



**Western States Petroleum Association**  
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Steven Arita  
Senior Coordinator

May 17, 2004

Mr. Frank Roddy  
Division of Water Quality  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100

**Subject:       Comments Regarding the Triennial Review of the California Ocean Plan**

Dear Mr. Roddy,

On behalf of the Western States Petroleum Association (WSPA) we are pleased to submit the following comments regarding the State Water Resources Control Board's Triennial Review for the California Ocean Plan. WSPA represents the major oil and gas companies that produce, transport, refine and market petroleum and petroleum products in the six western states. WSPA members own and operate several facilities along the California coast and therefore have a direct interest in the proposed amendments to the SWRCB Ocean Plan.

As noted in the Public Hearing Notice, the SWRCB held two public scoping meetings early this year to solicit comments on four proposed amendments to the California Ocean Plan. The four amendments are: 1) Choice of Indicator Organisms for Water –Contact Bacterial Standards; 2) Establishing a Fecal Coliform Standard for Shellfish; 3) Reclassifying "Areas of Special Biological Significance (ASBS) to "State Water Quality Protection Areas (SWQPA) and establish special conditions for discharges into SWQPAs; and 4) Review the Reasonable Potential analysis to determine the likelihood that the concentration of a pollutant would cause or contribute to an exceedance of water quality standards. WSPA provided testimony at the January 23, 2004 Public Hearing workshop on the proposed amendments.

As you are aware, the SWRCB has scheduled a Public Hearing on May 24, 2004, to solicit additional comments on not only the four above mentioned issues, but any other issues, including but not limited to, the unresolved/outstanding issues from the previous Triennial Review (1999-2002 Triennial Review).

## **Scope of Triennial Review**

While WSPA welcomes the opportunity to review and provide comments on the current proposed amendments as well as issues from the last Triennial Review, we strongly recommend the Board should limit the scope of the current Triennial Review (2004) to the four proposed amendments.

The reasons for this recommendation are as follows:

### **1. U.S. Commission on Ocean Policy:**

First of all, as you are aware, Cal-EPA and the Resources Agency recently held a joint California Ocean Summit hearing on May 6, 2004, to solicit input and comments on the recently released U.S. Commission on Ocean Policy Report (Report). The Commission's Report is a landmark study that included an in-depth study of the multiple users of the ocean and also provided a comprehensive list of bold and broad-reaching Policy recommendations and reforms to address the many challenging issues the oceans face. WSPA appreciated the opportunity to participate as a panelist during the Summit and provided extensive comments on the Report (see attached comments).

Although many of the Higher Priority issues are important to WSPA, we believe many of these issues require a much broader based reform in the areas of governance and jurisdiction in order to resolve them. One example that illustrates the governance and jurisdictional challenges we face is the issue of dredging. One of the higher priority issues identified in the 1999-2002 Triennial Update was the suggested applicability of the Ocean Plan for dredging activities. In our comments to Secretaries Tammimen and Chrisman on the Commission's Ocean Report, we explained the permitting conflicts our members often experience among agencies in order to secure the necessary permits to perform dredging that would allow crude oil tankers deliver their products to refineries. WSPA fully recognizes the environmental concerns and issues related to dredging activities, however, we believe this is an issue that requires input from all agencies that have jurisdictional responsibilities, so that environmental goals can be achieved, while also ensuring California's ever increasing energy needs can be met.

Clearly, there is a nexus between the broader policy issues and recommendations raised by the Commission's Report and the Triennial Update of the California Ocean Plan. WSPA believes it would be prudent for the Board to review carefully any revisions to the Ocean Plan in the context of the final recommendations the Governor will be making to the U.S. Commission on the draft Ocean Report and on the Commission's final report itself which is expected later this year. In that regard, WSPA recommends the Boards primary focus during this Triennial Review be on the four proposed amendments at this time.

### **2. 1999-2002 Triennial Update:**

Secondly, in the last Ocean Plan Triennial Update (1999-2002), several unresolved and outstanding issues were identified and ranked by staff as to whether they were "higher" or "lower" priority issues. It should be noted that some of the following Higher Priority issues either have been or are in the process of being addressed:

- **Applicability of Ocean Plan Regulatory Controls to Prevent the Introduction of Non-Indigenous Marine Organisms, Including those from Discharge of Ship Ballast Water:**

Effective January 1, 2004, the California Marine Invasive Species Act went into effect. This act specifies a timeline and criteria by which qualifying vessels must comply with to address ballast water requirements. The Act's requirements include mid-ocean exchange or retention of all ballast water for qualifying vessels, mandatory ballast water report documentation, maintaining a ballast water management plan and log, training and good housekeeping practices. Because the concern raised in the last Triennial Update on ballast water has been addressed through the California Marine Invasive Species Act, WSPA recommends that no additional resources be spent on this issue.

- **Sediment Quality Objectives (SQO):**

The SWRCB formally adopted a Sediment Quality Objective work plan on May 21, 2003. The work plan identifies the development of sediment quality objectives within proposed timeframes. Additionally, the SWRCB formed a SQO Stakeholder group to allow the public the opportunity to review and provide input to the SWRCB. Currently, staff and their retained consultant, Southern California Coastal Water Research Project (SCCWRP), is conducting a technical review of the available sediment data. The SWRCB is also in the process of forming a Scientific Panel of experts to review and provide input on the sediment data. Clearly, the SWRCB has taken the lead on addressing the issue of sediment quality objectives and therefore, WSPA believes this issue does not need to be addressed during this Triennial Update.

- **Applicability of the Ocean Plan to Regional Mass Emission Regulation:**

In 2001, the State Water Resources Control Board prepared a report to the legislature on coastal pollutant loading. They found that after 30 years of controls, industry, including refineries and platforms, were now minor contributors to coastal pollutant loading. The State Board in that report identified non-point and stormwater discharges as the major sources of pollutant loadings to the coastal zone. For the past few years the SWRCB has been developing a Total Maximum Daily Load (TMDL) Guidance and Implementation Policy for California. It is expected that the TMDL policy will be adopted in 2004. When this policy is finally adopted, in conjunction with the NPS program and the stormwater policy (both discussed below), the major sources of mass emissions into the ocean will be addressed.

- **Regulatory Control of Non-point Source Discharges:**

In July 2000, U.S. Environmental Protection Agency (USEPA) and the National Oceanic and Atmospheric Administration (NOAA) approved California's Non-point Source Control Program that was jointly developed by the SWRCB and the California Coastal Commission. Implementation of this program will address NPS discharges into the ocean.

- **Review of the Water Quality Objectives for 2,3,7,8 TCDD and Related Compounds (Dioxins):**

In 2000, the USEPA adopted the California Toxics Rule that promulgated water quality objectives for a number of toxic pollutants, including many of the dioxin compounds. In that same year the SWRCB adopted the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California to provide guidance on how the CTR should be implemented. Implementation of the CTR and the SIP will address dioxin compound discharges into the ocean.

- **Storm Water Discharge Control:**

Please see my comments below in Section 3, Item 2 below.

Again, WSPA recommends for this Triennial Update, the SWRCB focus on the four proposed amendments at this time. Many of the higher priority issues from the last Triennial Update have been or are currently being addressed through various activities and programs, while other issues would better be addressed through the broad based reform recommendations in the U.S. Commission's draft Ocean Report.

### **3. Triennial Review – California Ocean Plan Comments:**

The following are our comments on the proposed four amendments the Board proposed earlier this year:

#### **1. Amendments 1 and 2:**

Proposed amendments 1 and 2 relate to changes in bacteria indicator and adoption of fecal coliform standard for shellfish harvesting areas respectively. WSPA supports inclusion of these issues for proposed amendments to the Ocean Plan. In addition, we recommend that the SWRCB conduct the required economic analysis required by sections 13241 and 13242 of Porter-Cologne to ensure that the final amendments that are adopted for these issues are the most appropriate.

#### **2. Amendment 3: State Water Quality Protection Areas and Storm Water Discharges:**

Amendment 3 proposes to reclassify "Areas of Special Biological Significance (ASBS)" to "State Water Quality Protection Areas (SWQPAs)" and establish "special conditions" before discharges can be allowed into SWQPAs. Amendment 3 would also impose new prohibitions on discharges of existing non-storm water discharges into SWQPAs and prohibit all new storm water discharges. WSPA is concerned that staff is inappropriately treating non-point, urban storm water discharges as a point source. Further, as WSPA stated during the January 23, 2004 workshop, at a minimum, the Board should conduct the analysis required by Sections 13241 and 13242 of Porter-Cologne to assess the economic impact such a prohibition will have on future economic growth and development. Additionally, unlike standard process water discharges, storm water's unique qualities and the fact that it is intermittent and variable, continues to challenge agencies ability to understand and effectively manage it.

**Recommendation:** WSPA recommends the Board address storm water discharges into inland surface waters, enclosed bays and estuaries and into the ocean, through development of a comprehensive and consistent statewide storm water policy.

**3. Amendment 4:**

Amendment 4 proposes to define “reasonable potential” calculations to determine when water quality-based effluent limitations would be required. WSPA supports the proposed reasonable potential evaluation procedure. It is founded on solid scientific and statistical principles as it applies to continuous discharges. Consistent with previous State Board efforts and EPA guidance for stormwater permits (i.e. the establishment of numeric limits for stormwater discharges is technically infeasible) and the Non-point Source Program (NPS), this amendment should not apply to stormwater or NPS discharges.

In closing, we would like add that WSPA endorses and supports the comments submitted by the California Coalition for Clean Water (CCCW) and the California Stormwater Quality Associations (CASQA). Again, WSPA appreciates the opportunity to provide these comments on the California Ocean Plan Triennial Review. Should you have any questions, please contact me at (916) 498-7753.



Attachment

cc: Mr. Art Baggett – Chairman, SWRCB  
Mr. Tom Howard – SWRCB  
Mr. Joe Sparano – President, WSPA  
Ms. Catherine H. Reheis-Boyd, Chief of Staff, WSPA



**Western States Petroleum Association**  
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**Catherine H. Reheis-Boyd**  
Chief Operating Officer and Chief of Staff

May 11, 2004

Secretary Mike Chrisman  
Resources Agency  
1416 Ninth Street, Suite 1311  
Sacramento, CA 95814

Secretary Terry Tamminen  
Cal-EPA  
1001 I Street, 25<sup>th</sup> Floor  
Sacramento, CA 95814

**Subject:** Western States Petroleum Association (WSPA) Comments on U.S. Commission Ocean Policy, Draft Report.

Dear Secretaries Mike Chrisman and Terry Tammimen:

On behalf of WSPA, I would like to express our sincere thanks for inviting our association to participate in the California Ocean Summit held on May 6, 2004. We greatly appreciated having the opportunity to provide our perspectives and thoughts on the recently released U.S. Commission for Ocean Policy's Preliminary Report ("Report"). We commend the Administration's interest in this significant effort to address important national and state ocean policy issues. The Report is clearly a landmark study that addresses the entire spectrum of multiple uses of the Ocean. It focused on the critical issues surrounding the governance, stewardship of marine resources, pollution prevention, enhancing and supporting marine science, commerce and transportation. We also appreciated Mr. William Ruckelshaus and Mr. Leon Panetta attending the Summit and providing their views and perspectives on the Report.

WSPA is submitting these comments as a follow-up to our comments made at the Ocean Summit. Our comments highlight what we believe are key issues in the areas of Stewardship, Economic Sustainability, Research, Education and Technology, and Jurisdiction and Ownership. In addition, we offer the following specific recommendations;

**Specific Recommendations:**

WSPA urges the Governor specifically support the following Specific Recommendations:

- A collective commitment to the ocean's health and support of the Commission's recommendations.

- Recognize and support the multiple uses of our oceans and the need to balance environmental goals with the ever increasing economic and energy needs of California.
- Recognize the improvements necessary in reforming governance by building on the existing framework, making improvements in coordination and collaboration, and looking for opportunities in streamline permitting without compromising environmental protection.
- Support the need to develop the best available science and information necessary to ensure decision makers have the ability to make accurate and informed decisions.
- Consider forming an Advisory Council with stakeholder involvement to advise the Governor on issues surrounding California's ocean resources.
- Recognize and support the fact that a sound ocean policy should be based on a balanced, multiple-use approach. It should advance several goals, including strengthening the nation's energy security, protecting and enriching our ocean and coastal resources, and enhancing maritime commerce.

### **Stewardship:**

California is a special place to live and work. Its natural and diverse beauty and the extraordinary opportunities provided continue to draw thousands who want to live in our state. The value Californians place on their environment is reflected in its environmental laws and regulations, which are some of the strictest in the nation and the world. In that regard, WSPA recognizes the vital role oceans play in our lives and livelihood; and the stewardship responsibility that we all must share in order for the oceans and coasts to continue to serve everyone's needs.

The oil and natural gas industry takes our responsibility very seriously, as our employees also live and work in California's coastal communities and our member companies make every effort to ensure we operate in a safe and environmentally protective manner possible.

Over the past several decades our industry has invested millions of dollars to improve our operations and fund vital environmental improvement projects in coastal areas. Enclosed is a packet of materials that highlight our advances in offshore technology and research like extended reach horizontal and slant drilling to reach new reserves from existing platforms, efforts to significantly reduce air emissions, our oil spill response and prevention network, and our contribution to supplying California's energy needs including the production of offshore crude oil and very importantly, natural gas. We look forward to continuing our investment in efforts that help protect and restore California's coastline and to working with the Governor and other interested parties to pursue collaborative opportunities that ensure a healthy environment and vibrant economy for all Californians.

### **Economic Sustainability:**

During our discussion at the Ocean Summit, we were challenged to look ten years into the future, and ask ourselves whether we will find the ocean in a better state than it is today. The challenge is both environmental and economic in nature, calling on policymakers to balance critical environmental goals with the ocean's vital role in helping us meet the economic and energy needs brought on by California's explosive growth. The following California Energy Commission (CEC) predictions of increasing demand in all areas of energy production help illustrate the importance of balanced environmental and economic policy:

- Vehicle Miles Traveled (VMT) will increase from 296 billion miles in 2000 to 420 billion in 2020
- Gasoline demand is projected to increase from 14.2 billion gallons/year to 19.6 billion in 2020
- Jet Fuel demand is projected to increase from 5.1 billion gallons to 9.6 billion in 2020
- Diesel Fuel demand is projected to increase from 2.6 billion gallons to 4.2 billion in 2020
- Demand for natural gas in vehicles alone is projected to increase from 46 million to 150 million therms in 2020

### **Efficient and Expedient Energy Facility Permitting:**

As we stated during the Summit, we strongly support the Report's recognition of the ocean's role in supplying the vital energy needs for the Country. And we appreciate that the Governor is also very concerned about meeting the energy demands of the State in the coming years. But as we look towards the future, we must take care that we do not adopt ocean policies that ignore California's current and future energy needs. For example, the CEC notes that the completion of one or more of the currently proposed West Coast Liquid Natural Gas (LNG) facilities could add in excess of 1 billion cubic feet per day of additional supplies. Clearly, any LNG facility that is contemplated must fully comply with environmental laws and regulations that ensure the protection of our oceans and marine environments. However, if we wish to add needed fuel supply, compliance with the environmental regulatory process should be as efficient and expedient as possible. To that end, WSPA continues to strongly urge the Administration to undertake permit streamlining efforts and consolidation of duplicative and overlapping requirements and programs that cover all energy supply facilities, including, LNG terminals and facilities, electrical generation, oil and natural gas production, pipelines and refinery additions or expansions.

### **The Oil and Natural Gas Industry's Contribution to California's Economy:**

It is axiomatic that the oil and natural gas industry plays a vital role in meeting the state's current and future energy needs, but we should also recognize the vital role of the industry in the State's economy more generally. The oil and natural gas industry provides \$77 billion to the state's gross product and more than 8.4 billion dollars in annual tax revenues in California alone, in addition to providing over 1 million jobs in California (both direct and induced jobs), of which, a significant portion resides in the coastal regions.

As the Report noted, the offshore oil and natural gas industry's annual production is valued at \$25 - \$40 billion and its yearly bonus bid and royalty payments contribute approximately \$5 billion to the U.S. Treasury, a significant portion of which finds its way back to the state and local government. Over the years, oil and gas development has generated some \$6 billion in state royalty payments and \$1.7 billion in federal royalties. These dollars have helped pay for major improvements and amenities to the state and regional infrastructure, education system, parks and historical and recreational facilities.

### **Research, Education and Technology:**

WSPA strongly supports the Report's guiding principles, including the need to develop the best available science and information necessary to ensure decision makers have the ability to make accurate and informed decisions. WSPA has a long history of supporting agencies and organizations to fund research, studies, and programs to ensure accurate monitoring data and documentation is collected that will assist agencies in making the critical decisions necessary to ensure environmental



goals are achieved. The industry's support of research, education and technology efforts includes supporting the San Francisco Regional Monitoring Plan Program, Total Maximum Daily Load (TMDL) Development and Monitoring Funding in the Dominguez Channel, and the California Offshore Oil and Gas Energy Resources study.

WSPA also supports the Commissions goal of improving education about the ocean and its multiple uses. The industry is active in several educational activities including the Teachers Training program entitled Derricks to Desks, offshore tours of the oil and gas platforms and islands, and tours of the natural seeps in Santa Barbara.

WSPA member companies have invested millions of dollars in developing new technologies to improve operations. This investment has resulted in enormous technological advances that make oil and natural gas exploration and production safer, cleaner, more efficient and environmentally protective as possible. Our industry is constantly developing sophisticated safety processes and equipment to monitor and report of drilling operations, production equipment, and pipelines. The typical offshore platform today includes more than 600 safety-monitoring devices. When the process improvements are identified, they are quickly implemented to ensure even safer, more secure operations.

For example, technology that allows complex measurements to be taken while drilling is underway has made possible the detection of potentially unstable or high-pressure zones during drilling operations. Global positioning systems enable us to predict and locate subsurface hazards such as pipelines, shipwrecks, and other potential hazards. Other advances include high-resolution inspection and monitoring devices sent through undersea pipelines to test wall thickness and detect microscopic defects. Remotely operated underwater vehicles equipped with video cameras and other sensing equipment is used to inspect the exterior of pipelines and offshore platforms. All of these advances allow us to make energy resources available while ensuring our oceans are protected.

WSPA recognizes that a balanced ocean policy requires mutual commitment and collaboration. To this end, we support the Reports recommendation to collaborate on the sharing of information and technology, use of platforms for non-invasive monitoring activities, sharing of historical and current non-proprietary data from such innovative devices as remote operating vehicles (ROV) and autonomous underwater vehicle technology (AUV).

#### **Jurisdictional and Ownership Issues:**

Balancing the competing uses of our oceans to ensure their protection must be a priority at both the state and federal level, and WSPA supports reforms that build on the benefits of the existing governance and agency structure and address the need for better coordination and oversight. At both the state and the federal level, it is often difficult to bring affected parties together and reach consensus on the important issues affecting our offshore and coastal environments. This task is made more difficult by concerns about federal, state and local agency overlap and a lack of coordination within current agencies that have regulatory oversight on coastal and ocean issues, such as Environmental Protection Agency, Minerals Management Service, California Coastal Commission, State Lands Commission, State Water Regional Control Board, Local Regional Boards, and California Fish and Game to mention a few.

One example where there has been conflict among agencies is the current permitting process to allow the dredging of critical sea lanes and wharfs. Dredging is extremely important to allow the flow of petroleum products to California refineries. Currently, operators face delays in having to obtain duplicative permits from multiple regulatory agencies in order to be permitted to dredge to depth so that crude oil tankers can deliver their products to refineries. WSPA supports reforms that will clarify agency jurisdictional issues to ensure the implementation of an ocean policy that is based on a balanced, multiple-use approach.

To this end, WSPA requests the Governor to review the permitting process within the LTMS (Long Term Management Strategy), identify duplicative agency permitting obligations and opportunities where streamlining and efficiencies are needed to eliminate duplicative requirements that result in no improvement in environmental protection.

As stated above, WSPA clearly sees the need for better coordination and oversight and therefore we encourage the Governor to support the Report's recommendations for better federal, state as well as local coordination. As we stated during the Summit, we strongly urge the formation of a working group of all stakeholders to help build on the existing regulatory foundation to solve the challenging issues and problems without jeopardizing California's ever-increasing economic and energy needs. The concept put forth in the Report of a Cabinet-level National Ocean Council, new regional councils and President Council of Advisors on Ocean Policy be formed is an excellent template for a similar advisory council to the Governor. An approach that encourages the involvement of all stakeholders in advising the Governor and Administration on important coastal issues is critical to its success. This effort should also include an examination of the principles and conclusions set forth in previous California policy documents and how they compare with the recommendations of the U.S. Commission Report such as:

- California's Ocean Resources: An Agenda for the Future
- Comprehensive Coastal Monitoring Quality Monitoring Program Report to the Legislature developed in January of 2001 by CalEPA's State Water Resources Control Board
- California's Ocean - SWRCB program for regulating discharges into the ocean from surface lands

The governance recommendations reflect the exercise of appropriate caution in maintaining the key benefits of the current ocean governance and agency structure, while recommending significant changes to address specific issues. We need to ensure that diverse resource users are involved in streamlined decision-making processes that balances competing interests. For example, we continue to urge single consistency certification for Outer Continental Shelf (OCS) plans, covering all activities including air and water permits.

We also appreciate the fact that the Report recognizes the critical importance the Coastal Zone Management Act plays in decision-making processes at the local level. However, we believe that Federal and State jurisdictional issues need to be clarified to minimize often-conflicting requirements and unnecessary delays in obtaining permits.

## Specific Comments on the Ocean Policy Report:

Finally, we would like to conclude by offering some specific comments on the Ocean Policy Report:

- **Building Ocean Policy on Sound Guiding Principles:**

WSPA supports the Report's four main concepts that can serve as guideposts for developing and implementing new ocean policies, those are: Eco-system management, Incorporation of Scientific information in decision making, Improved Governance and Broad Public Educations.

- **Precautionary and Adaptive Management:**

WSPA supports the Report's recommendation to take a *Precautionary Approach* to ensure that a more balanced method can be used to review and address scientific uncertainty. It is important that decisions made by environmental managers be based on the best available science and as stated in the Report, are done on proactive and not reactive policies.

- **Aligning Federal Non-point Programs and Goals:**

WSPA supports Recommendation 14-8, which recommends the reduction of Non-Point source pollution in all impaired coastal watersheds as a national goal. During the Ocean Summit, several speakers spoke of the fact that 30 years ago, nearly 85% of ocean pollution came from point sources, and about 15% from Non-Point sources, however, as noted in the Report and comments from the Technical Panel, the numbers are now reversed. One of our biggest challenges today will be how we effectively implement education and regulatory programs to address the non-point source discharges.

- **Storm Water Management Plans:**

WSPA supports Recommendation 14-12, which recommends that storm water management programs be based on a comprehensive, watershed approach, which would include codes or ordinances that require the implementation of Best Management Practices (BMPs). Additionally, WSPA supports an adaptive management approach to ensure that these efforts are effective and that BMPs are modified as needed so that storm water management programs are implemented effectively

- **Ballast Water Management:**

WSPA supports Recommendation 17-1, which recommends that a uniform ballast water management program should be implemented uniformly and is based on sound science.

In closing, I would like to again express my thanks and appreciation for having the opportunity to participate in the California Ocean Summit. We urge the Governor to consider and incorporate our recommendations.

Should you have any questions or need additional information, please do not hesitate to contact me at (916) 498-7752.

A handwritten signature in black ink, appearing to read "Cathy A. Boyd". The signature is stylized and cursive, with the first name "Cathy" and last name "Boyd" clearly legible.

Attachment

cc: Ms. Marybel Batjer – Cabinet Secretary  
Mr. Dan Skopec – Deputy Cabinet Secretary  
Mr. Joe Sparano – President, WSPA