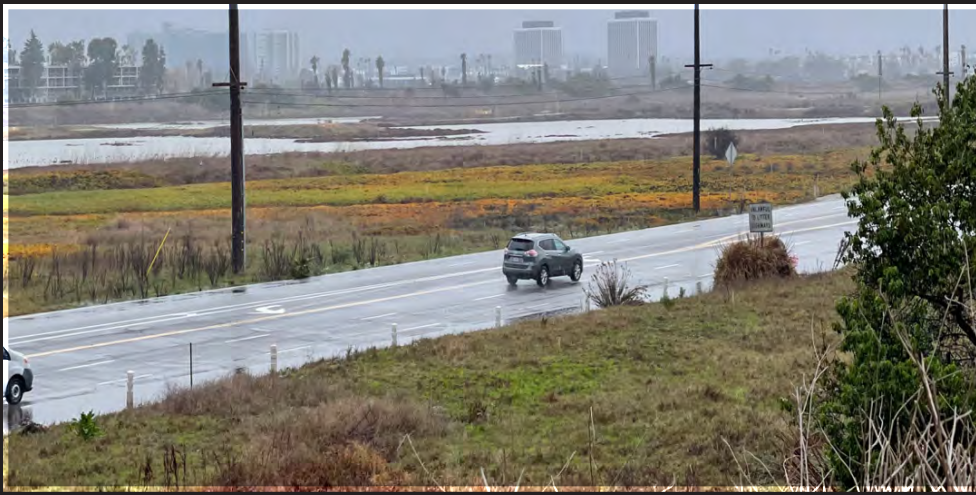
Ballona Wetlands Ecological Reserve is classified as a GDE.

<https://saveballona.org/groundwater-dependent-ecosystems-hidden-dangers...>

3. CALIFORNIA REGULATORY NOTICE REGISTER 2005,

Volume No. 20-Z, starting on pages 663-4 Ballona Wetlands Ecological Reserve, CCR Title 14, Section 630, Fish & Game Commission https://www.dhcs.ca.gov/services/medi-cal/Documents/AB1629/ZREG/ZREG%2020-Z_5.20.05_notice.pdf





Photos taken December 30, 2021



Originally 2,000 acres of Ballona Wetlands were roughly divided into five basic parts:

950 acres

Marina del Rey (park space, ocean & dockside commercial and residential development)

527 acres

Ballona Wetlands Ecological Reserve

67 acres

Freshwater marsh at Lincoln and Jefferson

56 acres

County / USACE Owned Flood Control Channel and Levees -- not part of the Ecological Reserve

400 acres

Playa Vista (commercial & residential development)



Patricia McPherson President
Jeanette@SaveBallona.org (310) 721-3512

place
stamp
here



October 2012 Pre-capping Photo J. Coffin

Photos to East
of South Drain
Area B



August 2020 Three years post capping Photo M. Griswold



FEIR has inconsistencies of existing Hydrology and Vegetation: Capping the unpermitted drains in B north resulted in native pickleweed wetland habitat.

Unpermitted drains in Area B in currently preserved areas that support wetland vegetation once drains were capped.



CALIFORNIA ASSOCIATION OF REALTORS®

June 2, 2022

Donne Brownsey, Chair
California Coastal Commission
455 Market Street, Suite 300
San Francisco, California 94105

SUBMITTED VIA EMAIL

RE: June 2022 DRAFT PUBLIC TRUST GUIDING PRINCIPLES AND ACTION PLAN

Dear Chair Brownsey,

Thank you for the opportunity to provide comments on the June 2022 Draft Public Trust Guiding Principles and Action Plan (Plan). With California's coast being the first line of defense against sea level rise, we appreciate the importance of local and regional planning for areas potentially threatened by inundation and erosion.

In the Plan, Principle 8 "Shoreline protective devices adversely impact public trust resources" raises some concerns by stating that, overall, sea walls, revetments, breakwaters, and other shoreline protection devices available for public trust uses may also lead to the loss of public trust resources.

We respectfully disagree that all shoreline protective devices negatively impact the environment. There are engineered solutions available, such as artificial reefs, that will help preserve California's coastline while also increasing nearshore habitat and biodiversity. According to the U.S. Department of the Interior, *"Artificial reefs provide shelter, food and other necessary elements for biodiversity and a productive ocean. This in turn creates a rich diversity of marine life, attracting divers and anglers. And states like the program because the increased tourism and commercial fishing benefits local economies."* Additionally, numerous studies around the world have shown the environmental and societal benefits of artificial reefs and reef ball breakwaters.

In addition, a March 2017, peer-reviewed study by the U.S. Geological Survey examined long-term shoreline response to climate change along a 500 km stretch of California's southern coast. To summarize, the findings in the report acknowledge *"that significant impacts to the shoreline will occur due to accelerated sea-level rise, with 31% to 67% of beaches in Southern California lost by 2100..."*. The report also concluded that *"It is likely that beaches in Southern California will require substantial management efforts (e.g. nourishments and armoring) to maintain beach widths and prevent impacts to coastal infrastructure."**

Protecting California's coastline from sea level rise will require the application of a wide variety of solutions, natural and engineered. The diversity of sea level rise challenges deserves the application of a diversity of available solutions. We respectfully request that the Commission reconsider Principle 8 and include the benefits of mitigating the loss of public trust lands by way of thoughtfully combining natural and engineered solutions in a way that will protect public lands and the public interest.



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We hope that you find our comments relevant and helpful. If you would like to discuss our points further, please do not hesitate to contact me at jelig@car.org.

Thank you,



Jeli Gavric
Legislative Advocate

cc: Members, California Coastal Commission

*Quotes excerpted from: Vitousek, S., P. L. Barnard, P. Limber, L. Erikson, and B. Cole (2017), A model integrating longshore and cross-shore processes for predicting long-term shoreline response to climate change, J. Geophys. Res. Earth Surf., 122, doi:[10.1002/2016JF004065](https://doi.org/10.1002/2016JF004065).



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June 3, 2022

Sea-Level Rise Leadership Team
SLRActionPlan@resources.ca.gov

Re: Comments on the State Agency Sea-Level Rise Action Plan for California

These comments on the State Agency Sea-Level Rise Action Plan for California are submitted on behalf of Humboldt Baykeeper, which was launched in 2004 with a mission to safeguard coastal resources for the health, enjoyment, and economic strength of the Humboldt Bay community through education, scientific research, and enforcement of laws to fight pollution.

We strongly support the long-term goals of the Action Plan, and we submit the following comments to help provide local context that will help strengthen the statewide Plan.

SLR adaptation planning should include pathways to resiliency to 3.5' by 2050 and 6.0' by 2100.

We support this goal, although it is important to note that the Humboldt Bay area is experiencing the fastest rate of sea level rise on the West Coast due to tectonic subsidence.

SLR adaptation plans should lead to project implementation.

We agree. After nearly a decade of planning, analysis, and vulnerability assessments, we have a better understanding of the need for SLR adaptation, but now we need to take action. Local government agencies need to incorporate SLR policies and adaptation plans into Local Coastal Plans, most of which are so out of date that SLR is not considered. We need these policies to be updated to establish the framework for including SLR adaptation in future projects.

Coordination across agencies is especially important. Too often, permits are approved that don't take SLR into consideration at all, leaving the Coastal Commission to incorporate sea level rise adaptation after projects have been designed and approved to meet other regulatory agencies' requirements. This results in delays, frustration, and is not the best use of limited time and resources.

600 F Street, Suite 3 #810
Arcata, CA 95521
(707) 499-3678
www.humboldtbaykeeper.org



Nature-based solutions should be pursued when possible.

We strongly support nature-based solutions. Planning is too often focused on short-term fixes for protecting infrastructure, leading to a bias toward shoreline armoring. The existing regulatory framework encourages after-the-fact permits for emergency armoring where dikes and levees have failed rather than nature-based solutions that take time to plan, permit, and fund. And yet short-term fixes will do nothing to minimize rising groundwater – they are simply stalling the inevitable (again, not the best use of limited time and resources).

Coastal habitats including wetlands, beaches, and dunes should be protected and conserved.

Wetlands, beaches, and dunes are important for SLR adaptation, but we also must consider how these areas will migrate as the sea rises – if they will be able to migrate at all given armored shoreline, infrastructure, and other manmade features that will lead to the loss of these important habitats. Of course, beaches and dunes provide important public access. Key Action 6.3 includes protection of vulnerable public access areas, but in the long-term, many public access points may also need to be relocated as rising sea level, flooding, and erosion increase.

Integrate and prioritize equity and social justice in all SLR adaptation planning and projects by involving community-based organizations and California Native American tribes throughout the SLR planning process.

This goal is critical in our remote rural region. Humboldt County is too often inadequately considered in statewide efforts, despite abundant local expertise and major challenges such as high poverty rates in low-lying coastal areas, the fastest rate of relative SLR in the state, and numerous contaminated sites adjacent to Humboldt Bay, its tributary streams, and wetlands.

Many people, including Native American and Hmong residents, fish and harvest shellfish for subsistence, recreation, and traditional cultural purposes as well as commercial purposes. SLR and rising groundwater threaten to mobilize contaminants at these sites, posing risks to Humboldt Bay fisheries, the people and fish-eating wildlife that consume fish and shellfish, and the commercial oyster industry.

The numerous low-lying contaminated sites provide a glimpse into the importance of involving community-based organizations and tribes to promote environmental justice and social equity in SLR adaptation planning and projects, as briefly described below.

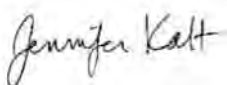
The number of contaminated sites that are vulnerable to rising sea level and groundwater was vastly undercounted in the recent Toxic Tides report (described in the Plan on page 5) because it omitted sites under the jurisdiction of the North Coast Regional Water Quality Control Board. CalEnviroScreen 4.0 also vastly under-represents cleanup sites in our region, because it relies on overseen by Department of Toxic Substance Control (Fig. 1) while excluding cleanup sites that are overseen by the Regional Water Resource Control Boards (Fig. 2). The Humboldt Bay

region is impacted by numerous dioxin-contaminated sites, and in 2006, Humboldt Bay was added to the Clean Water Act 303(d) list as Impaired by dioxins and furans, which are some of the most toxic and persistent chemicals ever manufactured. Many are a legacy of the timber industry which for nearly 50 years used wood preservatives made from the dioxin-laden fungicide pentachlorophenol. The use of this chemical in lumber mills was eliminated in 1987 due to its dioxin content. In aquatic and estuarine ecosystems, they bioaccumulate in fish, shellfish, and other estuarine and marine species.

Contaminated sites routinely receive “No Further Action” status without taking SLR into consideration, even for sites adjacent to Humboldt Bay and in the path of rising groundwater.

Thank you for your consideration. We look forward to the evolution of the Action Plan and increased coordination among agencies that will lead to implementation of SLR adaptation policies and projects. We are available to discuss our concerns at any point in the process.

Sincerely,



Jennifer Kalt, Director

jkalt@humboltdbaykeeper.org

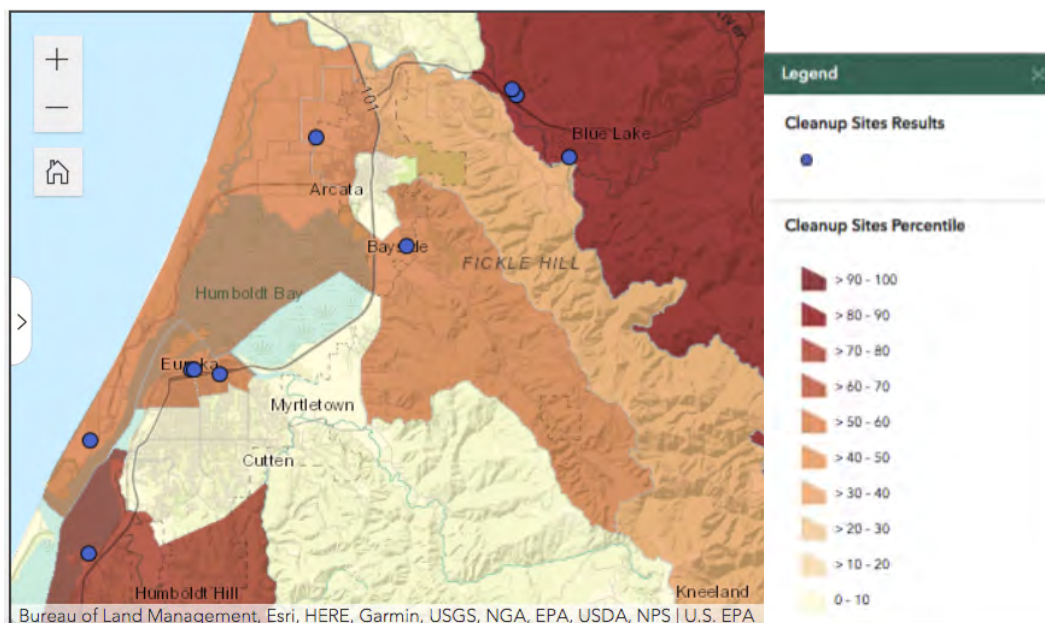


Fig. 1. Cleanup Sites in the Humboldt Bay Area on CalEnviroScreen 4.0, OEHHHA. (<https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40>)

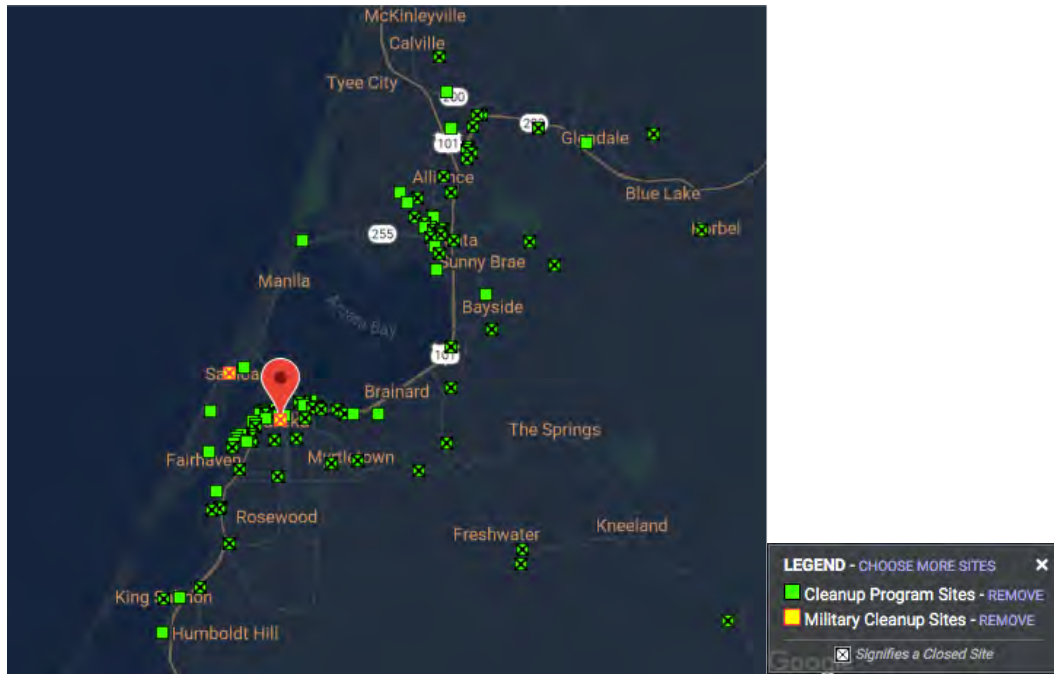


Fig. 2. Cleanup Sites in the Humboldt Bay Area on the GeoTracker website, State Water Resources Control Board (<https://geotracker.waterboards.ca.gov/>).

State Lands Commission-- Director Lucchesi, Commissioners, Chair Betty Yee (Controller), Members Keely Bosler (Finance Director), Eleni Kounalakis (Lt Gov,)

Thursday June 9, 2022, Agenda Item 6E

The Los Angeles Audubon Society is sending you the attached information because there seem to be many efforts by various State agencies and commissions ongoing to create 'action plans' in relation to sea level rise, a result of climate change. This is especially true for the Public Trust and how it relates to sea level rise and coastal restoration projects.

We believe that there is an excellent recent example of the speed at which climate change is affecting coastal restoration efforts in the Southern California Region. The Bolsa Chica Ecological Reserve is failing to maintain target salt marsh vegetation that is the habitat for the State endangered Belding's Savannah Sparrow, and in fact the salt marsh habitat is being drowned by ocean water.

Only 15 years ago, Bolsa Chica Ecological Reserve was engineered to allow the ocean into a historically closed wetland system. And last December 2021, a report was published on finding a 'sustainable alternative' to the initial project because of the drowning of salt marsh habitat and lack of success for other targets, such as establishing cord grass habitat. Fixing the Bolsa Chica problem will likely include closure of the engineered opening to the ocean in just 15 short years. The Bolsa Chica Project should be a wake-up call for other coastal wetland projects.

We should not spend the public's money to fix failed coastal wetland projects that propose to lower wetland elevations to current sea level by engineering an opening to the ocean based on how this approach has failed at Bolsa Chica Ecological Reserve.

In fact, California Department of Fish and Wildlife recently certified an EIR for the Ballona Wetlands Ecological Reserve project in Southern California Region that calls for removing 3.2 Million Cubic Yards of soil to below current sea level and opening the wetlands to the ocean – in the face of sea level rise. This action will immediately begin the loss of rare coastal wetland habitats, such as salt panne, salt marsh, and freshwater wetlands as well as all the species that these habitats currently support. The sea level rise comparison of the 'No Project Alternative' with the proposed project is buried in an appendix of the EIR and shows little to no effect of sea level rise with the 'No Project Alternative'. However, the 'Propose Project' shows the loss of all the existing habitats to open sea water, including the salt marsh habitat that is home to a breeding population of Belding's Savannah Sparrow, a State endangered species. This project is not restoration, but rather it is 'erase and replace'.

As far as I know, the Ballona Wetlands Ecological Reserve project is the ONLY project proposing to lower a coastal wetland in the face of sea level rise on the entire west coast.

Please direct your staff to create appropriate language to prevent any project from lowering coastal wetland elevations to current sea level in the face of predicted sea level rise as part of the California State Coastal Commission statement on resilience sea level rise. And please see the attached correspondence and presentations for further discussion.

Thank you,

Margot Griswold, Ph.D.
Los Angeles Audubon Society

From: Margot Griswold <mgriswold@landiq.com>

Date: Thursday, June 2, 2022 at 11:04 AM

To: Sea-Level Rise Action Plan <slractionplan@resources.ca.gov>, patricia mc pherson <patriciamcpherson1@verizon.net>

Cc: Office of the Secretary CNRA <secretary@resources.ca.gov>, "saveballona@hotmail.com" <saveballona@hotmail.com>, "jwilson@bos.lacounty.gov" <jwilson@bos.lacounty.gov>, "dgonzalez@bos.lacounty.gov" <dgonzalez@bos.lacounty.gov>, "jwaldron@bos.lacounty.gov" <jwaldron@bos.lacounty.gov>, "lmuraida@bos.lacounty.gov" <lmuraida@bos.lacounty.gov>, "lrichards@bos.lacounty.gov" <lrichards@bos.lacounty.gov>, "zgaidzik@bos.lacounty.gov" <zgaidzik@bos.lacounty.gov>, "hollyjmitchell@bos.lacounty.gov" <hollyjmitchell@bos.lacounty.gov>, "sfreeman@bos.lacounty.gov" <sfreeman@bos.lacounty.gov>, "sheila@bos.lacounty.gov" <sheila@bos.lacounty.gov>, "executiveoffice@bos.lacounty.gov" <executiveoffice@bos.lacounty.gov>, "olina.wibroe@sen.ca.gov" <olina.wibroe@sen.ca.gov>, "aaron.o.allen@usace.army.mil" <aaron.o.allen@usace.army.mil>, "rafiqul.i.talukder@usace.army.mil" <rafiqul.i.talukder@usace.army.mil>, "samuel.liu@sen.ca.gov" <samuel.liu@sen.ca.gov>, "katharine.moore@sen.ca.gov" <katharine.moore@sen.ca.gov>, "Willis, Andrew@Coastal" <Andrew.Willis@coastal.ca.gov>, "Ainsworth, John@Coastal" <John.Ainsworth@coastal.ca.gov>, "Revell, Mandy@Coastal" <Mandy.Revell@coastal.ca.gov>

Subject: FW: Comments to State Agency Sea Level Rise Action Plan- Red Flag Bolsa Chica Warning and Ballona Wetlands

Dear Ella McDougall et al.,

Your response to Patricia McPherson's comments and suggestions for your Sea Level Rise Action Plan misses the point of her comments, in my opinion. You must consider specific projects, both successes and failures to inform the Sea Level Rise Action Plan and translate those to general action points in your plan. How else are you proposing to proceed and progress?

As a general action point for your Sea Level Rise Action Plan, projects proposing to lower coastal wetlands to current sea level should be required to look to recent past failures such as those cited in the December 2021 published evaluation of the Bolsa Chica Wetland Restoration. This project opened the wetlands to then current sea level (2006) to convert the wetlands to full tidal, and now the project requires a sustainable alternative to fix the problem of losing target saltmarsh habitat to rising tidal waters. Proposed fixes include closing the engineered opening (see Bolsa Chica Lowlands Restoration Project, Sustainable Alternatives Study: Final. Anchor QEA, December 2021. Prepared for the Bolsa Chica Land Trust). There are general take away points just from reviewing even the executive summary of this report without getting into the specifics.

We learn from projects in the recent past. The rate at which climate change is occurring has surprised scientists, including coastal engineers and restoration ecologists. Please consider recent evidence in putting together your Sea Level Rise Action Plan. How else do we learn if not by the projects that have been implemented to open coastal wetlands to the ocean and fail in relation to accelerating sea level rise?

The failure of key aspects of the Bolsa Chica Wetlands Restoration, that engineered open this historically closed coastal wetland to the ocean in the face of sea level rise, should inform current and future project plans, such as the plan for the Ballona Wetlands Ecological Reserve.

I have no doubt that the Sea Level Action Plan Group can find the best language to make the point for the plan in general terms. But in the south coast region, these are two large wetlands so I think the point should be made lest we lose more coastal wetland area to the sea and the important habitat on which current wildlife relies in the South Coast region.

Margot Griswold, Ph.D.
Restoration Ecologist

Original Message-----

From: Sea-Level Rise Action Plan <slractionplan@resources.ca.gov>

To: patriciamcpherson1@verizon.net <patriciamcpherson1@verizon.net>

Sent: Tue, May 31, 2022 12:53 pm

Subject: Re: Comments to State Agency Sea Level Rise Action Plan- Red Flag Bolsa Chica Warning and Ballona Wetlands

Dear Patricia,

Thank you for your comment, detailed information and maps, and presentation. We will consider your comment for the SLR Action Plan. Though at this time, the SLR Action Plan focuses more on the statewide and regional scope of SLR policy, planning, and projects, as opposed to individual localized projects.

Best,
Ella McDougall

-----Original Message-----

From: patriciamcpherson1@verizon.net <patriciamcpherson1@verizon.net>

To: SLRActionPlan@resources.ca.gov <SLRActionPlan@resources.ca.gov>; secretary@resources.ca.gov <secretary@resources.ca.gov>

Cc: saveballona@hotmail.com <saveballona@hotmail.com>; jwilson@bos.lacounty.gov <jwilson@bos.lacounty.gov>; dgonzalez@bos.lacounty.gov <dgonzalez@bos.lacounty.gov>; jwaldron@bos.lacounty.gov <jwaldron@bos.lacounty.gov>; lmuraida@bos.lacounty.gov <lmuraida@bos.lacounty.gov>; lrichards@bos.lacounty.gov <lrichards@bos.lacounty.gov>; zgaidzik@bos.lacounty.gov <zgaidzik@bos.lacounty.gov>; hollyjmittchell@bos.lacounty.gov <hollyjmittchell@bos.lacounty.gov>; sfreeman@bos.lacounty.gov <sfreeman@bos.lacounty.gov>; sheila@bos.lacounty.gov <sheila@bos.lacounty.gov>; executiveoffice@bos.lacounty.gov <executiveoffice@bos.lacounty.gov>; olina.wibroe@sen.ca.gov <olina.wibroe@sen.ca.gov>; aaron.o.allen@usace.army.mil <aaron.o.allen@usace.army.mil>; rafiqui.i.talukder@usace.army.mil <rafiqui.i.talukder@usace.army.mil>; samuel.liu@sen.ca.gov <samuel.liu@sen.ca.gov>; katharine.moore@sen.ca.gov <katharine.moore@sen.ca.gov>; andrew.willis@coastal.ca.gov <andrew.willis@coastal.ca.gov>; john.ainsworth@coastal.ca.gov <john.ainsworth@coastal.ca.gov>; mandy.revell@coastal.ca.gov <mandy.revell@coastal.ca.gov>

Sent: Mon, May 2, 2022 3:09 pm

Subject: Comments to State Agency Sea Level Rise Action Plan- Red Flag Bolsa Chica Warning and Ballona Wetlands



Patricia McPherson President
Jeanette@SaveBallona.org (310) 721-3512

Dear CNRA and OPC staff,

Grassroots Coalition provides the following comments in response to the State Agency Sea Level Rise Action Plan. Grassroots Coalition was founded in the early 90's to promote education pertaining to wetland habitat and wildlife protection. Our focus upon the Los Angeles coastal Ballona Wetlands led to discoveries of oilfield gas contamination throughout the area which led to the creation of new and experimental gas mitigation measures for the Playa Vista development site known as the Playa Vista Methane Prevention Detection and Monitoring Program (LA City Methane Code 1 of 2) in an attempt to control the outgassing (PVMPDMP). (A 2007 LA City Audit by Laura Chick revealed the mitigation measures did not have proof of efficacy and/ or proof of installation.) Meanwhile, the city determined it was not safe for residential building west of Lincoln Blvd. Playa Vista became a willing seller for the Playa Capital LLC properties west of Lincoln Blvd. Public bond funds (Prop 12, 50) provided for acquisition funds of \$140 million and Prop 12 funds set aside approximately 25 million dollars for study, restoration/ further acquisition. **The California Fish & Game Commission, in 2005 inducted/approved and registered Ballona into the Ecological Reserve System under Title 14, Section 630 Terrestrial/ NonMarine Ecological Reserve having its specific Purpose and Goals of protecting its freshwater resources, its salt marsh, and endangered species and habitat upon which the endangered species rely. In particular, Belding's Savannah Sparrow and its foraging/nesting habitat of pickleweed (a salt TOLERANT) vegetation that flourishes in the freshwater of Ballona. Ballona's goals included protection of its wildlife corridors that are adjacent to wildlife corridors.** At no time, approval for conversion of Ballona Wetlands into a fully tidal bay, was anticipated for this Public Trust area by the public. At no time has the Fish & Game Commission revoked the Registration of Ballona with the Office of Administrative Law, as a Title 14, Section 630 Terrestrial/ NonMarine Ecological Reserve. At no time has Ballona been provided consideration by the public or any agencies as a Title 14, Section 632 Marine Preserve.

The current CDFW Plan for industrial scale excavation of Ballona to below sea level provides the biggest threat to this critical natural resource. And, sea level rise compounds this threat to Ballona's ecosystems rife with endangered species, and multiple underlying freshwater aquifers, classified as drinking water and potential drinking water by the Los Angeles Regional Water Quality Control Board. For any action plan to be successful, there is the need to actually promote true scientific study, which for Ballona, basic hydrology studies have been nonexistent. Only unacceptable hydraulics studies of the Ballona Channel were undertaken. The Ballona Channel was never a part of the Ecological Reserve therefore use of Prop. 12 funds for an area outside the Ecological Reserve is now part of a Department of Finance Complaint regarding the Ca. Coastal Conservancy's ill use of public bond funds. There is also, at least one ongoing litigation against the Coastal Conservancy for improper bond fund use.

Ballona has been acknowledged as a Groundwater Dependent Ecosystem (GDE) and is subject to protection and studies under the Sustainable Groundwater Management Act. Prudent GDE evaluation of Ballona has only started. The Groundwater Protection Agencies' final report was recently submitted to the Department of Water Resources. Its focus, as many GPA reports, was upon Drinking Water Wells hence the GDE portions of study must be done. The Report identifies data gaps per the lack of monitoring wells along the southern coastal area of the Santa Monica Subbasin (wherein lies Ballona) that would help to monitor for saltwater intrusion and the negative effects of saltwater contamination upon the freshwater aquifers.

Thus far, via public support and prevailing Grassroots Coalition litigation against both Playa Vista and CDFW for draining and wasting Ballona's freshwater resources to the ocean has ended the illegal drainage of portions of Ballona Wetlands. Thanks to support from the California Coastal Commission for citing that the unpermitted drainage was a violation of the Coastal Act and had harmed the hydrology of Ballona, CDFW and Playa Vista were compelled to seal the drains. The area again ponds with rainwater and the targeted for protection saltmarsh habitat--pickleweed is again flourishing across the area. Playa Vista and CDFW as a board member of Playa Vista's - Ballona Conservancy still divert great amounts of pumped/cleansed groundwater away from Ballona via either wasting to the sanitary sewer or the ocean via the MAIN DRAIN out of the Playa Vista catch basin. We continue to work to end this wasting of Ballona's plentiful freshwater resources one National Pollutant Discharge Permit (NPDES) after another to restore Ballona.

However, we are deeply concerned that multiple state agencies have endorsed a re-engineering plan for the Ballona Wetlands that would actually hasten the loss of critical marsh habitat to sea level rise, according to modeling done in the California Department of Fish & Wildlife's (CDFW) Final Environmental Impact Report (FEIR). Please note the maps below that are from the Ballona FEIR.

RED FLAG WARNING-

A December 2021 Sustainability Study of Bolsa Chica Wetlands reveals that after a 15 year experiment that opened Bolsa Chica with an artificially engineered full tidal opening the area has become open saltwater and mudflats that has destroyed the saltmarsh habitat. The Report cites to the uncontrollable saltwater influence and the unsustainable cost and ecological harm from having to regularly dredge out the tidal inlet. The Report recommends there must be immediate REMEDIATION of the RESTORATION attempted in order to bring back the targeted protection of its salt marsh. The targeted endangered species, the Belding's Savannah Sparrow numbers have declined. The new report advises the CLOSURE OF THE ENGINEERED TIDAL OPENING and to rely upon freshwater resources to restore the salt marsh.

<https://bclandtrust.org/> Scroll down to bottom right hand side of page = BCSAS Bolsa Chica Sustainable Alternatives Study ; news story ..

Grassroots Coalition agrees with the comment made to the CNRA AND OPC by the Ballona Wetlands Land Trust-

If multiple state agencies are willing to endorse such a clearly deficient plan, rather than simply acknowledging that the plan was poorly thought out and poorly designed, then the entire state-wide effort to address sea level rise would appear to be vulnerable to politics as usual. This would imperil the success of the effort and of the future sustainability of the California Coast.

The following maps of the FEIR reveal the same failures as Bolsa Chica has experienced with habitat turning into open saltwater and mudflats.

The below maps are from a State Coastal Conservancy [staff presentation](#) and can also be found in the [EIR](#) for the proposed plan.

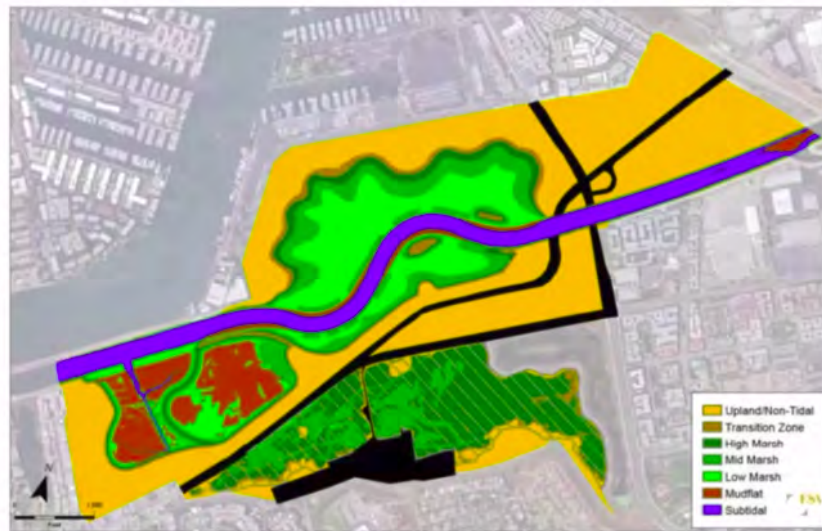
Will sea level rise impact the restored wetlands?



Ballona Wetlands
Restoration Project

Figure 2-37
Habitat Evolution with Sea Level Rise: 2030 Projection (9 in of Sea Level Rise)

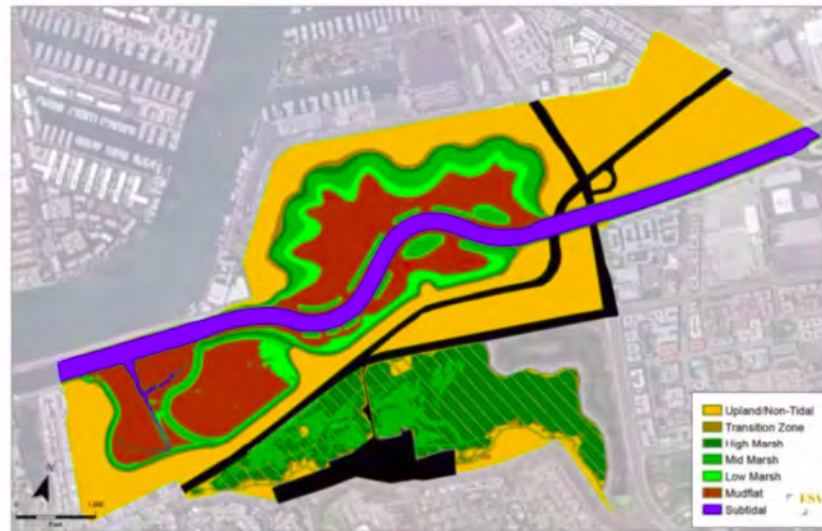
2-148



Ballona Wetlands
Restoration Project

Figure 2-38
Habitat Evolution with Sea Level Rise: 2050 Projection (19 in of Sea Level Rise)

2-149

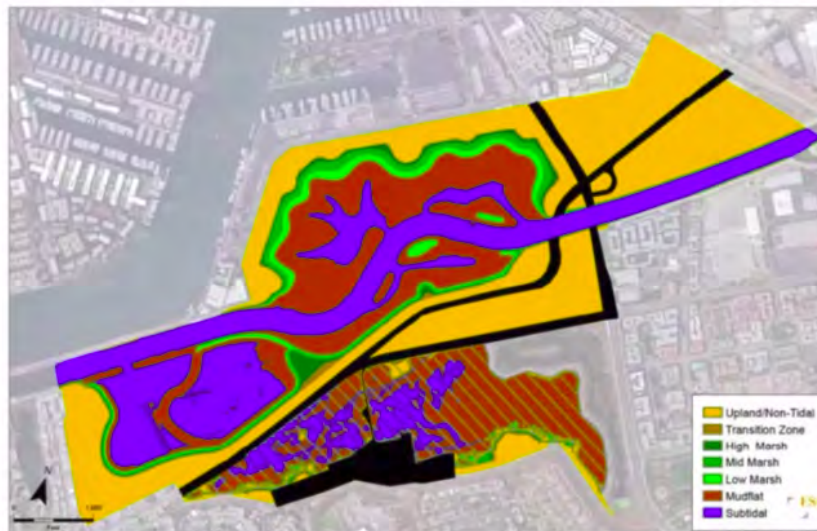


Ballona Wetlands
Restoration Project

Habitat Evolution with Sea Level Rise: 2070 Projection (32 in of Sea Level Rise)

Figure 2-39

2-150



Ballona Wetlands
Restoration Project

Habitat Evolution with Sea Level Rise: 2100 Projection (59 in of Sea Level Rise)

Figure 2-40

2-151

Grassroots Coalition also supports the following comments made by the Ballona Wetlands Landtrust;

During the Conservancy presentation, staff acknowledged that even based on older sea level rise projections, most of the site would convert to mudflat with only "fringe marsh" remaining, and that actual sea level rise is likely to exceed earlier projections.. This would lead to the extirpation of multiple marsh-dependent species, including the state endangered Belding's Savannah Sparrow and other sensitive species such as the South Coast Marsh Vole and Wandering Skipper. Claims by the Conservancy staff presenter that sea

level rise impacts would be worse without the proposed design are misleading on several levels. First, options for restoration aren't limited to either the current project design or doing nothing. Second, the EIR for Ballona indicates that it would be 50 to 80 years before the existing tide gates would need to be closed in response to sea level rise, whereas habitats would begin to be inundated almost immediately under the current project design..

It is beyond alarming that the agencies entrusted with protecting our coastal resources are spinning these maps as showing resilience to sea level rise when they clearly show a surrender of coastal marsh to sea level rise inundation. It is important that science not be replaced with marketing with regard to the management of this important ecosystem.

Grassroots Coalition also requests that the California Natural Resources Agency and Ocean Protection Council publicly acknowledge that the maps of anticipated habitat that would result from sea level rise under the proposed project design do not reflect "a critical buffer" against sea level rise and instead reflect an unacceptable outcome. Without such clarity and candor from CNRA and OPC on such a straightforward and important issue, the statewide action plan will lack credibility,

It is time to protect our earth's natural resources and have honesty in actions toward that endeavor.

Patricia McPherson, Grassroots Coalition

From: [Michael Pallamary](#)
To: [Coastal Statewide Planning](#)
Subject: Th6e (Draft Public Trust Guiding Principles & Action Plan)
Date: Monday, July 25, 2022 2:39:50 PM

July 24, 2022

SENT VIA EMAIL

John Ainsworth, Executive Director
California Coastal Commission
455 Market, Suite 300
San Francisco, California 94105-2219
statewideplanning@coastal.ca.gov

Re: Th6e (Draft Public Trust Guiding Principles & Action Plan)

In response to input from the private sector, I would like to share my concerns with the Commission. My primary concerns have to do with the following items.

A. Guiding Principles

8 *Shoreline protective devices adversely impact public trust resources.*

9 *Owners of shorefront property may not unilaterally prevent the landward migration of public trust lands.*

I do not agree with the statement that *Shoreline protective devices adversely impact public trust resources*. I was the chairman of the Mission Bay Park Shoreline Restoration Committee in San Diego. We utilized a number of protective devices in order to protect the bay as well as to assure access to disabled individuals and others. This is a blanket statement that introduces unwarranted confusion.

I disagree with the statement that *Owners of shorefront property may not unilaterally prevent the landward migration of public trust lands*. This is an incorrect statement as it is in conflict with a longstanding legal right known as *The Common Enemy Doctrine*. [\[1\]](#) The courts have done a good job explaining private property rights when it, to wit:

Stated in its extreme form, the common enemy doctrine holds that as an incident to the use of his own property, each landowner has an unqualified right, by operations on his own land, to fend off surface waters as he sees fit without being required to take into account the consequences to other landowners, who have the right to protect themselves as best they can.

"There is no question, however, that one's liability for interfering [64 Cal. 2d 408] with surface waters, when incurred, is a tort liability. An unjustified invasion of a possessor's interest in the use and enjoyment of his land through the medium of surface waters, or any other type of waters, is as much a tort as a trespass or a

private nuisance produced by smoke or smells."

In addition, there is so much artificial activity along the California coastline that the last natural location of the mean high tide line is not being properly documented and that should be a primary goal of the Commission. Large scale projects like the dredging of the San Dieguito River in Del Mar, are a prime example of the kind of damage that can arise when the proper steps are not taken to protect private property rights.

If this is the state's position, it runs afoul of constitutional law and should be avoided at any cost. Private property owners do have rights and their rights should be the principal consideration of any policies adopted by the Commission.

B. Action Steps

- *Explore alternatives for determining the mean high-water elevation used in determinations of the mean high tide line*

Of all the proposals being proffered, the notion that the mean high tide line should be determined in some other fashion is patently absurd.

The method(s) for determining the mean high-water elevation has been fixed for many years and is the foundation of American jurisprudence and real property law. The scientific community has properly addressed the method of determination. This is *res judicata*.

There is no other way to make this determination and any attempts to change this process will invoke a number of lawsuits. Indeed, the concept is inconceivable.

Thank you for your consideration of these concerns.

Michael J. Pallamary, PLS

[1]

[S. F. No. 21556. In Bank. Apr. 11, 1966.]WESLEY C. KEYS et al., Plaintiffs and Respondents, v. HAZEL F. ROMLEY, as Executrix, etc., et al., Defendants and Appellants.

Michael J. Pallamary, PLS

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[1]

[S. F. No. 21556. In Bank. Apr. 11, 1966.]WESLEY C. KEYS et al., Plaintiffs and Respondents, v. HAZEL F. ROMLEY, as Executrix, etc., et al., Defendants and Appellants.

From: [Lee Andelin](#)
To: [Coastal Statewide Planning](#); [Ainsworth, John@Coastal](#)
Subject: Th6e (Draft Public Trust Guiding Principles & Action Plan)
Date: Friday, July 22, 2022 4:25:35 PM
Attachments: [SPA Letter re Th6e - Public Trust.pdf](#)

Please see the attached comments on behalf of the Seacoast Preservation Association regarding the Coastal Commission's Draft Public Trust Guiding Principles & Action Plan.

Lee M. Andelin

Partner

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Coastal Property Rights, Land Use & Litigation

July 22, 2022

SENT VIA EMAIL

John Ainsworth, Executive Director
California Coastal Commission
455 Market, Suite 300
San Francisco, California 94105-2219
statewideplanning@coastal.ca.gov

Re: Th6e (Draft Public Trust Guiding Principles & Action Plan)

Dear Mr. Ainsworth:

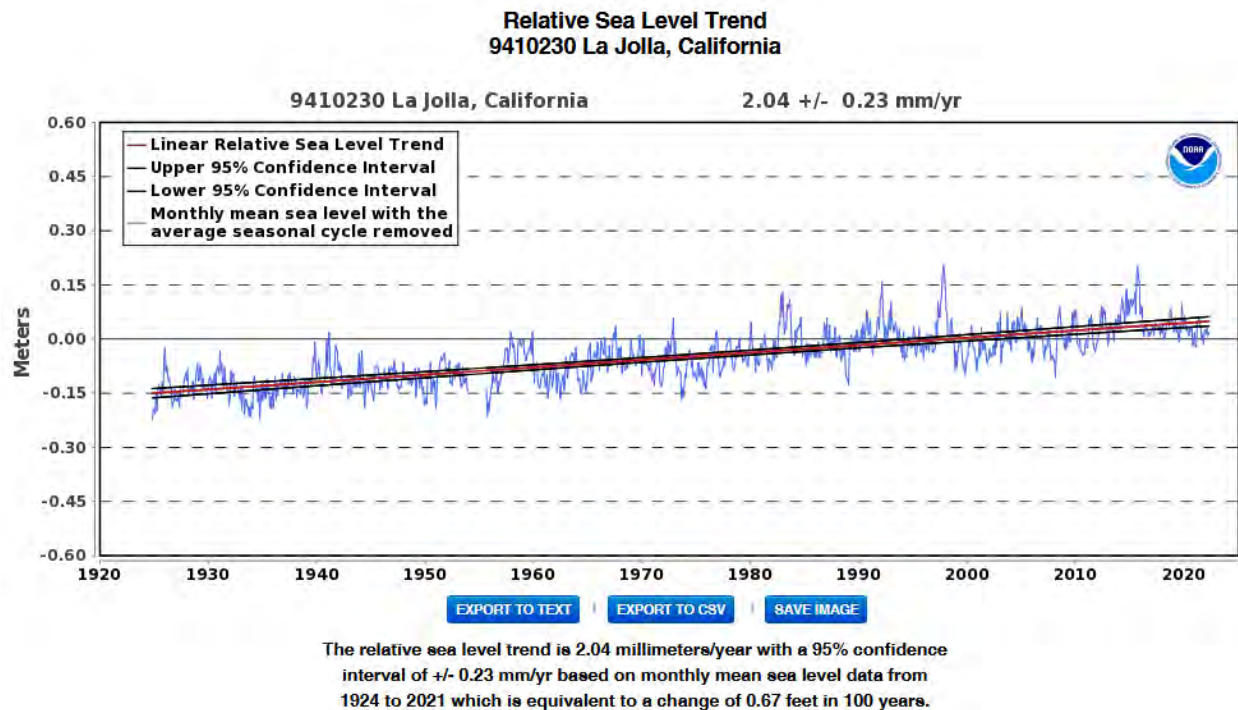
I write to express the concerns of Seacoast Preservation Association (“SPA”)¹ with the California Coastal Commission’s Draft Public Trust Guiding Principles & Action Plan (“Draft”). The Draft relies on invalid suppositions regarding sea level rise, misapplies California law, and proposes policies that are unworkable and would unfairly and unconstitutionally burden coastal property owners. The Draft should be rejected in its entirety.

[letter continued on following page]

¹ SPA is a broad-based coalition of concerned and caring Encinitas bluff-top homeowners who share a commitment to protecting their property rights and home values. Though this letter is submitted on behalf of SPA, the concerns stated herein are shared by homeowners in many California coastal communities.

Sea-level rise has not been “accelerating”

The Draft’s underlying premise that “sea level rise has been accelerating in recent decades” is patently false, at least as it pertains to the California coast. In fact, tidal records show that sea level rise in California has been very minor—and remarkably linear—for as long as records have been regularly kept. Below, for example, is the La Jolla tide gauge as shown on the official NOAA website:



The sea level, as measured by NOAA’s La Jolla tide gauge, has risen just over half a foot during the last hundred years and is showing no signs of “accelerating.” Alarmism about sea level rise is unwarranted.

Anthropogenic climate change does not cause property boundaries to move landward

Assuming, for discussion purposes, that sea levels are rising and “accelerating” because of anthropogenic climate change (see Cal. Coastal Comm. Sea Level Rise Policy Guidance (Nov. 7, 2018), ch. 3, p. 44), it does *not* follow that the boundary between public tidelands and private uplands is inexorably moving landward. This is a gross misapplication of California law. Taken to its logical conclusion, this would mean that the seaward boundary of a coastal parcel would ultimately coincide with the streetside boundary, causing the parcel to vanish and the state to own the entirety of what was originally a privately owned parcel.

It is correct that the boundary between public tidelands and private uplands for some—though far

from all—coastal parcels is defined by the ordinary high water mark (“OHWM”), which is generally measured by the mean high tide line (“MHTL”). And it is correct that the MHTL is ambulatory.

But the *legal* boundary defined by the OHWM moves with the current-day MHTL *only* when that movement is natural. This has been stated repeatedly in California case law. For example, in *Bollay v. Office of Administrative Law* (2011) 193 Cal.App.4th 103, 108, the Court of Appeal explained: “In conjunction with the mean high tide, the *natural* erosion or buildup of the shore affects the location of the mean high tide line on the shore,” thus “affecting the seaward boundary of property along the coast.” (Emphasis added.) Similarly, “because the mean high tide line—the boundary between public and private lands—is subject to the accretion and erosion of the shore *from natural causes*, that boundary is by nature ambulatory and not fixed.” (*Burke v. California Coastal Commission* (2008) 168 Cal.App.4th 1098, 1107, emphasis added.) “[T]he ordinary high water mark ... migrates landward due to *natural* erosion and seaward due to *natural* accretion.” (*Lechuza Villas West v. California Coastal Commission* (1997) 60 Cal.App.4th 218, 236, emphasis added.) Conversely, “[i]t is a rule of riparian boundary law that changes brought about by *artificial causes*, such as the deliberate filling or dredging of an area, have *no effect on the title* to the area so filled or dredged.” (Shalowitz, *Shore and Sea Boundaries* (U.S. Dept. Commerce 1962), emphasis added.)

Thus, changes to the shoreline resulting from human-caused climate change are ignored for purposes of boundary determination. California’s rule of an ambulatory boundary line for boundaries defined by the OHWM comes from the common law and was based on the assumption that the natural ebb and flow of the sea roughly cancel each other out over time. “The law of alluvion is thus stated by Blackstone: ‘And as to lands gained from the sea, either by alluvion, by the washing up of sand and earth, so as in time to make *terra firma*, or by dereliction, as when the sea shrinks below the usual water marks; in these cases the law is held to be that if the gain be by little and little, by small and imperceptible degrees, it shall go to the owner of the land adjoining. For *de minimus* [sic] *non curat lex*; and besides, these owners being often losers by the breaking in of the sea, or at charges to keep it out, this possible gain is, therefore, a reciprocal consideration for such possible charge or loss.’” (*Strand Improvement Co. v. Long Beach* (1916) 173 Cal. 765, 771.) This doctrine was never intended to permanently deprive upland owners of their property due to a long-term, *artificial* movement of the sea landward.

Previously ambulatory boundaries are fixed when the MHTL becomes subject to artificial influences

The Draft, relying entirely on an inapposite federal case applying Washington law (*United States v. Milner* (9th Cir. 2009) 583 F.3d 1174), suggests that public trust lands extend to where the MHTL would have been if, hypothetically, there were nothing artificial to prevent its migration

landward. Even assuming this outlier case correctly interpreted Washington law,² it most certainly does not represent California law. As recognized for generations in California case law and the practice of the State Lands Commission, a littoral property boundary ceases to move with changes to the MHTL where such changes are induced in whole or in part by artificial influences. (*State ex rel. State Lands Commission (Lovelace)* (1995) 11 Cal.4th 50.) The boundary is then fixed where it was last surveyed prior to the introduction of the artificial influences. (*Ibid.*) Importantly, the fixing of the public/private boundary has never been considered an alienation or substantial impairment of public trust land, even if it results in some private benefit. (*Muchenberger v. City of Santa Monica* (1929) 206 Cal. 635, 644–645; see also, e.g., *SLPR, LLC v. San Diego Unified Port District* (2020) 49 Cal.App.5th 284, 310)

In the densely developed coastal areas of Southern California, there are very few, if any, areas where the coastline has not been subject to significant artificial influences. Nearly all beaches in Southern California have experienced periodic grooming; artificial sand replenishment; dredging; construction of seawalls and revetments; gain or loss of sand from groins, jetties, or artificial reefs; or some combination of the above. Thus, there are very few property boundaries—if any—in Southern California that can properly be measured by the current location of the MHTL, let alone some imaginary location where the MHTL might have been at some future date absent all these artificial influences.

Moreover, the Draft ignores that many public/private boundaries are not defined by the MHTL at all. For example, many of SPA’s members in Encinitas own lots that are fixed rectangles defined by a plat map. Many other coastal property owners have entered into boundary line agreements with the state, or brought quiet title actions, to fix the public/private boundary. (See, e.g., *SLPR, LLC, supra*, 49 Cal.App.5th at 309–310.) In such instances, the public trust lands do not migrate landward, no matter how much the MHTL moves. The Draft is thus incorrect in stating: “The fact that the development is waterward of the mean high tide line demonstrates that, at those times, the development occupies public trust lands.”

Any policy requiring removal of existing, privately owned structures should be rejected

At page 20, the Draft suggests misguided policies to “address the need to either remove development or have the Coastal Commission authorize development that comes to be located on

² The Washington Supreme Court, not any federal court, is the final arbiter of Washington law. (*Federated Publications v. Kurtz* (Wash. 1980) 615 P.2d 440, 443–444 “[I]t is beyond question ... that state courts are the ultimate arbiters of state law, unless a state court’s interpretation restricts the liberties guaranteed the entire citizenry under the federal constitution.”); accord *Qualified Patients Assn. v. City of Anaheim* (2010) 187 Cal.App.4th 734, 764 “[T]he decisions of the lower federal courts are not binding precedent [citation], particularly on issues of state law.”].)

public trust lands when tidelands migrate landward.” But the California Constitution guarantees property owners their inherent rights of “protecting property, and pursuing and obtaining safety.” (Cal. Const., art. I, § 1.) These rights are reflected in the Coastal Act, which states unequivocally that “[r]evetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes *shall be permitted* when required ... to protect existing structures ... in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.” (Pub. Res. Code, § 30235, emphasis added.) Property owners are thus entitled to protect their existing structures. Nothing in the Coastal Act authorizes the Coastal Commission to require reapproval or removal of otherwise lawful structures simply because tidelands have migrated landward. And if the Coastal Commission somehow obtained the power to require the removal of structures, it could do so only upon payment of “just compensation” to the affected property owners. (U.S. Const., amend. V; Cal. Const., art. I, § 19, subd. (a).)

“Hard” shoreline protective devices do not violate the public trust doctrine

The Draft’s statement at page 16 that “hard shoreline protective devices are generally inconsistent with these Coastal Act requirements and with the protection of public trust resources and uses” is disturbing. As noted above, the Coastal Act requires the approval of protective devices. And such approval is not inconsistent with the public trust doctrine. Beaches are narrowing because of a combination of factors, primarily the blocking of major sediment sources by public works projects such as dams, jetties, and levees, with sea-level rise being a relatively minor factor. Regardless, coastal property owners are not responsible for these impacts. Yet the Draft proposes that coastal property owners should lose their valuable land, and the right to protect that land, to allow the beach to move landward to offset these impacts. The Draft does not cite any law to support this novel interpretation of the public trust doctrine. While the public trust doctrine generally prevents coastal property owners from encroaching onto public trust lands, no principle of law requires coastal property owners to *give up* the lands that they currently possess.

Requiring a prediction of the movement of the MHTL for the expected life of proposed development is unreasonable

Movement of the MHTL at any given location along the coast is driven by a complex interaction of natural and artificial factors including not only sea levels but also sediment supply, sediment types, currents, wave action, onshore and offshore slopes, and the presence of structures such as groins and jetties. And these factors can change drastically over time. Predicting the movement of the MHTL for the expected life of a structure, which is usually assumed to be at least 75 years, is a fool’s errand. A requirement for this kind of analysis in the permit application process will only give rise to disputes over things that are inherently unknowable and increase delay and expense in a process that is already too long and too expensive. Furthermore, the movement of

the MHTL—whether actual or theoretical—is not even relevant for most, if not all, coastal properties in Southern California, as explained above. The Coastal Commission therefore should not seek to impose any requirement for an applicant to estimate the movement of the MHTL for the expected life of a proposed development.


It would be inappropriate for the Coastal Commission to create its own methodology for measuring mean high tide levels inconsistent with NOAA, surveyors, and scientists

Scientists, engineers, and surveyors have developed consistent, reliable methods for measuring mean high tide levels. These standards are taught in universities and followed consistently by federal, state, local, and even international agencies. Such consistency is crucial for development. For example, if a set of plans calls for a building's foundation to be placed at an elevation of +20 NAVD 88, everyone needs to know precisely what that means, from planners to contractors and subcontractors to building inspectors. The same is true for maps and other documents that show elevations. There is no benefit to be derived from creating a new standard, and serious downsides. If misunderstandings arise because of a different standard being applied, the results could be disastrous. Moreover, creating a new standard for measuring sea levels is not within the expertise of the Coastal Commission, which to our knowledge does not have an oceanographer on staff, and is not a good use of the Commission's already strained resources.

For all the reasons explained above, the Draft suffers from serious scientific and legal flaws and should be rejected in its entirety. At a minimum, the Draft should be rewritten to follow sound legal doctrine and valid science.

Very truly yours,

AANNESTAD ANDELIN & CORN LLP



Lee M. Andelin

From: [Charles McDermott](#)
To: [Coastal Statewide Planning](#)
Subject: Th6e Public Comments
Date: Sunday, July 24, 2022 5:48:56 PM

Dear Coastal Commissioners,

My family has grown up surfing and living in many coastal areas of CA (e.g., Ventura, Santa Cruz, San Diego, Malibu, El Segundo, San Luis Obispo, San Francisco, and the Channel Islands). We have bought property, attended colleges, built businesses, raised 3 generations of Californians - and paid far more in taxes than we consumed.

Thus we are very familiar with coastal changes over the past 50 years and have a stake in the future of CA beaches.

The current partisan and ideological push to “re-wild” urban coastal areas in the name of the public interest and nature is leading to very bad policy outcomes relating to personal safety, beach enjoyment for all, and economics.

The current lack of sand on our beaches has been specifically caused by the State of CA over the last 100 years:

1. Construction of dams that completely choke off major beach sand replenishing rivers. Tens of millions of cubic yards of beach sand are currently trapped behind dozens of dams - and yet the State has done nothing to address this obvious problem.
2. The mining of precious river sand for cement to build freeways.
3. The construction of harbors and jettys that block the natural flow of sand from North to South.
4. And as an added bonus, the storage of tons of nuclear waste at waters edge at San Onofre; between massive LA and San Diego populations centers. The State has taken zero action to move it to a safer location despite 30 years of political platitudes.

The State benefitted massively from these beach destroying actions over the last 100 years in terms of tax revenue and economic growth and yet has done nothing of substance to offset these profitable ventures.

Simple routine dredging of local rivers, offshore sand repositories, and trapped dam sand would be environmentally sound and would offset much of the damage done per above. State sponsored de facto engineering of bluff collapses do not replenish beach sand - it only leads to death and destruction in developed areas.

However, the response from managed retreat partisan ideologues is to lie and claim that there is such dramatic relative sea level rise, (or that it is just around the corner) that all is lost and we need to undo any erosion mitigation and allow public access infrastructure, bluffs, roads, railroads and homes to crash down onto the beach. It is akin to undoing earthquake retrofits because a large earthquake is coming.

And when MORE innocent beach goers get killed by these policies then that is just the price to be paid for adhering to a religious like ideology wrapped in a veneer of pseudo science.

What is the motivation for such bad policy? It only seems to serve the whims politically influential, yet technically ignorant, elites that don't even live or visit the beaches most effected by these destructive policies.

The tidal gauge data doesn't lie. There has been negative to minor relative sealevel rise across CA over the last 100 years.

And EVERY “scientific” CA hockey stick relative sea level rise model over the last 25 years predicting dramatic sea level rise has been dead WRONG. To point out the laughable predictive value of these “models” is not denying climate change. The models so far have all simply been wrong and clearly the scientific community has a lot of work to do to better understand what is going on.

This is normal scientific progress - over time valid models will arise but to use “The Science(TM)” today to push a political agenda will further erode the public trust in our State and technical institutions.

What has been consistent with respect to the lead scientific community at the Scripps Institute of Oceanography (for instance) is the utility of erosion mitigation engineering as exemplified by their \$billion campus paid for by CA taxpayers. The full span of their beaches are safe to use because of the seawalls. And because of their erosion mitigation efforts; their buildings are not going to slide into the ocean during my lifetime.

The last myth that needs addressing is the idea that engineering bluff collapses by blocking mitigation efforts creates new usable beach for the public. Please come visit the shrinking beaches of Encinitas or Laguna to understand how irresponsible this concept is.

When bluffs collapse (or “manage retreat”) they can easily kill people laying 20+ feet out from the cliff base. So telling families to utilize the “new beach” in front of collapsing bluffs that has been “re-claimed” from homeowners is like telling kids to skateboard on the I5 because of all the open space. These collapses only decrease usable beach - kill zones are not usable beach.

Please don’t expand further on these destructive policies that only further erode the public’s trust in science and government’s willingness to deliver real solutions to real problems.

Please instead focus on offsetting the damage that the State has done to our beaches. Getting the dam sand to the beach, supporting lifesaving erosion engineering, and helping our rivers flow properly will be a massive non-partisan infrastructure undertaking and will serve the public interest.

It is millions of innocent beach goers needs vs the whimsical “vision” of well connected insular political elites.

Regards,

The McDermott Family

Sent from my iPhone

From: [Jeff Silberman](#)
To: [Coastal Statewide Planning](#)
Subject: Th6e-6-22: Draft Public Trust Guiding Principles & Action Plan
Date: Monday, July 25, 2022 11:35:15 AM
Importance: High

Dear California Coastal Commission,

This email is in regards to a recent CCC Notice and DRAFT Report Th6e-6-22, regarding sea level rise and how it affects property boundaries and property rights. I have extreme concerns regarding this proposed action plan and the impact on our property. Specifically, please note the following:

- *The rate of sea-level rise has been exaggerated for political ends.*
- *Private coastal development did not cause of the loss of beach area. The loss of beach area is primarily caused by sediment supplies being blocked by major government projects such as dams and jetties. Sea-level rise is a only minor factor.*
- *The California Coastal Commission's Draft Public Trust Guiding Principles & Action Plan outlines a one-sided agenda of forced managed retreat.*
- *The policy proposals do not respect private property rights. Protections for property owners need to be added.*
- *The policy proposals, if adopted, would eventually result in the total elimination of private property along the coast.*
- *Coastal property owners should not be expected to give up their land and homes to make up for sand losses caused mostly by government projects (dams, jetties, etc.).*
- *A device to protect private property from erosion cannot be equated with an encroachment onto public trust lands. Property owners have no legal or moral obligation to sacrifice their property to the public without just compensation.*
- *The process to apply for a coastal development permit is already too time consuming, expensive, and uncertain. A requirement for permit applicants to predict sand movement over the life of the proposed development would not be beneficial and would further complicate an already bloated process.*
- *The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. It should not try to invent a new methodology biased against property owners.>*

The draft report relies on unproven suppositions, misapplies California law, and proposes policies that are unworkable, and unfairly and unconstitutionally burdens coastal property owners and therefore, should be rejected in its entirety.

Sincerely,

Jeffrey H Silberman
365 Pacific Avenue
Solana Beach, CA 92075

From: [Saundra Pelletier](#)
To: [Coastal Statewide Planning](#)
Subject: Urgent request
Date: Sunday, July 24, 2022 9:32:17 AM
Attachments: [image001.png](#)
Importance: High

Dear California Coastal Commission,

This email is in regard to a recent CCC Notice and DRAFT Report Th6e-6-22, regarding sea level rise and how it affects property boundaries and property rights. We have extreme concerns regarding this proposed action plan and the impact on our property. Specifically, we would draw your attention to the following:

- *The rate of sea-level rise has been exaggerated for political ends.*
- *Private coastal development did not cause of the loss of beach area. The loss of beach area is primarily caused by sediment supplies being blocked by major government projects such as dams and jetties. Sea-level rise is a only minor factor.*
- *The California Coastal Commission's Draft Public Trust Guiding Principles & Action Plan outlines a one-sided agenda of forced managed retreat.*
- *The policy proposals do not respect private property rights. Protections for property owners need to be added.*
- *The policy proposals, if adopted, would eventually result in the total elimination of private property along the coast.*
- *Coastal property owners should not be expected to give up their land and homes to make up for sand losses caused mostly by government projects (dams, jetties, etc.).*
- *A device to protect private property from erosion cannot be equated with an encroachment onto public trust lands. Property owners have no legal or moral obligation to sacrifice their property to the public without just compensation.*
- *The process to apply for a coastal development permit is already too time consuming, expensive, and uncertain. A requirement for permit applicants to predict sand movement over the life of the proposed development would not be beneficial and would further complicate an already bloated process.*
- *The Coastal Commission should apply objective, established, globally accepted standards for determining mean high tides. It should not try to invent a new methodology biased against property owners.>*

In closing we believe this report relies on unproven suppositions, misapplies California law, and proposes policies that are unworkable and unfairly and unconstitutionally burdens coastal property owners and therefore, should be rejected in its entirety.

Sincerely,
Saundra Pelletier

Saundra Pelletier – Chief Executive Officer

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From: sollifter@aol.com
To: [Coastal Statewide Planning](#)
Subject: draft Th6e-22 report
Date: Wednesday, July 20, 2022 9:53:51 AM

Dear Director Ainsworth

While I am not shocked by the California Coastal Commission's Draft Public Trust Guiding Principle & Action Plan, I continue to be outraged by the Commission's relentless attempt to change all applicable laws in an effort to continue to return the southern CA coastline to a natural state (aka Planned Retreat) at the detriment of property rights for oceanfront property owners who live adjacent to the coastline. I strongly object to the proposals in this draft document and ask that this document be scrapped.

In a nutshell, the CC wants to be able to claim that the mean high tide line, an ambulatory property line, has moved inward sufficiently such that the MHTL boundary is now at a location that does not allow oceanfront property owner to be in a position to defend their home from erosion. Furthermore, you want this artificial new MHTL boundary to be acquired into the CA Public Trust lands, stripping them from the property owner.

You are going about this effort by subverting existing CA law. First, you want to change the meaning of the word "existing" in the CA Coastal Act to include only those properties built before Jan 1 1977. It is ridiculous to think that the people who were drafting this Act sought to allow coastal erosion protections for just those properties in existence before the Act became law. They were smarter than that, but just within the last several years (think Dayna Bocho), as it now suits the CC coastal plan, the CC has decided that the CA coastal Act needs a new interpretation. The founding fathers of the ACT for certain meant protections for all properties in existence at the time of application was made for protection.

Next, you are ignoring CA maritime law which states that while the MHTL boundary is ambulatory, and that there are natural accretions and erosions to this property line over time, the ability to defend an accretion or erosion that results in a boundary change can only be done in a natural state, and in the absence of a natural state coastline, the MHTL reverts back to the last survey when conditions were natural. If this were not the case, then the oceanfront property owners in Santa Monica would have vastly greater lot sizes, which the courts have struck down.

To assume southern CA is in a natural state is again a ridiculous position for the CC. Beginning in the 1940s, several dams have been erected in the 5 or so major tributaries that once furnished and nourished the beaches in the Oceanside Littoral Cell. Compound this with the construction of the Oceanside harbor jetty and the Carlsbad jetty at the Batiquitos lagoon, and it is easy to see why beaches south of these points have become sand starved and depend on sand replenishment programs for healthy beaches that support habitat and recreation. This is obviously why southern CA beaches rely on sand replenishment programs as you well know. All of this is very well documented in the scientific literature.

Sand on the beach is essential for natural protection of the coastal inland areas and bluffs. When you have less sand on the beach, the height of the beach is lower and the MHTL, and in the case of southern CA in the Oceanside Littoral Cell, therefore the MHTL *artificially* moves landward. But this is not subject to a title change by the CA Public Trust since this is not a natural condition. For the CC to target a permanent change to the MHTL boundary and have this land secured by the CA Public Trust will constitute another CA CC taking.

I studied sea level rise extensively in 2015. At that time, there was an expectation that SLR would accelerate and that the CC was following the "best science". In reality, SLR has not accelerated, according to the most recent 2022 tide gauge data at La Jolla provided by NOAA. Actually, a graph/plot from NOAA shows the old expectation for accelerating rise scenarios overlayed onto the actual sea level rise, clearly showing that the acceleration has not happened. This doesn't mean it will not happen, but that is not the current situation and again, it is nothing more than an opportunistic land grab by the CC to

suggest otherwise.

For the CC to suggest that we need another way to "determine the MHTL" will result in the CC cherry picking the data in an unnatural condition at the detriment of the landowner. The MHTL is currently determined every 18.6 years after there has been a full astronomical cycle's influence on the tides and hence the sand level. Any other measurement determination ignores our planet's effect on tides and sand.

While I urge the CC to stop with their relentless attack on property owner rights, I realize this will probably never happen. The current draft proposal ignores all of the "best science" as well as CA law.

Thank you for reading and considering my points.

From: [Debbie Church](#)
To: [Coastal Statewide Planning](#)
Subject: opposition to DRAFT Report Th6e
Date: Sunday, July 24, 2022 9:21:23 AM

Dear California Coastal Commissioners,

I am writing in opposition to much of the language in the DRAFT Report Th6e regarding sea level rise and your policy planning regarding property boundaries and property rights. I have grave concerns over the proposed action plan and how this impacts property rights and available housing in California. I ask you to reject this draft in its entirety.

I live in Del Mar and Del Mar has a unique topography where the ocean front homes and sea walls are at a higher elevation than the neighborhood of over 600 properties that sit behind that line. This neighborhood provides most of the multi-family housing in the city (including mine) as well as a large hotel and public serving businesses. And again, the entire neighborhood is at a lower elevation and is protected by the front line of houses and seawalls. I like to think of our neighborhood as similar to New Orleans where the levees protect the entire city. If the mean high tide line is adjusted and the private land and sea walls are confiscated and now called "public" then the levees that protect our community will be lost. And so the entire neighborhood would be lost.

Our "levees" are allowed by Del Mar's CCC approved LCP and there is no possible rational mitigation for their removal. Also, the Shoreline Preservation Area (SPA) boundary marks where seawalls can and cannot go without need for Coastal Commission approval. The SPA boundary is included in the LCP.

Your proposed policy is a "one size fits all" policy which does not allow for exemptions for unique topography like Del Mar.

Also, our existing private structures are allowed to be protected by the California State Constitution and by the Federal Constitution and cannot be taken without just compensation. I do not see any mention of these constitutionally protected property rights within your draft nor do I see any proposal that addresses just compensation (the private property has an approximate value of over 3 Billion)

Prohibiting the protection of private property and extrapolating a new mean high tide line both appear to be in conflict with constitutional rights.

I ask that you reject this proposal in its entirety.

Debbie and Brian Church
2041-2043 Coast Blvd.

From: ncvgm@juno.com
To: [Coastal Statewide Planning](#)
Subject: sea level rise
Date: Thursday, July 21, 2022 11:48:43 AM

Dear Coastal Commission

This email is in regards to a recent CCC notice and draft report regarding sea level rise and how it affects property boundaries and property rights. We have extreme concerns regarding this proposed action plan and the impact on our property and the property of others. The CCC draft public trust guiding principles & action plan outlines a one sided agenda for forced managed retreat.

I believe this report relies on unproven suppositions, misapplies California law, and pro[poses policies that are unworkable and unfairly and unconstitutionally burdens coastal property owners and therefore should be rejected.

Joe Valenti
999 N. Pacific St
Oceanside, Ca, 92054