



U.S DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
National Marine Sanctuary Program

West Coast Region
99 Pacific Street, Bldg. 200, Suite K
Monterey, CA 93940

Constance Anderson
State Water Resources Control Board
Division of Water Quality, Ocean Unit
P.O. Box 100
Sacramento, CA 95812-0100

March 11, 2010

Dear Ms. Anderson,

This letter provides comments from NOAA's Office of National Marine Sanctuaries (ONMS) on your Notice of Preparation of a Statewide Program Environmental Impact Report (EIR) for a General Exception to the California Ocean Plan Waste Discharge prohibition for selected discharges into Areas of Special Biological Significance (ASBS). The ONMS serves as the Federal trustee for the nation's system of marine protected areas. ASBS are a subset of State Water Quality Protection Areas (SWQPA), which are defined as a "marine or estuarine area designated to protect marine species or biological communities from an undesirable alteration in natural water quality." The proposed Special Protections identified in the EIR eliminate dry weather runoff, ensure that wet weather runoff does not alter natural water quality in the ASBS, and that adequate monitoring be conducted to determine if natural water quality and the marine life beneficial use is protected.

There are three national marine sanctuaries along the California coast in which ASBS are located: Gulf of the Farallones, Monterey Bay, and Channel Islands. Each sanctuary stands to benefit from the special protections afforded to the ASBS, and has a stake in the outcome of the Statewide EIR for ASBS discharge exemptions. We felt it important to inform you that there are several regulations common to these California sanctuaries and that we will review any specific discharge exemptions for ASBS that overlap with sanctuary boundaries to ensure the exemptions are consistent with these regulations. These regulations are:

- Discharging material or other matter into the sanctuaries;
- Disturbance of, construction on, or alteration of the seabed in the sanctuaries;
- Disturbance of cultural resources in the sanctuaries;
- Exploring for, developing, or producing oil, gas, or minerals in the sanctuaries (with a grandfather clause for preexisting operations); and
- Disturbance of marine mammals, seabirds, and sea turtles in the sanctuaries.

There are seven ASBS within the Monterey Bay NMS, four within the Gulf of the Farallones NMS, and one surrounding the Channel Islands NMS. While sanctuary staff have worked with local jurisdictions over the last ten years to improve water quality in urban runoff, we have yet to determine the impacts to the nearshore environment from these discharges. We are encouraged that you are moving forward with a robust process to consider impacts to these areas and we hope these special protections will both improve water quality and better inform us of the conditions in the nearshore waters. Our specific comments on the draft EIR are as follows:

Olympic Coast
National Marine Sanctuary
115 E. Railroad Ave., Ste 301
Port Angeles, WA 98362

Cordell Bank
National Marine Sanctuary
P.O. Box 159
Olema, CA 94950

Gulf of the Farallones
National Marine Sanctuary
Building 991, Presidio of SF
San Francisco, CA 94129


Monterey Bay
National Marine Sanctuary
299 Foam Street
Monterey, CA 93940

Channel Islands
National Marine Sanctuary
113 Harbor Way
Santa Barbara, CA 93109

- The project description refers to the Special Protections (Att. A) that will “assure protection of beneficial uses;” however, those actions have not been fully vetted. There is specific information for “Individual Monitoring Programs,” but “Regional Monitoring Programs” have extreme flexibility in developing programs and it is currently unknown what these programs are planning. While we support a regional approach to monitoring, the language in this draft leaves program development to each region with no clear path for coordination. The approach is intended to characterize “natural” water quality at reference sites yet it is unclear how the reference sites will be used to determine effects of discharges in the ASBS receiving waters. We encourage the SWRCB to ensure a scientific design that will adequately represent the effects of discharges into the ASBS.
- *Natural Ocean Water Quality* is defined in the glossary and used as a comparison for the range of constituent concentrations found in the reference areas. The EIR is unclear whether each region will have their own natural water quality criteria or that reference sites will be used on a state wide basis. We recommend this be clarified in the final EIR.
- The EIR is also unclear whether natural water quality criteria or effluent limits in the California Ocean Plan will serve as the basis for regulatory compliance. We recommend that this also be clarified in the final EIR.
- The checklist for Environmental Impacts is confusing when trying to determine impact. In most cases the preferred alternative (implementation of special protections) is the basis for how impact is determined, yet the document seems to switch from “no action” to “implementation of the special protections”. An example of this is under #4 (Biological Resources), where potentially significant impact is expected if no action is taken. The same is true for #9 (Hydrology and Water Quality). We recommend you standardize the determination based on one or the other.
- The EIR states that the goal for storm events is a 90% reduction in pollutant loading for Table B parameters. The baseline is the effective date of the exception and compliance must be achieved within four years. In order for this to be meaningful, it is necessary to identify which rainfall event will be monitored and be consistent throughout the permit cycle, as pollutant loads will vary greatly between the first rains of the season and late season events.

We appreciate the effort of SWRCB staff to develop this program with the intent of improving water quality along the coast of California. If you have any questions on our comments, please contact Bridget Hoover at (831) 647-4217 or bridget.hoover@noaa.gov.

Sincerely,



William J. Dourds
Regional Director