

State Water Resources Control Board



Executive Office

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Terry Tamminen
*Secretary for Environmental
Protection*

Arnold Schwarzenegger
Governor

October 18, 2004

Mr. Stephen Badum, Public Works Director
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92663

Dear Mr. Badum:

PROHIBITION OF WASTE DISCHARGES INTO THE NEWPORT BEACH MARINE LIFE REFUGE AREA OF SPECIAL BIOLOGICAL SIGNIFICANCE

The California Ocean Plan (Ocean Plan), adopted by the State Water Resources Control Board (State Board) and approved by the U.S. Environmental Protection Agency (U.S. EPA), lists 34 coastal marine waters which the State Board has designated as Areas of Special Biological Significance (ASBS). ASBS are defined as “those areas designated by the State Board requiring protection of species or biological communities to the extent that alteration of natural water quality is undesirable.”

The Ocean Plan, Section III.E.1., requires that: “Waste* shall not be discharged to areas designated as being of special biological significance. Discharges shall be located a sufficient distance from such designated areas to assure maintenance of natural water quality conditions in these areas.” “Waste” is defined as the “total discharge, of whatever origin.” Your discharge of storm water (dry and wet weather runoff) into the Newport Beach Marine Life Refuge Area of Special Biological Significance is subject to the prohibition against waste discharges to an ASBS.

The Ocean Plan, Section III.I.1, allows the State Board to grant exceptions to this prohibition, provided that the exception “will not compromise protection of ocean waters for beneficial uses, and, [t]he public interest will be served.” Prior to granting an exception, the State Board must hold a public hearing, and there must be compliance with the California Environmental Quality Act (CEQA). The U.S. EPA must also concur.

Information regarding the Ocean Plan, ASBS, or existing exceptions to the Ocean Plan may be found at <http://www.swrcb.ca.gov/plnspols/oplans/index.html> .

California Environmental Protection Agency

Because you do not already have an exception issued by the State Board for discharges to the ASBS, you are required to cease discharging. You may, however, request an exception to the prohibition if you believe your discharge will not compromise protection of ocean waters for beneficial uses, and the public interest will be served. Please notify the State Board prior to January 1, 2005 whether you intend to cease discharging to the specified ASBS or whether you will seek an exception. We will discuss further steps with you subsequently. Your response should be sent to Dominic Gregorio of the Division of Water Quality, Ocean Standards Unit, with a copy sent to the Santa Ana Regional Water Quality Control Board.

The State Board staff will hold a workshop, at a date and location as yet to be determined, for those parties interested in pursuing an exception. The purpose of this workshop will be to provide information on the procedures for applying for an exception and possible funding sources that may be available to address discharges into ASBS. You will receive an invitation to this workshop in the near future.

If you have any questions, please feel free to contact Stan Martinson, Chief, Division of Water Quality, at (916) 341-5458 (marts@swrcb.ca.gov) or Dominic Gregorio, Division of Water Quality, Ocean Standards Unit, at (916) 341-5488 (gregd@swrcb.ca.gov).

Sincerely,

Original signed by Tom Howard for

Celeste Cantú
Executive Director

cc: Mayor Tod W. Ridgeway
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92663

Mr. Larry McKenney
Orange County Watershed and Coastal Resources Office
P.O. Box 4048
Santa Ana, CA 92702-4048

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

bcc: Board members, EXEC
Tom Howard, EXEC
Sheila Vassey, OCC
Betsy Jennings, OCC
John Norton, OSI
Stan Martinson, DWQ
John Ladd, DWQ
Gerald Bowes, DWQ
Bruce Fujimoto, DWQ
Frank Palmer, DWQ
Frank Roddy, DWQ
Dominic Gregorio, DWQ

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