

CALIFORNIA COASTAL COMMISSION

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August 15, 2022

Humboldt County Civil Grand Jury
Humboldt County Courthouse
825 5th St.
Eureka, CA 95501

RE: Response to *The Sea Also Rises* Humboldt County Civil Grand Jury Report

Dear Humboldt County Civil Grand Jury,

Thank you for inviting the California Coastal Commission (Commission) to respond to the Civil Grand Jury's *The Sea Also Rises* report concerning sea level rise in the Humboldt Bay area. This response is provided by Commission staff.

We greatly appreciate that the Grand Jury investigated this important topic, and we support many of the recommendations of the report, as they align with the Commission's adaptation planning priorities and mission. The Commission is committed to protecting and enhancing California's coast and ocean for present and future generations through careful planning and regulation of environmentally sustainable development, rigorous use of science, strong public participation, education, and effective intergovernmental coordination. The Commission recognizes that sea level rise will have dramatic impacts on California's coast in the coming decades and is already impacting the coast today. The Commission also recognizes that sea levels are rising at two to three times the statewide average rate in Humboldt Bay due to local land subsidence and the likely future impacts to coastal resources and existing development as a result of this accelerated sea level rise.¹

The intent of this letter is to provide information in response to the Grand Jury's findings and recommendations on the Commission's sea level rise planning work, available local assistance grant funding for adaptation planning, and the coastal development permitting process and related local plan updates.

I. Coastal Commission Planning for Sea Level Rise

Sea level rise planning and adaptation is an integral part of the Commission's work. The Coastal Act was amended this year to explicitly require the Commission to "take into account the effects of sea level rise in coastal resources planning and management policies and activities in order to identify, assess, and, to the extent feasible, avoid and

¹ See the Commission's Sea Level Rise Policy Guidance: Interpretive Guidelines for Addressing Sea Level Rise in Local Coastal Programs and Coastal Development Permits, available at https://documents.coastal.ca.gov/assets/slr/guidance/2018/0_Full_2018AdoptedSLRGuidanceUpdate.pdf.

mitigate the adverse effects of sea level rise” (Pub. Res. Code § 30270). Despite this recent amendment to the Coastal Act, the Commission has for several decades integrated considerations about sea level rise and other coastal hazards into its regulatory and planning programs.² The Commission has also adopted specific resources to facilitate sea level rise adaptation planning statewide, including, but not limited to, its [2018 Sea Level Rise Policy Guidance](#) and [2021 Critical Infrastructure at Risk: Sea Level Rise Planning Guidance for California’s Coastal Zone](#).³ In addition, the Commission has been working closely with other state agencies to advance sea level rise planning, including through efforts such as the development and adoption of the interagency document, [Making California’s Coast Resilient to Sea Level Rise: Principles for Aligned State Action](#),⁴ and through agency-specific work such as coordination with the State Lands Commission, the State Coastal Conservancy, the State Water Resources Control Board, and other agencies.

The Commission encourages locally- and regionally-specific adaptation solutions to sea level rise. The [Joint Statement on Adaptation Planning](#) was adopted by the Coastal Commission in November of 2020 after development with the Local Government Working Group and sets forth a set of shared principles for how the Commission and local governments can collaborate to address sea level rise through LCP policy development, adaptation planning, and project decision making.⁵ Consistent with the Grand Civil Jury report’s recommendations relating to regional coordination, the Joint Statement on Adaptation Planning principles recommend the development of phased approaches to adaptation based on thresholds that trigger future policy, planning reviews and updates, and encourage regional planning and planning for mitigation opportunities across jurisdictions. The Commission agrees with the Grand Jury that a regional approach to sea level rise planning is particularly important in the Humboldt Bay area where sea level rise vulnerabilities and future impacts span the boundaries of different city, county, and other regulatory jurisdictions.

II. Humboldt Bay Grant Funding and Projects

The Grand Jury report concludes that the costs associated with sea level rise mitigation efforts will be significant and will require the diligent pursuit of federal and state public funding sources. The report also recommends that a regional coordination entity be formed to aggressively seek public sources of funding for mitigation and planning efforts, among other functions. The Commission provides funding for local planning relating to sea level rise adaptation. The Commission administers a Local Assistance Grant Program to support local governments in completing or updating Local Coastal Programs (LCPs) consistent with the California Coastal Act, with a special emphasis on planning for sea level rise and climate change.

² See Overview of Sea Level Rise and Some Implications for Coastal California (2001), California Coastal Commission Staff, available at <https://www.coastal.ca.gov/climate/SeaLevelRise2001.pdf>.

³ Both resources can be accessed from the Commission’s website at <https://www.coastal.ca.gov/climate/slr/>.

⁴ Principles for Aligned State Action is accessible from the Ocean Protection Council’s website: https://www.opc.ca.gov/webmaster/media_library/2021/01/State-SLR-Principles-Doc_Oct2020.pdf.

⁵ Local Government Working Group, Joint Statement on Adaptation Planning, available from the Commission’s website: <https://documents.coastal.ca.gov/reports/2020/11/W6d/w6d-11-2020-exhibits.pdf>.

As the Civil Grand Jury report notes, in 2019, Humboldt County received a grant from the Commission for \$100,000 to complete a feasibility study to develop options for implementing a regional sea level rise adaptation planning effort to facilitate regional coordination and cooperation in developing and implementing sea level rise adaptation strategies in the Humboldt Bay area. This study will be integral to achieving the Grand Jury report's overarching goal of regional coordination and will consider a variety of regional planning strategies, including a regional planning collaborative, joint powers authority, agency or agreement, and special districts, among other strategies. Although Commission staff have not reviewed the feasibility study, as the project is currently scheduled to be completed later this year, we support the goals of the forthcoming study to develop options for sea level rise adaptation planning in the Humboldt Bay region that will foster a cooperative and coordinated regional approach to the identification, funding, and implementation of various sea level rise adaptation policies, strategies, and measures. As a first task for this grant, in March of 2022, Humboldt County developed a Stakeholder Catalogue which identifies asset owners, managers, and other parties that will or could be implicated in a regional Humboldt Bay sea level rise planning effort.⁶ This Stakeholder Catalogue was developed as a tool to facilitate efforts to seek input from major stakeholders across the region in future planning efforts such as local and county agencies, tribal governments, state and federal resource management and regulatory agencies, vulnerable property owners, utility transportation and infrastructure providers, and academic and public interest organizations.

Humboldt County also previously received LCP grant assistance from the Commission in 2014 (\$64,000) and 2017 (\$50,000) to complete an assessment of the assets at risk from sea level rise and a policy framework to address areas subject to inundation. This work complemented vulnerability assessments underway at the time of the project. In addition, in 2014, the Ocean Protection Council (OPC) awarded the City of Eureka an LCP grant (\$250,000) to update its LCP, which was originally certified in 1984 and partially updated in 1999.

The City of Arcata has received LCP grant funding from the Commission and has indicated its intent to apply for additional funding in the future. In 2013, Arcata received an LCP grant (\$54,000) from the Commission to develop a sea level rise scenarios report and begin drafting comprehensive updates to the City's LCP. In 2018, Arcata was awarded an additional grant (\$75,000) to develop an LCP update to address climate adaptation and social and economic justice, with an emphasis on planning for vulnerable communities. The Commission has been coordinating closely with Arcata on its LCP update, and the City's current draft Local Coastal Element update includes a new chapter specifically addressing sea level rise along Humboldt Bay. Arcata also recently submitted a draft LCP grant application to the Commission for an additional \$100,000 in funding to complete certification of its comprehensive LCP update.

⁶ The Humboldt Bay Sea Level Rise Regional Planning Feasibility Study Stakeholder Catalogue is available at https://humboldt.gov/DocumentCenter/View/106574/Rerelease-LCP_2019_Stakeholder_Catalogue_June_2022?bidId=.

Commission staff encourage local governments in the Humboldt Bay area to apply for additional LCP grant funding for sea level rise and other climate change resilience planning efforts.⁷ The eighth round of the Commission's competitive LCP Grant Program is now open. Applications are due by September 16, 2022, and grants will likely be awarded in November 2022. The Commission also awards targeted grants of up to \$100,000 on a non-competitive, rolling basis. Projects that are designed to assist local governments in assessing impacts and planning for coastal resiliency, including adapting to the impacts of climate change and sea level rise, and which contain an LCP planning component are eligible for LCP grant funding.

Importantly, the LCP Grant Program allows coastal jurisdictions to partner together with relevant stakeholder groups in support of regional planning efforts. While local governments who are working on completing or updating LCPs must be the primary applicant and grantee, grant funds may be used to support special districts and stakeholder groups who are also critical to adaptation planning and whose participation in the land use planning process is needed to achieve successful plan updates that ultimately will facilitate coastal resiliency for the region. Local governments can, for example, partner with (and pass grant funding to through subcontracts) community services districts to assess the vulnerability of utilities and develop adaptation plans for sewer lines, water lines, and other critical infrastructure, because this level of planning is essential for informing the development of policies related to adapting municipal services and possible service area boundary changes in LCP updates. Although the Humboldt Bay Harbor, Recreation, and Conservation District does not have a Port Master Plan document certified by the Commission that regulates land use and zoning around the bay, the District could provide valuable planning assistance (supported by LCP grant funding, in cooperation with local governments) for policy updates in the LCPs of the County, Eureka, and Arcata related to coastal-dependent industrial and other land uses on lands around the bay and sloughs in the local governments' respective jurisdictions. Grant funds may be used for technical, economic, policy, and other analyses, feasibility studies, vulnerability assessments, adaptation plans, outreach and coordination efforts, and activities related to LCP adoption and submittal, such as public outreach and engagement.

III. Coastal Commission Permitting and Local Plan Updates

As the Civil Grand Jury report states that coastal development permits issued by the Commission can be difficult to obtain and recommends involving Commission staff in planning efforts, we wanted to provide information on the Commission's permitting process. Commission staff recognize that the permitting process can at times be lengthy and detailed and as such we agree with the Grand Jury that applicants should engage with Commission staff early in the permit process. The Commission has committed increasing staffing resources over the years to sea level rise and climate change planning in an effort to better assist early coordination in regional planning efforts.

⁷ LCP grant applications, deadlines, and eligibility criteria are available on the Coastal Commission's website at <https://www.coastal.ca.gov/lcp/grants/>.

The Commission's enabling legislation is the California Coastal Act (Public Resources Code Division 20). Under the Coastal Act, "development"⁸ in the coastal zone generally requires a coastal development permit (CDP). Depending on the location of the development and whether the local government has a certified LCP, the Commission, local government, or both entities may be responsible for issuing a CDP. When a local government with a certified LCP issues a CDP, its certified LCP policies are the standard of review. However, the Commission still has jurisdiction to hear appeals of certain CDPs, depending on the location and type of work involved.

The Commission retains jurisdiction to issue CDPs for development on tidelands, submerged lands, and public trust lands, whether filled or unfilled. The coastal zone around Humboldt Bay includes several thousand acres of lands within the Commission's retained CDP jurisdiction – mostly diked former tidelands (currently largely in agricultural use) and filled tidelands along the margins of the bay, which are subject to the public trust. Development in these areas, including development associated with sea level rise adaptation projects, will require CDP approval from the Commission. When the Commission considers CDP applications for development within its retained jurisdiction, the Chapter 3 policies of the Coastal Act are the standard of review. However, the Commission may use the local government's certified LCP as guidance in its permit decisions. In other words, while the LCPs of the County and the cities of Eureka and Arcata do not govern the review and approval of CDPs within the Commission's retained jurisdiction, local policies and standards for coastal land use in areas where the Commission retains CDP jurisdiction that are included in updated certified LCPs can inform the Commission's decisions on proposed development related to sea level rise adaptation in these areas. Thus, Commission staff have for several years encouraged and continue to encourage local governments in the Humboldt Bay area to update their LCPs to identify vulnerable areas in the planning region and to plan for adaptation strategies to protect coastal resources .

Because sea level rise adaptation requires site-specific solutions that may have different impacts on coastal resources, consistent with the goals listed in Grand Jury recommendation R4, Commission staff agree that early coordination between the Commission and local governments can assist with determining mitigation/adaptation options that are feasible and which may be implemented consistent with the Coastal Act or LCP as applicable. Such early coordination also can help streamline permit processing down the road. Commission staff have previously and are currently coordinating with applicants for sea level rise adaptation projects in the Humboldt Bay area. For example, with its approval of a CDP for the Eureka-Arcata Highway 101 corridor improvements in

⁸ Under Coastal Act section 30106, "Development means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511)."

2019 (which are still under construction), the Commission required Caltrans to develop a comprehensive sea level rise adaptation plan by the end of 2025 for the transportation corridor as a whole that includes, among other things, an adaptation alternatives analysis that considers accommodation strategies (viaducts, overpasses, etc.), protection measures (dikes, living shorelines, or other natural or engineered features), and, if feasible and necessary, relocation of transportation infrastructure to areas safe from flooding and other coastal hazards.⁹ Commission staff will continue to engage with Caltrans and other applicants for sea level rise adaptation projects through early coordination to facilitate the permitting process for agreed upon adaptation solutions.

The Coastal Commission recognizes the dramatic impact sea level rise will have on existing development in vulnerable areas and on coastal resources such as beaches and public access trails, coastal-dependent uses and coastal recreational lands, and environmentally sensitive habitat areas. Commission staff encourage local governments and applicants to put forward innovative solutions to sea level rise that consider impacts to coastal resources and regional adaptation efforts. Commission staff are available for guidance and early coordination on these projects.

In conclusion, the Coastal Commission supports and provides funding and guidance for sea level rise planning and coordination efforts at a local and regional scale. Commission staff appreciate the Civil Grand Jury's thorough exploration of these issues and look forward to continuing to work with Humboldt County, the Cities of Arcata and Eureka, Tribal governments, and other local, state, and federal agencies in ongoing efforts to plan for and adapt to sea level rise in the Humboldt Bay area.

Sincerely,

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⁹ Caltrans provided an update on its progress evaluating adaptation alternatives to the Commission at the July 13, 2022 Coastal Commission meeting in Fort Bragg. Background information is available from the Commission's website: <https://documents.coastal.ca.gov/reports/2022/7/W10a/w10a-7-2022-report.pdf>.