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Agency Secretary

State Water Resources Control Board

Division of Water Quality

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Arnold Schwarzenegger
Governor

DEC 09 2005

Mr. Roy Curless
Commissioner, Division 2
Humboldt Bay Harbor, Recreation, and Conservation District
601 Startare Drive
PO Box 1030
Eureka, CA 95502

Dear Commissioner Curless:

PROHIBITION OF WASTE DISCHARGES INTO KINGS RANGE AREA OF SPECIAL BIOLOGICAL SIGNIFICANCE

The California Ocean Plan (Ocean Plan), adopted by the State Water Resources Control Board (State Water Board) and approved by the U.S. Environmental Protection Agency (U.S. EPA), lists 34 coastal marine waters that the State Water 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.

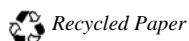
The Ocean Plan, Section III.E.1, requires that: "Waste shall not be discharged to areas designated as being of special biological significance. Discharges shall be located a sufficient distance from such designated areas to assure maintenance of natural water quality conditions in these areas." "Waste" is defined as the "total discharge, of whatever origin." The discharge of point source fish cleaning waste water, boat washing, other nonpoint source discharges associated with marine operations at the Shelter Cove marina, and storm water runoff (dry and wet weather) into the Kings Range ASBS are subject to the prohibition against waste discharges to an ASBS. Your point source discharge into the ocean from the fish cleaning station at Shelter Cove marina must be discontinued by December 31, 2006.

The Ocean Plan, Section III.I.1, allows the State Water Board to grant exceptions to this prohibition, provided that the exception "will not compromise protection of ocean waters for beneficial uses, and the public interest will be served." Prior to granting an exception, the State Water Board must hold a public hearing, and there must be compliance with the California Environmental Quality Act. 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.waterboards.ca.gov/plnspols/oplans/index.html>.

Because you do not already have an exception issued by the State Water Board for storm water and nonpoint source discharges into the ASBS, you are not currently authorized to discharge in that location. You may, however, request to be covered under the exception process for your nonpoint source and storm water discharges if you believe these discharges will not compromise protection of ocean waters for beneficial uses, and the public interest will be served. Please notify the State Water Board prior to January 31, 2006 whether you intend to seek an exception. If you plan to seek an exception, the following specific information needs to be submitted by May 31, 2006 to support the State Water Board's consideration of an exception to the Ocean Plan for discharges to ASBS:

1. The discharger's name, address, and contact information.

California Environmental Protection Agency



2. Any applicable permit or order numbers, if the discharge is or has been regulated under a National Pollutant Discharge Elimination System (NPDES) Permit or Waste Discharge Requirements.
3. A signed statement requesting coverage under an exception from the ASBS waste discharge prohibition found in Sections III.E.1 and III.H.2 of the Ocean Plan.
4. Documentation that shows that allowing the discharge of storm water runoff to continue will not compromise protection of ocean waters for beneficial uses. Note that one beneficial use is the preservation and enhancement of ASBS, which are defined as “those areas designated by the [State Water Board] as requiring protection of species or biological communities to the extent that alteration of natural water quality is undesirable.” This means that any data that you may have on the status and description of marine life in the ASBS, and on the natural background of the ASBS, are relevant and must be submitted. At a minimum, you must submit a representative, quantitative description of marine life near the discharges and at a reference location away from the discharges.
5. An assessment of all available historical data on discharge volume, chemical and physical constituents, toxicity, and indicator bacteria in the runoff and in the ambient marine water of the ASBS. At a minimum, the information must include the measurement of a representative sample within the last two years or the upcoming storm season (runoff and adjacent marine receiving water) during a storm event for each of the following constituents:
 - a. total Ocean Plan metals
 - b. polynuclear aromatic hydrocarbons (PAHs)
 - c. oil and grease
 - d. ammonia nitrogen
 - e. acute toxicity for a marine species
 - f. critical life stage (chronic) toxicity for three marine species
 - g. indicator bacteria including total coliform, fecal coliform (or *E. coli*), and enterococcus.The applicable Ocean Plan detection limits and other applicable monitoring requirements must be adhered to in performing this work. If you are responsible for more than ten municipal discharge points, then a representative sample must be (or have been) collected and analyzed for one of every ten discharge points. All samples must be collected during a storm event that is greater than 0.1 inch and at least 72 hours from the previously measurable storm event. Where feasible, the variance in the duration of the event and the total rainfall of the event should not exceed 50 percent from the average or median rainfall event in that area.
6. A characterization of the marine operations associated with the pier, moorings, and boat haul-out/cleaning facilities, including a description of potential discharges and pollutant sources associated with those facilities. If there is land under your control where pesticides or herbicides are applied, please provide a listing of such treatments in terms of the chemicals used and application rates.
7. A description of current treatment processes, pollution controls, and/or best management practices currently used or planned (with a schedule for implementation).
8. An analysis of alternatives to the discharge and their impacts if implemented.
9. Compliance history for drainages into the ASBS, including any spills or upset events that resulted in the discharge of toxic or otherwise prohibited substances, including untreated or partially treated wastewater.
10. Documentation that shows that the public interest will be served by granting the exception.

Please send this information to the State Water Board, Division of Water Quality, attention Dominic Gregorio, and to Catherine Kuhlman, Executive Officer of the North Coast Regional Water Quality Control Board (North Coast Water Board).

The State Water Board held workshops in Monterey on August 31, 2005 and in San Pedro on October 24, 2005 to discuss the ASBS exception process. At the workshops, staff proposed the concept of using the exception process to develop Special Protections to address storm water runoff into ASBS. Staff is proceeding with that proposed approach. The Special Protections under consideration 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, you are requested to plan for and institute best management practices to eliminate or minimize dry weather flows and to reduce pollutants in storm water runoff.

If the State Water Board adopts Special Protections for the ASBS, the North Coast Water Board may allow your discharges to be covered under a Conditional Waiver, Waste Discharge Requirements, and/or a Storm Water NPDES Permit, with appropriate provisions required in your storm water management plan. In all cases, the North Coast Water Board will enforce the Special Protections if adopted by the State Water Board.

If you have any questions, feel free to contact me at (916) 341-5458 (smartinson@waterboards.ca.gov), or Dominic Gregorio, Chief of the Ocean Unit, Division of Water Quality, at (916) 341-5488 (dgregorio@waterboards.ca.gov).

Sincerely,

ORIGINAL SIGNED BY

Stan Martinson, Chief
Division of Water Quality

cc: Mr. Allen Campbell, Director
Humboldt County Public Works Department
1106 2nd Street
Eureka, CA 95501

Ms. Catherine Kuhlman, Executive Officer
North Coast Regional Water Quality Control Board
5550 Skylane Blvd., Suite A
Santa Rosa, CA 95403

Mr. Ray Curless

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bcc: Celeste Cantú
Tom Howard, EXEC
Sheila Vassey, OCC
Bruce Fujimoto, DWQ
Dominic Gregorio, DWQ

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