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11  
12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 COUNTY OF MARIN

14 PHYLLIS FABER, an individual, and  
ALLIANCE FOR LOCAL SUSTAINABLE  
15 AGRICULTURE, an unincorporated organization,  
DRAKES BAY OYSTER COMPANY, a  
16 California corporation,

17 Petitioners and Plaintiffs,

18 v.

19 CALIFORNIA COASTAL COMMISSION,  
CHARLES LESTER, DOES 1 through 10,  
20 inclusive,

21 Respondents and Defendants.

22  
23 And Related Cross Actions.  
24  
25  
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Nos. CIV 1301469 and 1301472  
**CONSOLIDATED**

**DECLARATION OF PHYLLIS FABER  
IN SUPPORT OF DRAKES BAY'S  
OPPOSITION TO MOTION  
FOR A NEW TRIAL**



**EXHIBIT 1**

# California Coastal Plan

*California Coastal Zone  
Conservation Commissions*

**December 1975**

# COMMISSIONERS<sup>1</sup>

## California Coastal Zone Conservation Commission

### PUBLIC REPRESENTATIVES:

**Fred Farr**, attorney and former State Senator, Carmel (S)  
**Ellen Stern Harris**, consumer advocate; member, Federal Coastal Zone Advisory Committee, Beverly Hills (A), Vice-Chairman  
**Melvin B. Lane**, magazine and book publisher, Menlo Park (G), Chairman  
**Roger T. Osenbaugh**, insurance and marketing executive, Arcadia (G)  
**Bernard J. Ridder, Jr.**, newspaper publisher, Long Beach (S)  
**Richard A. Wilson**, rancher, Covelo (A)

### REGIONAL COMMISSION REPRESENTATIVES:

**Ruth E. Andresen**, Central Coast  
**Emmons Blake**, South Central Coast  
**Dr. Rimmon C. Fay**, South Coast  
**Jeffrey D. Frautschy**, San Diego Coast  
\***Philip W. Harry**, Central Coast  
\***James A. Hayes**, South Coast  
\***Ira Edward Laufer**, South Central Coast  
\***Dwight May**, North Coast  
**Robert Mendelsohn**, North Central Coast  
**Donald F. Peterson**, North Coast  
\***Bernard Vaughn**, North Coast

## North Coast Regional Commission

### PUBLIC REPRESENTATIVES:

**Mrs. Mildred R. Benioff**, businesswoman, Mendocino (A)  
**Mrs. Gerry Grader**, commercial fish business, Fort Bragg (S)  
\***William Grader**, commercial fish business, Fort Bragg (S)  
**Dr. Donald W. Hedrick**, professor, California State University, Humboldt (G), Chairman  
**Dwight May**, cattle rancher, Bridgeville (S)  
\***John M. Mayfield, Jr.**, manufacturer, Ukiah (G), former Chairman  
**William McHugh**, labor union representative, Eureka (A)  
**L. R. (Budd) Thomas**, president, Eureka Fisheries Inc., (G)

### COUNTY SUPERVISORS:

**Ted Galletti**, Mendocino County  
**Bernard McClendon**, Del Norte County, Vice Chairman  
**Donald F. Peterson**, Humboldt County; North Coast representative on State Commission  
\***Guy Rusher**, Humboldt County (deceased)

### CITY COUNCILMEN:

**Richard L. Brown**, Mayor of Crescent City  
\***Ward Falor**, former Mayor of Arcata  
\***Ray Mast**, Councilman, Eureka  
**Ray E. Stewart**, Mayor of Fortuna  
**Bernard Vaughn**, Mayor of Fort Bragg

## North Central Coast Regional Commission

### PUBLIC REPRESENTATIVES:

**Margaret Azevedo**, civic leader, Marin County (A), Chairman  
\***B. John Bugatto**, attorney, San Francisco (G)  
**Phyllis Faber**, consulting biologist, San Rafael (S)  
\***Ellen Johnck**, city planner, San Francisco (G)  
**Dr. Bradford W. Lundborg**, internist, Santa Rosa (A), Vice-Chairman  
**Melville Owen**, patent attorney, San Francisco (G)  
**Dr. Kenneth M. Stocking**, college provost and professor, California State College, Sonoma (G)  
**Wanda Zankich**, restaurant/motel owner, Bodega Bay (S)

### COUNTY SUPERVISORS:

\***Dianne Feinstein**, San Francisco  
**Gary T. Giacomini**, Marin County  
**Robert Mendelsohn**, San Francisco; North Central Coast representative on State Commission (alternate: Hans A. Feibusch, civil engineer, San Francisco)  
\***John L. Molinari**, San Francisco  
**Peter Tamaras**, San Francisco (alternate: John L. Molinari)  
**Robert Theiller**, Sonoma County  
\***Michael Wornum**, Marin County; now Assemblyman

### CITY COUNCILMEN:

**Frank J. Egger**, Mayor of Fairfax  
**Gregory Jones, Jr.**, Councilman, Santa Rosa

### ASSOCIATION OF BAY AREA GOVERNMENTS REPRESENTATIVE:

**Lenard Grote**, Vice President of ABAG and Councilman, Pleasant Hill

<sup>1</sup> This list includes all Commissioners who have served since establishment of the California Coastal Zone Conservation Commissions in 1973. Those marked with asterisks served on the Commissions but were not members as of October 3, 1975, the date of printing the Coastal Plan. Abbreviations following the names of public representatives show the appointing authority: (G) Governor, (S) Senate Rules Committee, (A) Speaker of the Assembly.

## Coastal Waters

**Improve the Productivity of the Marine Environment.** California's coastal waters are among the world's most productive marine environments. Since the turn of the century, however, there has been an ominous decline in the quantity of food fish caught in the State's coastal waters, especially near intensively developed urban areas. The reasons for this are threefold: overharvesting of some popular fish, shellfish, and marine mammals has depleted their numbers; until recently, the ocean has been viewed as a convenient dumping ground for all sorts of waste products, including materials poisonous to marine life; and coastal wetlands, which serve as "nursery grounds" for many species of fish and wildlife, have been dredged and filled for development.

**Protect Against Overharvesting.** The Coastal Plan calls for a coordinated program of marine resources management to combat overharvesting and to maintain high yields of fish, both for food supply and for sportsmen. High priority is given to meeting the needs of commercial fishermen and to the expansion of "aquaculture" (growing marine organisms under controlled conditions).

**Protect Coastal Water Quality.** The Coastal Plan specifies that all wastes released into the ocean should receive adequate treatment and that wastewater discharges into enclosed bays and estuaries be phased out when necessary for estuarine protection. The Plan supports (and proposes some expansion of) the current programs of the State's Water Quality Control Boards and the Department of Fish and Game. Power plants, or other industries that use ocean water for cooling, would be required to have special design measures to help protect marine life from being drawn into the cooling system, and from the effects of the discharge of heated water back into the ocean.

To insure careful handling of petroleum, cleanup of accidental spills, and prompt payback of damages and cleanup costs, the Plan calls for a \$100 million oil spill liability fund, to be financed by a two-cent per barrel tax on oil entering California.

**Control Diking, Filling, and Dredging of Wetlands.** Nearshore waters, estuaries, marshes, and wetlands are the most productive part of the sea — and the most vulnerable to damage. The Plan proposes strong measures to protect the State's remaining wetlands. Restoration of wetland areas of comparable productivity would be required as a condition of many dredging or fill

approvals. The Plan recognizes that expansion of some developments, such as ports and energy installations, may be necessary in wetlands, but establishes stringent provisions to minimize any harmful effects of such expansion.

**Protect Against Harmful Effects of Seawalls, Breakwaters, and Other Shoreline Structures.** Seawalls, breakwaters, groins, and other structures near the shoreline can detract from the scenic appearance of the oceanfront and can affect the supply of beach sand. The Plan limits the construction of shoreline structures to those necessary to protect existing buildings and public facilities, and for beach protection and restoration. Special design consideration is proposed to insure continued sand supply to beaches, to provide for public access, and to minimize the visual impact of the structures.

## Coastal Land

**Protect Coastal Streams and Plan Carefully for Coastal Watersheds.** Coastal streams collect and channel waters draining from the land to the ocean, and thus form a fundamental linkage between shore and sea. Sediments and pollutants deposited in these streams can affect coastal wetlands as much as dredging and filling. The Plan recommends that comprehensive coastal watershed management plans be drafted to protect streamside vegetation, to maintain salt-water-freshwater balance, to protect the quality of water feeding coastal wetlands, to control sand supply (and thus protect ocean beaches from erosion), and to protect streams important as spawning areas for steelhead and salmon.

**Retain Natural Habitat Areas.** The richness of the nearshore ocean habitat is matched by the richness of the nearshore coastal land habitat. Many plants, animals, birds, and marine creatures are completely dependent upon the unique environment of the coast and can only survive in this setting. The Plan provides for careful protection of habitats of particular importance or rarity through acquisition, by controls on recreational uses, and through regulation of adjacent development.

**Encourage Coastal Agriculture.** The presence of the sea moderates the coastal climate, helping to create an extended growing season and to protect coastal crops from frost damage. The rich alluvial soils in coastal valleys, combined with temperate climatic conditions, create some of the

of finest and most productive agricultural land in it y the nation. Plan policies seek to support agriculture and to discourage conversion of these highly productive agricultural lands to other uses. The Plan proposes to alleviate the pressures of high property taxes and urban utility assessments that can force conversion of farm land to urban development. Also proposed are direct economic support and technological assistance. Controls are recommended to limit urban encroachment into agricultural areas and to regulate rural subdivision of land and lot splitting. The Plan recognizes, however, that some conversion of lower quality agricultural lands to other uses may be unavoidable in places where it has become uneconomical to continue farming. The Plan thus recommends standards to govern the conversion of farmlands surrounded by urban development and the partial conversion of larger parcels of less productive rural lands in ways that would allow some residual agriculture.

**Encourage Continued Timber Production.** The coastal forests in northern California are a valuable, renewable economic resource. The Plan seeks to maintain forests in long-term production with controls necessary to protect streams from erosion, to protect against damage to fish-spawning areas, and to protect the scenic beauty of forested areas. The Plan recommends that present tax laws be amended to encourage sustained forest yield by taxing timber only as it is cut, rather than taxing the value of all standing trees, as under the present system.

**Conserve Soil and Mineral Resources.** The soils and minerals of the coastal zone are irreplaceable resources of California. The Plan requires that local building and grading ordinances include effective measures to control erosion. Sand and gravel extraction would be barred in environmentally sensitive or highly scenic areas, and site restoration would be required where mining is permitted.

**Protect Coastal Air Quality.** In many urban areas, increasing numbers of people want to live and work along the coast because of its relatively clean air. Coastal Plan policies would exclude major new pollution-generating developments (refineries, fossil-fuel power plants, freeways) from portions of the coastal zone now designated as problem "air quality maintenance areas" unless there is no less environmentally damaging alternative. Where permitted, such developments would have to be designed and sited to minimize adverse effects on coastal air quality. The Plan would require the cumulative impact of

development on coastal air quality to be considered in land use and transportation plans.

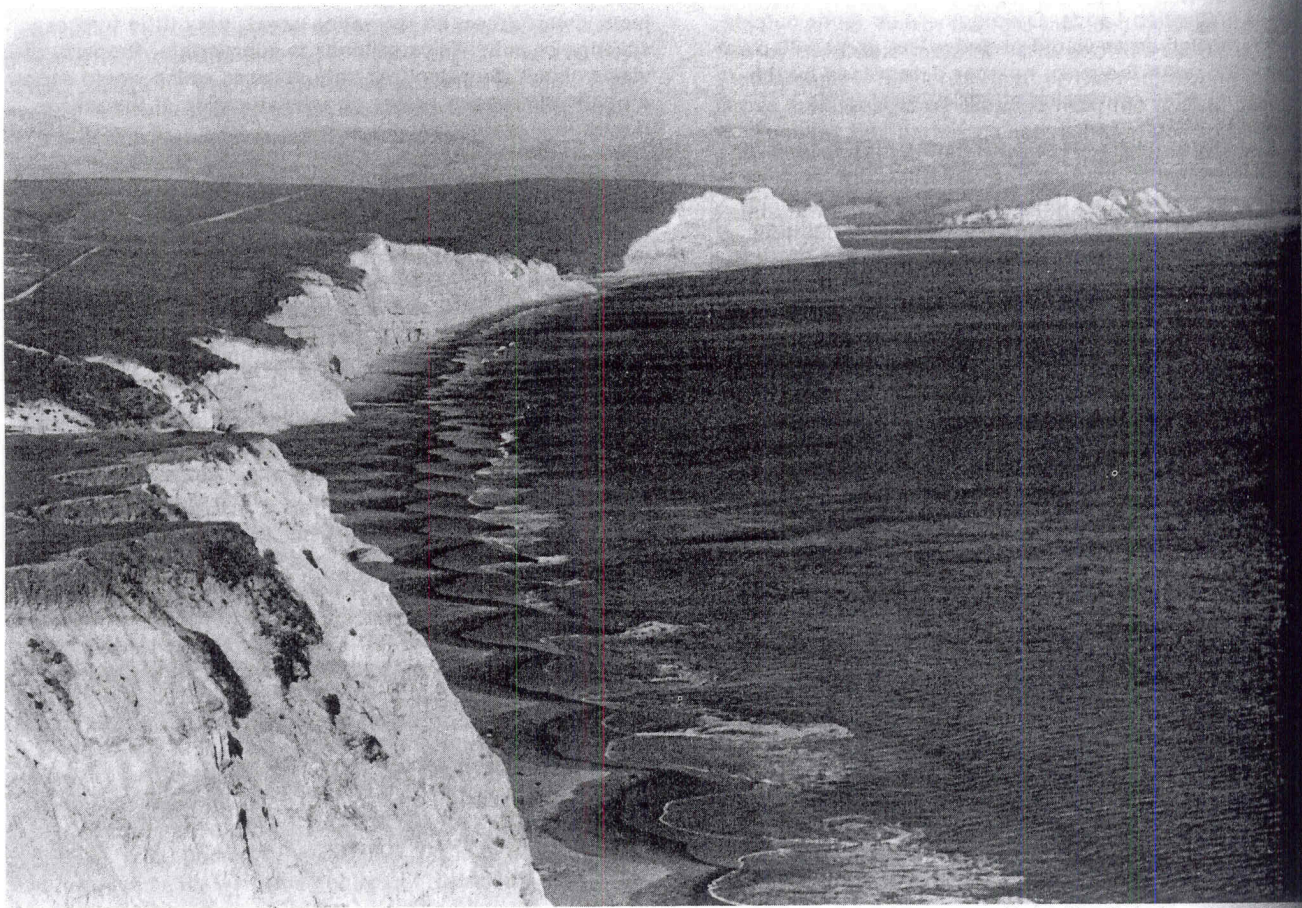
## Coastal Appearance and Design

**Protect the Scenic Beauty of the Coast.** The California coastline is a visual resource of great variety, grandeur, contrast, and beauty. In many areas coastal development has respected the special scenic quality of the shoreline, but in others, incompatible development has degraded and altered the attractiveness of the coast. Plan policies provide guidelines for various types of development in highly scenic areas and in areas affording the public prominent coastal views.



Coronado

The overriding design goal is that in scenic areas new development should be visually unobtrusive and subordinate to its setting. Development should be sited to protect coastal views and be landscaped to soften its visual impact. Construction materials should blend either with the natural setting or with adjacent structures. Massive structures such as major industrial plants and shopping centers should be built back from the



Drakes Bay, Point Reyes National Seashore

**Seashore Use.** The Coastal Plan's basic thrust, however, is that the use within the Point Reyes National Seashore should generally remain low. The wilderness values of Point Reyes National Seashore should be designated and protected to the maximum extent feasible. Designation as a Federal wilderness area, however, should not interfere with existing recreational and agricultural uses.

A few additional hike-in wilderness campgrounds should be developed. High-use areas should be located at Drakes Beach, the two main Point Reyes Beaches, and Santa Maria Beach (south of Limantour Spit). Vehicle access to Point Reyes and Tomales Point should not be developed above present levels. Access should be limited to the Double Point area to protect its fragile and valuable marine environment.

The Plan strongly supports continued expansion of the Seashore's interpretive programs, particularly as they relate to increasing public awareness and appreciation of the seashore's wetlands. Agricultural use in portions of the Seashore is wholly consistent with Coastal Plan objectives for productive multiple use of recreation lands and its continuance is encouraged. A southern entrance to the Seashore should be minimally improved at Palomarin; a supplementary trailhead with expanded parking lot and visitor facilities should be established in the vicinity of the Five Brooks area.

**Recreational Development.** The recently established Golden Gate National Recreation Area should provide generally moderate recreational development within its boundaries. High-use areas, including the development of some overnight facilities, is recommended for the former military lands on the Marin Headlands. The two Federal parks

should jointly establish several hundred rustic walk-in and drive-in campsites and tent cabins in clusters within the Olema Valley. The camp areas should be constructed in stages, with the need, use and impact of the facilities carefully monitored. The provision of a variety of recreational opportunities, consistent with resource protection, is encouraged. For the near future, as much compatible agricultural use as possible should be continued.

**Stinson and Seadrift Beach Access.** The usable beach area of Stinson Beach, including the Seadrift Beach, should continue to provide guaranteed public recreation and enjoyment. Dedication of the dry sand areas seaward of the dunes should continue to be pursued, even though a "gentlemen's agreement" with Seadrift homeowners currently permits such use. The possibility of exchanging public right-of-way property along Mira Vista for privately held undeveloped parcels westward of the roadway should be investigated by Marin County. This entire beach area should eventually be included within the boundaries of the Golden Gate National Recreation Area.

**Seadrift Recreational Development.** Development of a limited parking area (20-30 spaces) and small restroom facilities are proposed near the Seadrift entrance gate. Such facilities should be designed to serve and accommodate the three levels of use at Stinson Beach: intensive use at the State Park, moderate use opposite the Patios, and low-use strolling and beachcombing along the Seadrift spit. Reconstruction of a causeway crossing at the lagoon inlet near the Seadrift gate would provide pedestrian and emergency vehicle access to this end of Stinson Beach. No acquisition of Seadrift parcels or trail easements along the lagoon edge is proposed.

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1 **PROOF OF SERVICE**

2 I declare that I am over the age of eighteen years and not a party to this action. I am  
3 employed in the City and County of San Francisco and my business address is 155 Sansome St.,  
Suite 700, San Francisco, California 94104.

4 On August 14, 2014, at San Francisco, California, I served the attached document(s):

5 **DECLARATION OF PHYLLIS FABER IN SUPPORT OF DRAKES BAY'S**  
6 **OPPOSITION TO MOTION FOR A NEW TRIAL**

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14 *County Farm Bureau*

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19 *Attorneys for Real Party in*  
*Interest Drakes Bay Oyster*  
20 *Company*

21  
22 X **BY FIRST CLASS MAIL:** On the date written above, I deposited with the United States Postal Service a true copy of the  
23 attached document in a sealed envelope, with postage fully prepaid, addressed as shown on the service list. I am aware that  
on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than  
one day after the date of deposit for mailing contained in this declaration.

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25 on the service list at the e-mail addresses listed above. I did not receive, within a reasonable time after transmission, any  
26 electronic message or other indication that transmission was unsuccessful.  
27  
28

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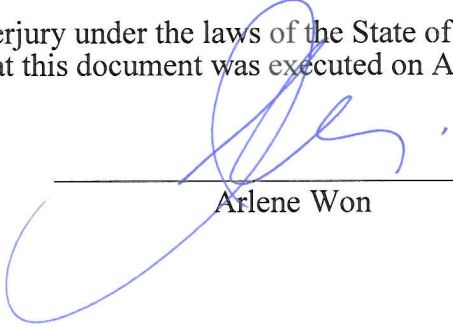
8 *Attorneys for*  
*Defendant/Respondent/Cross-*  
9 *Complainant California Coastal*  
10 *Commission*

*Attorneys for Petitioner and*  
11 *Plaintiff Phyllis Faber*

12 X **BY OVERNIGHT DELIVERY:** On the date written above, I delivered the Federal Express package to a location authorized  
13 by Federal Express to receive documents for pickup. The package was placed in a sealed envelope or package designated by  
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shown above.

14 X **BY E-MAIL OR ELECTRONIC TRANSMISSION:** On the date written above, I e-mailed the documents to the persons  
15 on the service list at the e-mail addresses listed above. I did not receive, within a reasonable time after transmission, any  
electronic message or other indication that transmission was unsuccessful.

16 I declare under penalty of perjury under the laws of the State of California that the  
17 foregoing is true and correct and that this document was executed on August 14, 2014, at San  
Francisco, California.

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19 \_\_\_\_\_  
Arlene Won  
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