



DEPARTMENT OF PUBLIC WORKS

August 30, 2005

State Water Resources Control Board  
Division of Water Quality  
Attn: Connie Anderson  
1001 High Street  
Sacramento, CA 95814

Subject: City of Monterey's Policy To Statement On Areas Of Special Biological  
Significance (ASBS)

Dear Ms. Anderson:

On August 16, 2005 the Monterey City Council was asked to adopt the attached policy statement regarding Areas of Special Biological Significance (ASBS). It is from this position that the City of Monterey would like to begin work with the State Water Resources Control Board and other interests towards establishing an effective, affordable and reasonable program to ensure the preservation of ASBS areas can be accomplished.

Sincerely,

Les R. Turnbeaugh, P.E.  
Deputy Public Works Director-Engineering Services  
City of Monterey

LRT/las  
Enclosures

cc: City Manager  
City Attorney  
City Engineer



## Policy Statement Regarding Protection of Areas of Special Biological Significance

This statement by the undersigned Monterey Bay area communities proposes an approach for managing the water quality of Areas of Special Biological Significance (ASBS). ASBS are state-designated coastal areas that require higher levels of protection from pollutants due to their special environmental benefits and resource value to all citizens of California. The Monterey area communities are proud of the two (2) adjacent ASBS sites, and have made their long-term protection to be an important priority. It is our hope that the concepts listed in this statement would be utilized by the State Water Resources Control Board (State Board) in developing a guidance document for managing ASBS waters, potentially on a statewide basis.

The California Ocean Plan prohibits the discharge of wastes to ASBS. This regulation recently has been interpreted by the Central Coast Regional Water Quality Control Board (Regional Board) as also prohibiting stormwater runoff from our communities unless it contains zero of any pollutant – a clear impossibility under the best of circumstances. The State Board has proposed that communities adjacent to an ASBS, such as ours, apply for exceptions to the Ocean Plan, regardless of the current health of the ASBS or the impact (or lack thereof) of runoff on ASBS water quality. The exception procedures are costly, difficult, and there is no guarantee they will have any impact on the health of the ASBS. Additionally, the exception process presumes that stormwater runoff to an ASBS is an illegal discharge and, therefore, the dischargers are operating their storm water systems in an improper manner. This presumption of illegality remains even where a community is implementing all reasonable stormwater pollution control measures.

The State Board designated 34 ASBS sites along the California coast in 1974 and 1975. Since that time, we believe the water quality in the Carmel Bay and Pacific Grove ASBS has improved. This is because local communities have improved sewage treatment and also implemented programs to control pollutants in stormwater runoff. Presently, the ASBS do not show indications of water quality problems, although we recognize that further data would be helpful.

To provide a foundation for the continuing protection of ASBS, we propose the following steps be followed as an alternative to the current exception process:

1. Monterey area communities will continue to implement various existing runoff Best Management Practices (BMPs), and formalize BMP implementation under Regional Board oversight through the Monterey Regional Storm Water Management Plan (SWMP), which is currently under Regional Board review. Implementation of the SWMP will reduce further the amount of pollutants in runoff from the region, providing an important slate of baseline stormwater control practices.
2. The Regional Board will lead in the formation of a stakeholders group to facilitate the management of the ASBS, to be known as a Stewardship Council. Formation and operation of this Council would be recognized by the State Board as "special conditions" for ASBS

compliance purposes. This Council will include representatives of the affected communities, public interest organizations, and other interested public and agency representatives. Funding for the efforts of the Stewardship Council is to be provided by the State.

3. Monterey area communities, in conjunction with the Stewardship Council, submit a water quality assessment plan to the State Board and Regional Board for review and approval. This plan will assess the potential impact of runoff on ASBS water quality, with the focus being water quality just beyond the surf zone. The water quality assessment plan, amongst other functions, would develop the methodologies for determining the impact of storm water flows on the receiving waters
4. Monterey area communities in conjunction with the Stewardship Council, implement the approved water quality assessment, with periodic reporting of results to the agencies, and interested parties.
5. If the water quality assessment identifies adverse effects on fish or other marine organisms, the adjacent communities will need to consider, and, as appropriate, implement additional or improved runoff controls necessary to reduce the pollutants causing the adverse effects.
6. If the necessary corrective action requires structural controls such as stormwater treatment facilities or diversion of stormwater around ASBS, these costs will be supported by state funding as noted below.
7. The State Board issues a Guidance Document for statewide application supporting the approach identified above. The Guidance also will provide that stormwater runoff is not waste *per se*, and is allowed to be released to ASBS as long as it does not contain harmful quantities of pollutants or cause adverse effects on fish and other marine organisms beyond the surf zone. If the stormwater causes no adverse effects, an exception to the Ocean Plan would not be required.
8. Given the statewide importance of preserving the unique qualities of the ASBS sites, statewide funding sources for this work is essential. This is especially critical given the general unavailability of local funding mechanisms for water quality assessments and enhanced stormwater programs as envisioned herein. ASBS sites must be addressed in a manner akin to existing state parks where all citizens of the state, as the beneficiaries of these protected areas, will financially support their protection.

We believe this approach supports the continuing protection and improvement of water quality of these special statewide ocean areas, which is an issue of state-wide significance for coastal municipalities and dischargers, as well as non-governmental organizations and citizens of the State. We encourage the State Board to adopt Guidance interpreting the applicable provisions of the Ocean Plan and Public Resources Code consistent with the above concepts. The adoption of such guidance would provide a fiscally prudent and achievable framework for ongoing protection

of ASBS. We invite other municipalities and entities within ASBS watersheds to join with us in support.

*Signed:*

Monterey

Pebble Beach

Carmel

