



DEPARTMENT OF DEFENSE
REGIONAL ENVIRONMENTAL COORDINATOR, REGION 9
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February 17, 2012

Ms. Jeanine Townsend
Clerk of the Board
State Water Resources Control Board (SWRCB)
1001 I Street, 24th Street
Sacramento, CA 95814



**SUBJECT: COMMENT LETTER - SPECIAL PROTECTIONS FOR AREAS OF SPECIAL
BIOLOGICAL SIGNIFICANCE (ASBS) FEBRUARY 3, 2012 VERSION**

On behalf of Rear Admiral Dixon R. Smith, the Department of Defense (DoD) Regional Environmental Coordinator for EPA Region IX, and the Military Services in California, I respectfully submit these comments on the SWRCB's Special Protections for Areas of Special Biological Significance dated February 3, 2012.

Exceptions for Military Activities

We appreciate the opportunity we have had to provide comments on the subject plan and would like to thank your staff for their support and hard work in developing the exception language. We fully support the adoption of the proposed exception for discharges associated with military activities at San Clemente Island, San Nicolas Island, and Begg Rock. The exception language within the Special Protections recognizes the many variables of the military mission and allows us to respond to rapidly changing threats and developing technology.

85th Percentile Threshold for Natural Water Quality

We remain concerned about the proposed 85th percentile compliance threshold defining natural water quality. The Natural Water Quality Committee's Summary of Findings specifically states that "quantifying natural water quality is not concluded". We support the use of this threshold as a benchmark requiring specific actions be taken when monitoring programs show the 85th percentile is exceeded. But we do not support its use as the definition of natural water quality. DoD requests that language be included that clearly states the 85th percentile is a benchmark not a water quality standard.

In addition the language within the body of the Special Protections and the Attachment 1 Flowchart is not consistent. Important clarifications have been added to the attachment that should also be reflected in the Special Protections text. These clarifications point out that re-sampling occurs during the next feasible storm event and that when an exceedance of the 85th percentile occurs the Water Boards will consider end-of-pipe sampling data in making determinations. The two documents should be consistent to avoid confusion in the implementation of these requirements.

Runoff and Receiving Water Sampling

The sample collection requirements are confusing. Page 14 item A.1 requires runoff samples to be collected when receiving water samples are collected. Page 14 item A.3.a (1) requires sampling storm water runoff during the same storm as receiving water samples. It will be extremely difficult to sample both the discharge and receiving water at the same time but reasonable to collect samples representing the same storm event. We suggest using the sampling protocol established on Page 6 of the ASBS '08 Work plan "Receiving water samples will be collected immediately prior to (< 48 h) and immediately following (< 24 h) wet weather events." The runoff sample would be collected consistent with the directions in the applicable storm water permit.

Indicator Bacteria/Fecal Contamination Monitoring

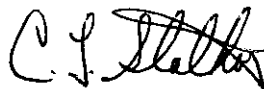
The revised Special Protections document now includes a specific reference to sampling within the range of the southern sea otter indicator bacteria or some other measure of fecal contamination..." (Pages 14 and 18). Based on statements within the Program Environmental Impact Report (PEIR) this was likely added to address concerns regarding *Toxoplasma gondii* infections in otters. As noted in the PEIR, cat feces in storm water discharges is a likely source of *T. gondii* in the ocean.

As you know, the Navy strives to responsibly manage marine resources and has been highly successful in encouraging increases in marine mammals breeding on both of our island (San Nicolas and San Clemente) ASBS areas. By doing this, we have maintained an ever growing population of sea otters on San Nicolas Island (now numbering more than 50). In fact, the San Nicolas Island and Begg Rock ASBS is presently the only ASBS in Southern California within the range of sea otters. San Nicolas also hosts the second largest breeding colony of northern elephant seals and largest breeding population of California sea lions in the State. Large populations of marine mammals are also present at San Clemente Island.

These pinnipeds naturally create a very high fecal load on island beaches and near shore waters. The Navy has successfully eradicated cats from San Nicolas Island and hence, there is no potential for cat feces to enter the ocean. If the Water Board is concerned with the potential for *T. gondii* infections in otters, then the sampling protocol should test for the presence of *T. gondii*, not fecal contamination or some other fecal indicator.

The DoD requests that you consider the comments in this letter in the upcoming adoption of the Special Protections for Areas of Special Biological Significance. We feel our proposed changes to the Special Protections document are all clarifying in nature and any changes would not constitute a substantive change to the proposal, but rather help regulated parties comply with the rules. The points of contact for this letter are Mr. Brian Gordon at brian.gordon@navy.mil or (619)532-2273 and Mr. Michael Huber at michael.huber@navy.mil or (619)532-2303.

Sincerely,



C. L. STATHOS
By direction