



Justice & Associates

4155 Outer Traffic Circle
Long Beach, CA 90804-2111
562.961.3494 Fax 562.961.3493

www.justiceassociates.com

1401 S. Arville St., Suite J
Las Vegas, NV 89102-0537
702.822.2111 Fax 702.822.2113

March 15, 2010

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

Attention: Constance Anderson – Environmental Scientist

Subject: Comments Regarding the Notice of Preparation (NOP) and Initial Study (IS) for the General Exception to the Discharge Prohibition into Areas of Special Biological Significance (ASBS)

Dear Constance:

Catalina Island Dischargers appreciate the opportunity to comment on the scope and content of the program EIR for exceptions to the California Ocean Plan to address discharges into Areas of Special Biological Significance (ASBS). These comments are being submitted on behalf of Connolly-Pacific Co. – ASBS #28 Subarea IV, Santa Catalina Island Company (SCICO) – ASBS #25, Subarea I and Catalina Island Conservancy – ASBS #26, Subarea II.

Please update the Table 1 Contact Persons with the following contact information:

The Connolly-Pacific Co. contact is David Scott. The Santa Catalina Island Company contact is W. Oley Olsen and the contact for Catalina Island Conservancy is Mel Dinkel.

The Hydrology and Water Quality Impacts for the initial study on Page 14 of the document states that without the mitigation measures proposed by the Special Protections, discharges into the ASBS will have the potential to violate the ASBS prohibition of the Ocean Plan if existing inadequate controls currently in force are allowed to continue. However, it is unclear as to how the discharger can prove compliance with the special protections through implementation of Best Management Practices and other projects based on the reduction of Ocean Plan Table B parameters of storm water run-off. The dischargers must show that natural water quality of the ASBS receiving waters are maintained. Because natural water quality has yet to be established, it is impossible for the dischargers to establish a program that can meet the requirements of the special protections. Due to the inherent variability of storm water run-off as well as the variability of the receiving water characteristics, demonstration of compliance with the special protections may be impossible.

Some of the specific requirements defined in the Special Protections will be particularly difficult to implement and measure.

Item I. A. 2. g. requires that the SWMP or SWPPP include BMPs and an implementation schedule to ensure that natural water quality conditions in the receiving water are achieved and maintained by reducing flows from impervious areas or reducing pollutant loading or a combination of the two. But, Item I. A. 2. d. requires that pollutant reductions in the storm water discharges will be achieved to meet either the Table B instantaneous Maximum Water Quality objectives or a 90 percent reduction in pollutant loads of Table B parameters. Do the BMPs need to make storm water run-off meet Table B parameters as well as natural water quality conditions? Does this mean that meeting Table B parameters or reducing their concentrations by 90 percent will achieve and maintain natural water quality in the receiving waters? How will dischargers demonstrate compliance with these requirements?

Item I. A. 2. h. requires that if the receiving water monitoring indicates that storm water run-off is causing or contributing to alteration of natural water quality, the discharger is required to submit a report and subsequently revise the SWPPP. Since the storm water run-off is measured for Table B parameters, how will dischargers determine if the run-off is causing an alteration of natural water quality in the receiving water? What parameters are they comparing to determine compliance?

The compliance plan in the special protections requires that the dischargers submit a written report to the Regional Water Board describing their strategy to comply with the requirements of the Special Protections including the requirement to maintain natural water quality in the affected ASBS. Since the natural water quality of the ASBS has yet to be determined, it is impossible for the dischargers to meet this requirement.

The Special protections also include a public education requirement. The SWMP or SWPPP shall include non-structural BMPs that address public education and outreach. Education and outreach make it a recommendation that the public is adequately informed that direct waste discharges from private property not entering an MS4 are prohibited. It is unclear what the scope of this outreach program should be.

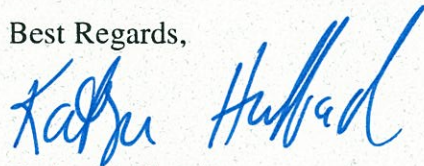
Other challenges specific to Catalina Island dischargers include the logistics of getting samples from the island to the mainland for analyses within the holding times. Some of the specific requirements for Parks, Recreation, Waterfront and Marina facilities will be difficult for the dischargers to enforce because they are not a regulatory agency with enforcement authority.

The Catalina Island dischargers have been participating in the Bight 2008 monitoring program to establish natural water quality. There have been some data anomalies that have yet to be explained regarding receiving water toxicity at the reference location as well as the discharge locations. These uncertainties regarding the findings further highlight the challenges the dischargers have in demonstrating compliance with and what defines characteristics of natural water quality in the ASBS.

The Catalina Island dischargers suggest that the special protections include provisions for the establishment of natural water quality and the establishment of biological standards for the ASBSs so that the dischargers will know the compliance measures that must be achieved. CASQA provided a detailed outline that was originally suggested as an ocean plan amendment. This plan suggested near term implementation, supplemental discharge characterization, problem assessment to identify undesirable changes in biota caused by discharges and prioritized implementation of treatment or other major controls to address undesirable changes in biota. This plan would permit the dischargers to meet the requirements of the Special Protections using an approach that would in measureable methods to demonstrate compliance which establishing the definition of natural water quality and desirable biological communities.

If you have any questions regarding these comments please feel free to contact me at (562) 961-3494 or khubbard@justiceassociates.com.

Best Regards,



Kathy Hubbard
Justice & Associates

cc: Oley Olsen, SCICO
Mel Dinkel, Catalina Island Conservancy
David Scott, Connolly-Pacific Company