



March 15, 2010

Constance Anderson  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100  
[csanderson@waterboards.ca.gov](mailto:csanderson@waterboards.ca.gov)

*Via email*

*Re: Notice of Preparation of a Statewide Program EIR for a General Exception to the California Ocean Plan for Discharges into ASBSs*

Dear Ms. Anderson,

Santa Monica Baykeeper (“Baykeeper”) and Natural Resources Defense Council (“NRDC”) write to comment on the Notice of Preparation (“NOP”) of an Environmental Impact Report (“EIR”) and attached Initial Study (“IS”) for a General Exception to the California Ocean Plan Waste Discharge Prohibition for Selected Discharges (the “Exception”) into Areas of Special Biological Significance (“ASBS”).

The proposed Exception represents an unfortunate detour and a continuation of delays by the State Water Resources Control Board (“SWRCB”) in protecting ASBS in California. Seven years after the SWRCB determined that over 1600 illegal discharges to the ASBS were daily adding waste to the ecological gems of California’s coast, the SWRCB has undertaken no meaningful enforcement to abate these discharges. Now, rather than finally beginning this enforcement effort, SWRCB staff instead proposes a conditional exemption for wet weather discharges, and imposes a series of confusing and contradictory requirements. Further, while straightforward enforcement in the form of a Cease and Desist Order or Clean Up and Abatement Order could begin progress towards compliance and the protection of ASBS immediately (and could have started a decade ago), SWRCB staff instead proposes to delay the application of existing Water Quality Standards in wet weather—a process that requires compliance with EPA-mandated variance requirements, including a Use Attainability Analysis, an anti-degradation analysis, and an Environmental Impact Statement. The current draft does not meet these requirements, and the process to meet these requirements will be resource intensive and time consuming. Indeed, for reasons including these, it remains unclear whether and when completion of the administrative process proposed by SWRCB staff would occur—if ever.

For these reasons, Baykeeper and NRDC request that the SWRCB redirect its focus to enforcement of the existing prohibition on the discharge of waste to the ASBS, rather than

expending staff time on a process that ultimately only delays meaningful progress on improvements of water quality in ASBS across the state.

Sincerely,



Michelle Mehta  
Attorney, Water Program  
Natural Resources Defense Council



Tom Ford  
Baykeeper  
Santa Monica Baykeeper