

State Water Resources Control Board



Terry Tamminen
Secretary for Environmental
Protection

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Arnold Schwarzenegger
Governor

OCT 18 2004

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OCT 25 2004

Mr. Peter G. Connors
UC Davis Bodega Marine Laboratory
PO Box 247
Bodega Bay, CA 94923

Dear Mr. Connors:

PROHIBITION OF WASTE DISCHARGES INTO THE BODEGA 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 laboratory waste seawater and storm water runoff into the Bodega 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>.

Because you do not already have an exception issued by the State Board, you are required to cease discharging into the ASBS previously mentioned. You may, however, request an

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exception to the prohibition. In order to request an exception, you must prepare and transmit an application package to the North Coast Regional Water Quality Control Board (Regional Board) by February 1, 2005, with a copy sent to Dominic Gregorio of the State Board Division of Water Quality, Ocean Standards Unit. The application package should include the following:

1. A letter asking the Regional Board to assist you in requesting an Ocean Plan exception from the State Board. The package should include the following required items and, if necessary, a reasonable schedule for the delivery of specific items not completed by February 1, 2005:
 - a. Specific information about the discharge, including the organization name, address, telephone/fax number, and contact name and title. If you have a National Pollutant Discharge Elimination System (NPDES) permit and/or Waste Discharge Requirement (WDR), please provide the applicable permit/order numbers;
 - b. Formal identification of the Ocean Plan provisions (i.e., Sections III.E.1 and III.H.2 for the ASBS discharge prohibition), for which the requested exception is applicable;
 - c. Rationale for the exception (i.e., explain why and how the public interest will be served if the exception is granted);
 - d. Documentation supporting that the requested exception will not compromise protection of ocean waters for beneficial uses; and
 - e. Information for an environmental analysis under CEQA, including (but not limited to):
 - i. documentation of existing environmental conditions, including a recent quantitative intertidal and subtidal description of marine life near the discharge and at a reference location away from the discharge,
 - ii. a determination of the potential environmental impacts stemming from the discharge if it is continued, including information on the volume, sources and seasonal characteristics (including storm water and nonpoint source runoff flows), chemical constituents (at detection limits comparable to the Ocean Plan Table B concentrations), physical constituents, indicator bacteria concentrations, and toxicity of the discharge,
 - iii. a description of pollution controls or management measures currently employed or planned, and
 - iv. a description of alternatives to the current discharge and the impacts of those alternatives.
2. A completed standard NPDES application and associated forms required for requesting a permit or modification of an existing permit based on conditions in the exception if granted. The proper forms and instructions may be obtained from the Regional Board.
3. A description of historical compliance with the provisions of the California Water Code and the federal Clean Water Act and implementing regulations, plans and policies, including but

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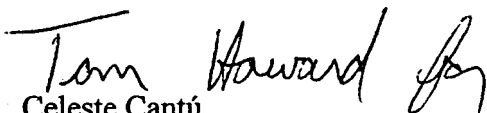
not limited to the Ocean Plan. If you have coverage under a current NPDES permit or WDR, you must address historical compliance with current permit conditions. This should include a description of any sewage or other spills discharged to the ASBS within the last five years.

Upon receiving the application package, Regional Board staff will review it, in consultation with the State Board staff, and make a recommendation to the State Board. State Board staff will then review the package for compliance with federal and State laws and policies. A determination will be made as to who will be lead agency for CEQA. Following the publication of the CEQA documentation, State Board staff will prepare a staff report, including recommendations, for the State Board. As mentioned above, should the State Board approve the exception it will also require U.S. EPA concurrence.

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,


Celeste Cantú
Executive Director

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