



California Regional Water Quality Control Board

Los Angeles Region



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Agency Secretary

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Arnold Schwarzenegger
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ASBS Special Protection
Deadline: 9/1/06 5pm

TO: Song Her
Clerk to the Board
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State Water Resources Control Board
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FROM: Jonathan S. Bishop
Executive Officer

DATE: August 31, 2006

SUBJECT: COMMENT LETTER – ASBS SPECIAL PROTECTIONS



We have reviewed the Working Document - Staff Proposal developed for Special Protections – Areas of Special Biological Significance, Storm Water and Nonpoint Source Discharges, dated June 14, 2006. While this document represents a good start towards defining the conditions necessary to limit storm water and nonpoint source discharges to Areas of Special Biological Significance (ASBS), we do have several comments. Although State Board staff will be processing the requests for exceptions from dischargers to permit these discharges to ASBS, Regional Board staff will be required to review the applications and to consult with State Board staff to develop monitoring program designs, establish background water quality conditions and evaluate monitoring results. This will place an additional workload on already overburdened Regional Board staff in our region without providing any additional staff resources.

1) Goals and Objectives

Is the intent of this proposal to eliminate or reduce the number of existing discharges into Areas of Special Biological Significance, or simply to monitor such discharges to ensure that they are not adversely impacting any ASBS? It is difficult to determine what type of monitoring should be required unless the goals and objectives of the program are stated more precisely. Once this is accomplished, indicators should be identified that will fulfill the stated objectives, and the assessment thresholds that will be used to make management decisions should be defined.

2) Reference Stations and Receiving Water Monitoring

The document indicates that natural water quality will be determined using the approved reference station (for all constituents except indicator bacteria). We recommend against defining

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natural water quality in such a narrow and prescriptive fashion – in many cases, it may be more useful to define natural water quality in coastal ocean waters by means of regional background conditions rather than via a single reference station approach.

In most cases, we do not believe that it will be efficient or productive to require individual dischargers to conduct receiving water monitoring in a piecemeal fashion. We would recommend that monitoring of Areas of Special Biological Significance should be coordinated and conducted on a regional basis (e.g., as part of the comprehensive monitoring of the Southern California Bight that occurs in Southern California every five years), which would provide a regional context for background conditions, against which the storm water and nonpoint source discharger monitoring results could be compared. We also recommend that the document avoid being overly prescriptive in terms of the required sampling frequencies, since the nature of the discharges or site specific conditions in different areas may suggest a need for different approaches. In our experience, in many cases sampling a certain number of storms per permit cycle has little utility and should be reconsidered in favor of integration into periodic regional surveys.

The document suggests that the greatest impacts associated with stormwater discharges may be on the intertidal community, since this is the point of entry of the discharge into the ocean and these organisms might be impacted by the freshwater discharge. This could be true in some cases, but during heavy rainfall events, stormwater discharges affect much larger areas of the ocean than just the coastline, so it probably is not sufficient to look at just the intertidal community to gauge the health of Areas of Special Biological Significance. In addition, is the goal of the monitoring to assess the impact of a freshwater discharge or to assess trace metal, trace organic and pathogen contamination carried by the discharge? Currently, there is no accepted assessment threshold to measure the health of the intertidal community, so how would this type of monitoring data be used to make management decisions? Any monitoring program developed for ASBS should consider the need for monitoring of other biological communities, such as benthic infauna, and the need to assess other contamination issues (e.g., sediment contamination, bacteriological problems and bioaccumulation concerns).

3) Toxicity Testing

Water column toxicity testing of stormwater discharges from MS4 permits and industry is very challenging. There are no standardized approaches for sample collection and lab testing protocols for storm water toxicity testing. The EPA protocols identified were developed primarily for wastewater flows with continuous discharges, rather than for storm water discharges which are much more temporally and spatially variable. The Southern California Coastal Waters Research Project and the Storm Water Monitoring Coalition have initiated a project to develop standard toxicity testing and TIE protocols for storm water. Since the characteristics of storm water could vary from wet season to wet season, we recommend utilizing



a suite of test species sensitive to classes of pollutants (e.g., to metal, to o-p pesticides, etc.) for toxicity testing, rather than relying upon the use of the most sensitive of three species tested during a screening process, which is not generally useful in this case.

In our experience with MS4 dischargers, the strongest toxicity signal almost always is observed in the first storm of the season, so we require a TIE if the first storm shows toxicity. With subsequent storms, we require toxicity testing to monitor conditions, but would not require a TIE unless we see persistent toxicity from storm to storm. We would recommend that this approach be incorporated into the document.

Thank you for the opportunity to comment on this document. We look forward to continuing to work with State Board staff and other interested parties as these issues are resolved.

