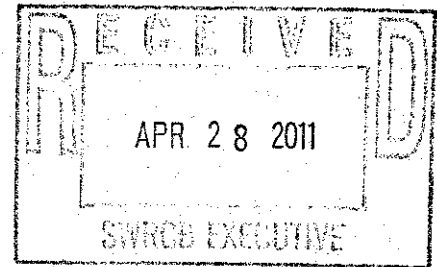


MONTEREY COUNTY MAYORS' ASSOCIATION



April 28, 2011

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Subject: Comment Letter – ASBS Special Protections

Dear Members of the State Water Resources Control Board:

We, the Mayors of Monterey County, are concerned about the mandates in the Areas of Special Biological Significance (ASBS) Special Protections and General Exception. These mandates would be extremely costly to meet, and, in a time of economic and fiscal duress, cannot be justified by any water quality exigency. In fact, the most recent data for the ASBS waters indicate no peril to them, and exceptional water quality. In addition, these unwise draft mandates presume that simply by discharging stormwater from our properties and communities into the ASBS, we are in violation of the California Ocean Plan. As a matter of policy and logic, that position is not acceptable. It appears to us that this false premise is a root cause of the unwarranted stringency of staff's proposal.

As we have long maintained, the ASBS are not in peril. A recent technical publication – whose co-authors include a State Water Resources Control Board (SWRCB) staff member and a long-time consultant to the SWRCB on ASBS matters – concludes that:

ASBS in southern California are consistently protective of natural water quality following storm events. On average, the range of post-storm pollutant concentrations in receiving waters sampled near ASBS discharge sites were not significantly different from post-storm concentrations at reference drainage sites, which included stormwater inputs free of (or minimally influenced by) anthropogenic sources.... Furthermore, synthetic anthropogenic contaminants such as total DDT or total PCB were not detectable across the wide variety of reference drainage sample locations in ASBS, and were rarely detectable at discharge sites in ASBS. Moreover, no post-storm samples collected near ASBS discharges exhibited toxicity.¹

Stormwater off the Monterey Peninsula reasonably can be anticipated to have pollutant concentrations no more than (and probably less than) stormwater off the heavily developed southern California communities.

Under these circumstances of exceptional existing water quality, SWRCB staff would need to meet a high bar to justify the costs of the proposed ASBS Special Protections. The treatment and control facilities necessary to move toward compliance will be prohibitively expensive and not within the means of most municipalities. Staff's own estimate is that the capital costs alone to implement the Best Management Practices (BMPs) necessary to begin complying will be between \$43 and \$54 million. It is our understanding that only \$32 million of the \$35 million in Proposition 84 will be used to fund grants to help the dischargers comply with the Special Protections. This would leave the dischargers having to pay out of their own funds between \$11 and \$22 million to install those BMPs. Monitoring costs are also excessive. The first year start-up costs of the Regional Monitoring Programs will be about \$2.5 million (all of which will have to be paid by the dischargers). The dischargers will have to spend additional millions of dollars indefinitely to continue those monitoring programs.

¹ Kenneth Schiff *et al.*, *Assessing water quality conditions in southern California's areas of special biological significance*, 256 (Southern California Coastal Water Research Project Annual Report, 2010).



CARMEL-BY-THE-SEA



DEL REY OAKS



GONZALES



GREENFIELD



KING CITY
CALIFORNIA
KING CITY



MARINA



MONTEREY



PACIFIC GROVE



SALINAS



SAND CITY



SEASIDE



SOLEDAD

Even with these high numbers, we are concerned that the capital costs estimated for implementation of the ASBS Special Protections are grossly underestimated. Diversion to local wastewater treatment plants may be required; however, wastewater treatment plants may not have the extra capacity to accept stormwater flows into treatment systems, e.g. treatment plants within the Monterey Peninsula. To accommodate these flows, millions of dollars would be required to expand capacity. Operation and maintenance costs would also increase at each treatment plant required to expand capacity. For some parameters, the technology to achieve compliance does not exist.

Thus, it is clear that there are huge expenses associated with the Special Protections, most of which will have to be borne by the local communities, many of which are small and struggling with extreme economic challenges. Imposing the proposed ASBS mandates could lead to cutbacks in vital public services that are currently provided to the residents of these communities.

Although not all of our communities are affected by the ASBS regulations, we are all concerned by the continued increase in stormwater regulation. Therefore, we support the comments being submitted to you by the Cities of Carmel, Monterey, and Pacific Grove, the County of Monterey, Pebble Beach Company, Monterey Bay Aquarium, and Stanford Hopkins Marine Station.

We anticipate that the recent very favorable southern California ASBS results (discussed above), combined with the very high costs required to implement the current staff proposal, will cause staff to reconsider its proposal. We believe staff proposals should be feasible and targeted to focus on what is necessary to protect the ASBS, and their marine resources. We recommend a pause in the proceedings to provide an opportunity for SWRCB staff to meet with us and other interested parties. We propose to work together to preserve and protect the ASBS in a realistic and reasonable way. We will be in touch with you soon to arrange a meeting.

Sincerely,



Honorable David Pendergrass, Chair
Monterey County Mayors' Association
Mayor, City of Sand City

cc: Brian Ogg, State Water Board
Charles Hoppin, Chair, State Water Board
Tam Doduc, State Water Board member
Tom Howard, Executive Director, State Water Board
Jonathan Bishop, Chief Deputy Director, State Water Board
Vicky Whitney, Deputy Director, State Water Board
Bruce Fujimoto, Chief – Stormwater State Water Board
Assembly member Bill Monning, 27th Assembly District
State Senator Sam Blakeslee, 15th Senate District