



The Sea Ranch Association

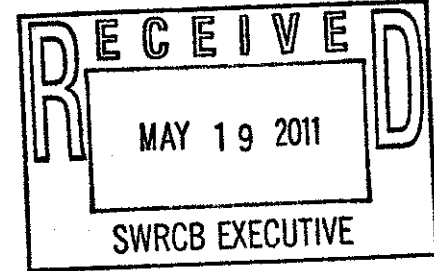
975 Annapolis Road
P.O. Box 16
The Sea Ranch, CA 95497-0016

Public Hearing (5/18/11)
ASBS Special Protections
Deadline: 5/20/11 by 12 noon

tel: 707-785-2444
fax: 707-785-3555

May 19, 2011

Ms. Jeanine Townsend, Clerk to the Board
State Water Resources Control Board (SWRCB)
Division of Water Quality, Ocean Unit
1001 I Street, 24th Floor
Sacramento, CA 95814
commentletters@waterboards.ca.gov



Re: Comment Letter on the Program Draft Environmental Impact Report (DEIR) for the Exception to the California Ocean Plan for Areas of Special Biological Significance (ASBS) Waste Discharge Prohibition for Storm Water and Nonpoint Source Discharges, with Special Protections

Dear Ms. Townsend:

The Sea Ranch Association (Association) appreciates the opportunity to comment on the Program DEIR for the "Exception to the California Ocean Plan for ASBS Waste Discharge Prohibition for Storm Water and Nonpoint Source Discharges, With Special Protections." The Association's comments focus on three general areas of concern and comment: 1) adequacy of the DEIR in clearly defining the "project" in the DEIR and in exploring project alternatives; 2) the economic impact to the Association if the Preferred Alternative is adopted; and, 3) corrections of statements with the DEIR relative to The Sea Ranch (TSR) and the adjacent Del Mar Landing ASBS.

1) Adequacy of the DEIR in defining the Project and in analyzing Alternatives:

The project description on Page 34 of the DEIR describes fundamental requirements of the Draft Special Protections. One of these is the "maintenance of natural water quality within the ASBS". On Page 287 of the DEIR we learn that "it is uncertain what constitutes natural water quality" and that "it is uncertain which discharges cause alterations in natural water quality." If the maintenance of natural water quality is a fundamental requirement yet natural water quality is an "unknown", how can the project be clearly defined in terms of the monitoring requirements necessary and the potential mitigations for achieving same? The uncertainty within the DEIR as to what requirements may be imposed on the Association and other dischargers at some future time is unreasonable.

The DEIR on Page 52 describes Alternative A: No Project (i.e. No Exception). Under this alternative the "discharger could comply by terminating the discharge or by relocating the discharge so that the receiving water quality is unaffected." The DEIR quickly dismisses and does not recommend this alternative. On page 52 the DEIR states that complying with Alternative A "could have far greater impacts on the biological integrity of the ASBS" with removal or redirection of the discharge. Similarly, the DEIR argues against the No Project Alternative on page 294 and uses a CalTrans estimate of complying with the No Project Alternative to determine that it would cost at a minimum \$4.5 billion to eliminate all the discharges into California's ASBS's. These biological and economic impacts have been analyzed by the DEIR on a statewide basis, not on a discharge specific basis

It is reasonable to assume that the No Project alternative for many discharges statewide would result in greater environmental and economic impacts, as the DEIR states. However, while the No Project alternative may not be applicable on a general statewide basis, the termination or relocation of discharges may be applicable on a site specific basis and may be considered viable to The Sea Ranch Association as an alternative for the Del Mar Landing ASBS. Unfortunately, the alternative of a site specific or discharge specific No Project Alternative has not been analyzed within the DEIR. This may be a practical option for some discharges given the wide variety of settings, site conditions, and environments along the coast of California. This option should be more fully considered and analyzed, if not for individual discharges throughout the state, then at least as a Project Type to be considered by individual dischargers for meeting compliance with the Special Protections. If individual exceptions can be considered for sewage treatment, marine labs and aquariums because these discharges are "different" (see DEIR Alternative C discussion), then discharges that can be terminated or relocated should be considered as a viable alternative to the Project.

2) Economic Impact with adoption of the Preferred Alternative:

Another major concern of the Association is the economic impact to the Association that will result with adoption of the Preferred Alternative. Under S.3 Project Objectives of the DEIR Summary, one of the project objectives is: "Ensure that the development of the statewide regulations and conditional Special Protections policy consider economic costs, practical considerations for implementation, and technological capabilities existing at the time of implementation." Section 7.0 of the DEIR presents the "Economic Analysis of Special Protections". As noted above, section 7.1 Monitoring initiates the economic analysis by noting the "lack of information" available to both dischargers and regulators, to wit: "First, it is uncertain what constitutes natural water quality. Second, it is uncertain which discharges cause alteration in natural water quality. Finally, it is uncertain what the extent and magnitude of natural water quality impacts are on a statewide basis." This statement leaves open ended and unknown the potential costs to the Association and other dischargers for future additional monitoring costs, for implementation of Best Management Practices (BMPs), and for possible other mitigation measures noted in the DEIR that are not yet fully analyzed as a BMP, e.g. retention ponds, diversions of flows to sanitary sewers, etc. Given the uncertainties noted above, the Association does not believe that the DEIR can adequately "consider economic costs" as a stated objective.

Even without consideration of the above uncertainties and potential unknown future monitoring and mitigation costs to the Association, we are concerned with the high cost for just the monitoring program as estimated within the DEIR. Section 7.1.3 Northern California Regional Monitoring estimates potential monitoring costs to the 12 dischargers in northern California. The estimate was based on a combination of core runoff monitoring, receiving water monitoring, and intertidal monitoring. Total program cost for northern California is estimated at \$720,000 annually. Dividing the cost between the 12 northern California dischargers, as the DEIR does with No Project Alternative economic analysis, results in an annual \$60,000 cost to the Association. The Sea Ranch Association is administered not unlike a small municipality, and has not been immune to the economic downturn experienced by other communities. The projected annual cost of \$60,000 for monitoring provides a future significant burden of the Association's budget, and it is not apparent in the DEIR that State grant monies will be available to all dischargers.

The Association finds the anticipated monitoring costs especially troublesome in that the information provided within our 2006 Request for an Exception to the Ocean Plan has shown that there is little impact on the biological integrity of the Del Mar Landing ASBS, the ultimate

objective of the Special Protections. On page 247 under the Biological Resources discussion, the DEIR states that "The General Exception project has the potential to impact species, habitat, and sensitive natural communities within each of the 26 ASBS identified in this General Exception, if *existing inadequate controls currently in force are allowed to continue*" (emphasis ours). In the same paragraph, the DEIR notes that four biological monitoring reports "provided data to statistically compare impacts from reference locations." One of these reports was the Bodega Marine Lab (BML) Baseline Inventory submitted by the Association for the Del Mar Landing ASBS. The BML report states that the "analysis of rocky intertidal communities near the discharge sites vs. control sites distant from the discharge outflow revealed no significant differences" and that "The data collected during this inventory do not indicate any water quality impacts to intertidal marine life in the Reserve at this time." Findings of the BML report stated that "There was no significant difference in species richness (i.e. number of species) between discharge and control sites" and that the "statistical analysis indicated that there were no significant differences between the discharge sites and control sites in seven measures of intertidal community structure – sessile invertebrate cover, sessile invertebrate diversity, mobile invertebrate abundance, mobile invertebrate diversity, algal cover, algal diversity, and total cover". The BML report Summary made clear that "No significant differences were found between the discharge and control sites in eight biological measures", noting again the measures above. These findings were made approximately 30 years after installation of the two discharges into the ASBS. Because there is no demonstrated significant difference in biological richness or structure between the discharge and the control (i.e. "reference") it must be assumed that the requirement for attaining "natural water quality" has been met, ensuring "that marine life and beneficial uses" of the Del Mar Landing ASBS are protected from waste discharges. The high annual monitoring costs to the Association as anticipated by the DEIR are not consistent with the findings of impacts, if any, to the ASBS. If one of the project objectives as stated in the DEIR is to "consider economic costs" and "practical considerations for implementation", then the DEIR must balance the potential economic cost to the discharger vs. the potential environmental impact, which at the Del Mar Landing ASBS is limited, if even existent.

3) Corrections of statements with the DEIR:

The Association appreciates the extensive effort of the SWRCB and its staff in the preparation of the General Exception, Special Protections and DEIR. Given the scope of the effort to protect ASBS's along the length of California's coastline and respond to the 27 Ocean Plan Exception requests, it is understandable that errors of fact may occur. The following bullet points address errors within the DEIR, by page number, relative to TSR and its adjacent ASBS:

- Page 112, Table 5.4.1 describes the percent impervious surfaces adjacent to the Del Mar Landing ASBS, which is noted as 29.69%. Page 114 describes the study area for Del Mar Landing as comprising 58 lots and common area. A sampling of homes built in the study area show an average lot cover of impermeable surfaces as 19.2%. Combined with the roads within the study area, which cover approximately 5.5% of the study area commons, the total impermeable surface area is closer to 25% than the nearly 30% noted in Table 5.4.1. Unlike most subdivisions, nearly all the water from these impermeable surfaces flow not to storm drains, but to adjacent common area covered in meadow grasses and forbs. Given the low impact of development to the study area, the DEIR should consider the development of The Sea Ranch as an LID (Low Impact Development), one of the "project types" identified on page 270 of the DEIR as complying "with the terms and conditions or Special Protections."
- Page 114, 5.4.6 Del Mar Landing describes the watershed adjacent to the ASBS and notes "four nonpoint source and storm water conveyances" and "eight ephemeral streams draining into or near the ASBS". During preparation of the Association's

request for an Exception and in conversations with SWRCB staff, only two discharges were identified by State staff. These two discharges are identified in the Association's 2006 Exception request as 15" and 18" stormwater discharge pipes. Although "ephemeral" is not defined in the DEIR, there is only one true 'ephemeral stream' within the study area and it ultimately debouches into the ocean some 250 feet south of the boundary of the ASBS. While there is sheet flow in the study area that crosses the commons and over the bluff face into the ASBS, these flows are through a complete cover of meadow grasses and forbs and have no defined channel, which in our view doesn't meet the definition of an ephemeral stream.

- The Page 114 description also notes that "homes in the area have septic systems which may contribute pollutants to the watershed". This is in error since all the homes in the study area are all serviced by a sanitary sewer system. The nearest septic system is approximately 4000 feet south of the ASBS boundary. Please also note that the Golf Course is north of the ASBS, rather than south as noted.
- Page 185, 5.7.6 Del Mar Landing describes "three main storm drains carrying residential and road runoff into the ASBS." As noted above, the Association's request for an Exception identifies only two storm drains – a 15" pipe and 18" pipe. The identification of only these two discharges for the purpose of the Exception request was confirmed by SWRCB staff prior to submittal of the Exception request. The two storm drains carry water from TSR roads and adjacent meadow areas of commons, not from residential runoff as noted in the DEIR. Also as noted above, most residential lots drain not to street drainage infrastructure, but sheet flow to surrounding meadow common area. This finding is supported by section 5.7.21.5 on page 192 of the DEIR. Information provided in the Association's 2006 Exception request shows that the 15" storm drain receives stormwater from only a ¾-acre area and the 18" storm drain receives stormwater from approximately 2.2 acres, much of which is meadow covered commons. These two small drains and drainage areas constitute the entirety of the Association's discharge into the ASBS.
- Page 188, Table 5.7.1. The identification of 3 storm drains, rather than two, and "residential" runoff is repeated in Table 5.7.1, rather than meadow and road runoff as exists.

The Sea Ranch Association provides these comments in the trust that they will be considered for review, and reasonably applied in considering mandated implementations associated with the outcome of the DEIR with respect to the Del Mar Landing ASBS. The Association continues to value the resources and benefits provided by the ASBS and will continue to protect those resources. However, the Association believes that implementation of the Special Protections must be reasonable, given the special environmental and land use context in which the Del Mar Landing ASBS is located.

Sincerely,

FOR THE SEA RANCH ASSOCIATION


Frank Bell, Community Manager