



State Water Resources Control Board



Linda S. Adams
Secretary for
Environmental Protection

Division of Water Quality
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Arnold Schwarzenegger
Governor

APR 23 2007

The Honorable Steven Rosansky, Mayor
City of Newport Beach, City Hall
3300 Newport Blvd.
Newport Beach, CA 92658-8915

Dear Mr. Rosansky:

COMPLETE APPLICATION PACKAGE FOR DISCHARGES INTO AREAS OF SPECIAL BIOLOGICAL SIGNIFICANCE

Thank you for your application package dated May 31, 2006, requesting an exception from the Ocean Plan waste discharge prohibition for your discharges into the Robert E. Badham ASBS. This letter is to inform you that we have deemed your application complete. The receipt of your completed application supports the State Water Board's consideration of an exception to the Ocean Plan for discharges to ASBS. As a responsible party with a completed application, you will be considered for coverage under an exception.

Public Resources Code (PRC) section 36700(f) states that ASBS are a subset of State Water Quality Protection Areas (SWQPAs) and require special protection as determined by the State Water Board pursuant to the Ocean Plan. PRC section 36710(f) requires that waste discharges in SWQPAs shall be prohibited or limited by the imposition of special conditions in accordance with the California Water Code and implementing regulations, including, but not limited to, the Ocean Plan. In other words, the absolute discharge prohibition in the Ocean Plan stands unless an exception is granted that includes mitigating conditions that will provide special protection for that ASBS.

On June 14, 2006, we released for public review and comment, an initial staff proposal for the special conditions in an exception, referred to as "Special Protections," to address storm water and nonpoint source discharges into ASBS statewide. The State Water Board would consider these Special Protections for adoption under the exception provisions of the 2005 Ocean Plan. The proposed special conditions in these Special Protections would limit waste discharges to protect beneficial uses, including marine aquatic life and maintenance of natural water quality within ASBS. Subsequent to the release of this first draft, stakeholder meetings were held in August 2006. The deadline for public comments to be submitted to the State Water Board was September 1, 2006. Staff has moved forward with its assessment and review of these public comments,

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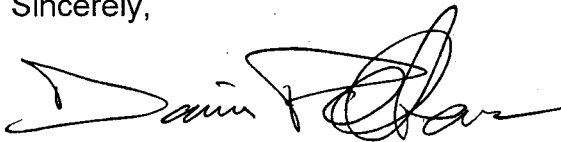
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and the pre-exception application package submittals, and is in the process of developing an Initial Study for the exception. Subsequent to the release of the Initial Study, a public hearing will be held, possibly as early as the summer of 2007.

The exception is likely to include minimizing or eliminating dry weather flows and reducing pollutants draining to ASBS to maintain natural water quality in the receiving waters. In the meantime, and as previously requested, you must continue to plan for and institute best management practices to eliminate all dry weather flows and to reduce pollutants in storm water runoff. If the exception is granted, the Regional Water Quality Control Board (Regional Water Board) may allow your nonpoint source and/or storm water discharges to be covered under a Conditional Waiver, Waste Discharge Requirements, and/or a Storm Water National Pollutant Discharge Elimination System Permit, with appropriate provisions required in your storm water management plans. In all cases, the Regional Water Board will enforce the mitigation measures to be described in the exception granted by the State Water Board.

Should you have any questions, please feel free to contact me at (916) 341-5458 (dpolhemus@waterboards.ca.gov) or Dominic Gregorio, Senior Environmental Scientist, Ocean Unit, at (916) 341-5488 (dgregorio@waterboards.ca.gov).

Sincerely,



Darrin Polhemus, Deputy Director
Division of Water Quality

cc: Mr. Gerard J. Thibeault, Executive Officer
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3339

Mr. Reed Sato, Director
Office of Enforcement
State Water Resources Control Board

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cc: (continued)

Ms. Terri L. Vaccher, CCAM
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