
State Water Resources Control Board

Mr. Doug Schmitz
Carmel-by-the-Sea City Administrator
Carmel-by-the-Sea City Hall
P.O. Box CC
Carmel-by-the-Sea, CA 93921

Dear Mr. Schmitz:

COMMENTS ON DRAFT COMPLIANCE PLAN FOR CARMEL BAY (NO. 34) AREA OF SPECIAL BIOLOGICAL SIGNIFICANCE FROM THE CITY OF CARMEL-BY-THE-SEA

The State Water Resources Control Board (State Water Board) received the Areas of Special Biological Significance (ASBS) draft Compliance Plan from the City of Carmel-by-the-Sea (City) dated September 15, 2014. A draft Compliance Plan is required under Section I.A.3.b. of Attachment B of the State Water Board's Resolution No. 2012-0012 *Approving Exceptions to the California Ocean Plan for Selected Discharges into ASBS, Including Special Protections for Beneficial Uses, and Certifying a Program Environmental Impact Report (General Exception)*. Attachment B in the General Exception contains the *Special Protections for ASBS, Governing Point Source Discharges of Storm Water and Nonpoint Source Waste Discharges (Special Protections)*, which describes special conditions required of the discharger.

State Water Board staff has reviewed the draft Compliance Plan and provides the following comments:

1. **Exceedances in natural water quality:** Section I.A.3.e. of the Special Protections requires that, if initial results of post-storm receiving water quality testing indicate levels higher than the 85th percentile threshold of reference water quality data and the pre-storm receiving water levels, then the discharger must re-sample the receiving water pre- and post-storm.

Section d. and Attachment 7 of the draft Compliance Plan include inconsistent information regarding determining exceedances of natural water quality. Section d. of the draft Compliance Plan reviews the requirements outlined in Section I.A.3.e. and I.A.2.h. of the Special Protections. However, Attachment 7 of the draft Compliance Plan discusses that the process for evaluating whether alterations of natural ocean water quality are caused by storm water discharges from the City is still under development. Furthermore, the City also states that "if exceedances of Ocean Plan Water Quality Objectives (WQOs) are observed, it does not necessarily imply that natural ocean water quality is being altered by, nor would observed alterations in natural water quality necessarily be caused by, discharges from the City's storm drainage system."

To clarify, Section I.A.3.e. of the Special Protections stipulates that “if the initial results of post-storm receiving water quality testing indicates levels higher than the 85th percentile threshold of reference water quality data and the pre-storm receiving water levels, then the discharger must resample the receiving water, pre- and post-storm. If after re-sampling the post-storm levels are still higher than the 85th percentile threshold of reference water quality data, and the pre-storm receiving water levels, for any constituent, then natural ocean water quality is exceeded.” Additionally, this process is outlined in Attachment 1 of the Special Protections. The exceedances are determined using the 85th percentile threshold, not the Ocean Plan WQOs. The County should follow this process to determine if the natural water quality is exceeded once the 85th percentile threshold is available. In addition, the core discharge monitoring data may be used to identify which of the core discharges may be contributing to the observed exceedances in natural ocean water quality. Finally, Section I.A.2.h. of the Special protections requires the County to submit an exceedance report to the State Water Board and Regional Water Resources Control Board within 30 days of receiving results that indicate the natural water quality has been exceeded. The City should consider including the Source Tracking Proposal discussed in Attachment 7 of the draft Compliance Plan in the exceedance report. For questions regarding exceedances, please contact State Water Board staff whose contact information is provided below.

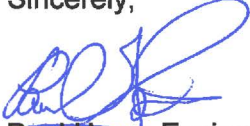
2. **Compliance and implementation schedule:** Section I.A.3.b. requires the final Compliance Plan to include a schedule for structural controls based on results from the runoff and receiving water monitoring. Also, Section I.A.3.d. stipulates that any structural controls identified in the final Compliance Plan shall be operational within six years of the effective date.

In Section d. of the draft Compliance Plan, the City cites a discussion in the Monitoring Program Report and states that “the preliminary monitoring results were incomplete, and therefore could not be used for decision-making with regard to the need for, or types of, additional structural BMPs that might be necessary in order for the City to comply with the Natural Water Quality requirements.” After the completing the second year of monitoring, the City shall use the analysis of receiving water and core discharge monitoring to determine which structural controls are necessary to comply with the Special Protections. In the final Compliance Plan, please include a description and schedule for any projects to be implemented and operational by the compliance deadline of March 20, 2018. If this deadline cannot be met, please submit the information required to support a request for an extension. Please note that submitting a request does not guarantee an extension.

Staff appreciates the City of Carmel-by-the-Sea’s efforts on the draft Compliance Plan and its commitment to maintaining water quality in the Carmel Bay ASBS. Staff will continue to collaborate with the City of Carmel-by-the-Sea to resolve the comments mentioned in this letter as needed. Please submit the final Compliance Plan addressing these comments for approval by the State Water Board Executive Director by the deadline of September 20, 2015.

For further questions pertaining to this subject matter, please contact Dr. Kimberly Tenggardjaja at (916) 341-5473 or Kimberly.Tenggardjaja@waterboards.ca.gov, or Dr. Maria de la Paz Carpio-Obeso, Ocean Unit Chief, at (916) 341-5858 or MarielaPaz.Carpio-Obeso@waterboards.ca.gov.

Sincerely,



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Division of Water Quality

cc:

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