July 3, 2023

Assemblymember Luz Rivas, Chair
Assembly Natural Resources Committee
1020 N St., Suite 164
Sacramento, California 95814

RE: SB 423 (Wiener) Oppose Unless Amended

Dear Chairwoman Rivas:

The undersigned organizations represent statewide and national constituencies committed to protecting coastal and ocean resources and upholding California's landmark coastal protection law: the California Coastal Act of 1976. **We submit the following comments in opposition to SB 423 unless the bill is amended to uphold the applicability of the Coastal Act in the coastal zone.**

The Coastal Act regulates land use to protect public access, sensitive habitats, wetlands, agriculture, scenic viewsheds, lower-cost recreational opportunities, and the biological productivity of ocean waters. It requires new development to minimize energy use, reduce vehicle miles traveled, and avoid hazards such as flood-prone areas, unstable bluffs, and tsunami runup zones, protecting future residents. Fifty years of careful Coastal Act implementation is the reason the California coast still belongs to everyone regardless of zip code.

In 2017, the Legislature passed SB 35 (Wiener) which created an administrative, by-right approval process for multifamily housing. Notably, this administrative process is not applicable in the coastal zone, where the Coastal Act is implemented through discretionary coastal development permits (CDPs) issued by the Coastal Commission and/or local governments with certified Local Coastal Plans. SB 423 would strike the existing coastal zone exclusion in Government Code Section 65913.4(a)(6)(A) **resulting in a de-facto exemption from the Coastal Act for multifamily housing. This is not necessary, because existing law already allows for affordable, multifamily housing in the coastal zone. Existing law merely requires a CDP review process, and the Commission is pro-affordable housing.**

The high value and desirability of coastal real estate generates extremely high development pressure on the coastal zone. In 1972, California voters passed Proposition 20 (the Coastal Initiative) in response to the rapid pace and scale of industrial and residential development, and the resulting loss of public access, open space, and habitat. The fundamental premise of the Coastal Act is that new development within the coastal zone should undergo a more rigorous environmental review to preserve this unique geography for all Californians, including our inland residents who use the coast to seek respite from hot temperatures. Californians from across the state, particularly those from inland areas, still value the protection of public access and coastal resources afforded by the Coastal Act. In this rapidly changing era of climate change and sea level rise, it is more important than ever to ensure that we are not building in harm's way.

"By-right" approval will eliminate the ability of the Coastal Commission and local governments to use the best available science when calculating flood and erosion risks. While (a)(6)(F) of this bill excludes areas subject to Federal Emergency Management Area 100-year flood maps, it does not consider areas that will be subject to flooding, erosion, or groundwater emergence in the future due to sea level rise. It also raises fundamental questions about whether shoreline protective devices (aka seawalls), which are closely regulated pursuant to the Coastal Act, will be authorized "by right" as well. This would result in worsening beach loss. This is just one example of the kind of site-specific, discretionary determination that is fundamental to coastal management land use decisions but would be eliminated by SB 423.

Our concerns also involve how environmental protections for our coastal resources would be applied without the Coastal Act. Specifically:

Section (a)(6)(B) of this bill would also limit the standard for protecting coastal wetlands to that defined in federal law, which is significantly weaker than the Coastal Act standard. Moreover, the U.S. Supreme court ruling in Sackett v. U.S. EPA recently narrowed the federal definition of wetlands even further, leaving tens of millions of acres of wetlands across this country with no protection at all. **Considering California's trailblazing initiatives to create resilient communities in the face of climate change, wetlands and protected habitats should be viewed as resiliency assets, rather than obstacles.**

Section (a)(6)(I) of this bill protects critical habitat under the California Endangered Species Act and the federal Endangered Species Act, but it fails to recognize Environmentally Sensitive Habitat Areas (or

ESHA), which is protected under Coastal Act Section 30240. Inexplicably "equestrian zones" are carved out of the bill while basic coastal resource and public access protections are being overridden. **We submit that preserving coastal resources and public access is more important to promote equitability than preserving "equestrian zones,"** while that may also be a noble pursuit.

We understand and agree with the author's goal of increasing the supply of multifamily housing in the coastal zone. However, we vehemently disagree that exempting new developments from the Coastal Act is the way to achieve that goal. **It has long been our position that affordable housing and coastal protection are not and should not be mutually exclusive.** The Coastal Commission decisively demonstrated this fact for the first five years of the coastal program by requiring inclusionary units to be built alongside market rate housing. As originally enacted, the Coastal Act contained enforceable provisions for the protection and provision of affordable housing. From 1977-1981, the Commission approved over 5,000 deed-restricted units for construction, prevented the demolition of 1,200 existing affordable units, and collected over $2 million in in-lieu fees. Unfortunately, the Legislature repealed the Coastal Act's housing provisions 1981 (SB 626, Mello). Since that time, the Commission has lacked the legal authority to protect and provide affordable housing in the coastal zone, which has contributed to the widening housing gap in coastal areas. **We respectfully submit that the most effective way to increase the supply of affordable housing in the coastal zone is to reinstate the Coastal Commission's housing policies, not exempt multifamily housing from the Coastal Act.**

The original purpose of this bill was to eliminate the sunset provision in SB 35. It should do just that and nothing further. As the Senate Committee on Housing found, SB 35 has improved housing in California by facilitating the approval of nearly twenty thousand units between 2018 and 2021 with 60 percent of them made affordable to lower income households. It is clearly a successful approach for increasing housing. But, **because of the unique economics of coastal real estate development, SB 423 will certainly accelerate the construction of luxury, ocean-front condominiums with minimal amounts of affordable housing.** This is not the type of housing California needs, and it will increase the cost of planning for the inevitable impacts of sea level rise, while failing to achieve its own goal.

We urge you to **maintain the integrity of the Coastal Act** and reject the removal of Government Code Section 65913.4(a)(6)(A). Affordable housing and coastal resource protection can and should go hand in hand. Thank you for the consideration of our comments.

Sincerely,

Sean Bothwell, Executive Director
California Coastkeeper Alliance

Brady Bradshaw, Senior Campaigner
Center for Biological Diversity

Tim Brick, Executive Director
Stewards of the Arroyo Seco

Garry Brown, Founder & President
Orange County Coastkeeper

Kimberly Burr, Manager
Community Clean Water Institute

Nick Cheranich, Chair
Napa Sierra Club Group Executive Committee

Anna Christensen, Executive Director
Puvunga Wetlands Protectors

Rick Coates, Executive Director
Forest Unlimited

Chance Cutrano, Director of Programs
Resource Renewal Institute

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

Jack Eidt, Co-Founder
SoCal 350 Climate Action

Neal Fishman, Board President
Sonoma County Conservation Action

Dee Anna Fromm, Director
Coastal Lands Action Network

Damien Goodmon, Executive Director
Crenshaw Subway Coalition

Marcia Hanscom, Community Organizer
Defend Ballona Wetlands

Larry Hanson, President
California River Watch

Pamela Heatherington, Board of Directors
Environmental Center of San Diego

Deirdre Hockett, Member
Protect San Antonio Valley

Susan Jordan, Executive Director
California Coastal Protection Network

Mari Kloeppel, President
Friends, Artists, and Neighbors of Elkhorn Slough

Janus Holt Matthes, Chair
Wine and Water Watch

Patricia A. McCleary, Co-Executive Director
Smith River Alliance

Don McEnhill, Executive Director
Russian Riverkeeper

Laura Morgan, M.D.
Save the Sonoma Coast

Kristen Northrop, Policy Advocate
Coastal Environmental Rights Foundation

Robin Rudisill, Board Member
Citizens Preserving Venice

Michael Stocker, Director
Ocean Conservation Research

Tomas Valadez, California Policy Associate
Azul

Robert van de Hoek, Environmental Scientist & Founder
Ballona Wetlands Institute

Esperanza Vielma, Executive Director
Environmental Justice Coalition for Water

Laura Walsh, California Policy Manager
Surfrider Foundation

Michael Warburton, Director
Public Trust Alliance
A Project of The Resource Renewal Institute

Scott Webb, Advocacy & Policy Director
Turtle Island Restoration Network

David Weeshoff, Conservation
Pasadena Audubon Society

Melanie Winter, Director & Founder
The River Project

Erin Woolley, Senior Policy Strategist
Sierra Club California

CC: Assembly Natural Resources Committee Members
Senator Scott Wiener