



GAIL FARBER, Director

COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

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Ocean Plan Amendment
Public Comment
Deadline: 04/18/12 by 12 noon

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

April 18, 2012



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Ms. Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Dear Ms. Townsend:

COMMENT LETTER – CALIFORNIA OCEAN PLAN AMENDMENT REGARDING THE STATE WATER QUALITY PROTECTION AREAS AND MARINE-PROTECTED AREAS

On behalf of the Los Angeles County Flood Control District, thank you for the opportunity to comment on the proposed amendment to the California Ocean Plan regarding designating State Water Quality Protection Areas to protect Marine-Protected Areas. Enclosed are our comments for your review and consideration.

If you have any questions, please contact me at (626) 458-4300 or ghildeb@dpw.lacounty.gov or your staff may contact Ms. Angela George at (626) 458-4325 or ageorge@dpw.lacounty.gov.

Very truly yours,

GAIL FARBER
Director of Public Works

GARY HILDEBRAND
Assistant Deputy Director
Watershed Management Division

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Enc.

**COMMENTS OF THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT ON
THE PROPOSED AMENDMENT TO THE CALIFORNIA OCEAN PLAN REGARDING
THE DESIGNATION OF STATE WATER QUALITY PROTECTION AREAS TO
PROTECT STATE MARINE PROTECTION AREAS**

INTRODUCTION

The Los Angeles County Flood Control District (LACFCD) appreciates this opportunity to comment on the proposed amendment to the California Ocean Plan regarding the designation of State Water Quality Protection Areas (SWQPAs) to protect the State Marine Protection Areas (MPAs). The LACFCD have concerns with respect to the provisions of the proposed amendment as applied to stormwater, which are discussed further below. The LACFCD respectfully incorporates its previous comments, submitted on July 15, 2011, to the extent that those comments were not addressed in this current draft amendment document.

A. The Proposed SWQPA-GP Requirements Are Overly Restrictive and Not Reflective of a True Two-Tiered System Framework

Page 36 of the Staff Report states that ...

“To provide greater flexibility for the protection of unique areas including MPAs, staff is proposing a new category of SWQPAs creating a two-tiered system.”

According to the staff report, the two-tiered system of SWQPAs would consist of the existing SWQPAs designated as Areas of Special Biological Significance (SWQPA-ASBS) and a new SWQPA category designated as “General Protection” (SWQPA-GP). The tiered categorization was intended to differentiate the level of protection needed for SWQPA-GP (which is less restrictive) from that of the SWQPA-ASBS (which represents the highest level of water quality protection). We support the two-tiered system approach; however, the provisions as currently proposed are not reflective of the intended tiered approach because the requirements for the SWQPA-GP are essentially as stringent as those for the SWQPA-ASBS.

Comparing the requirements of SWQPA-GP as proposed with that for the ASBS special protections, both appear to have the following four fundamental or key requirements for stormwater discharges:

- a. Prohibits dry weather (non-stormwater) discharges at all times;
- b. Prohibits any new discharges in the future;

- c. Requires wet weather (stormwater) discharges to meet special conditions such that it does not cause undesirable alteration of natural ocean water quality (NOWQ); and
- d. Requires extensive monitoring both at end-of-pipe and in the receiving water.

It appears that the SWQPA-GP designation could result in essentially the same level of protection as that for ASBS. The requirements for the SWQPA-GP should be revised so they are truly reflective of a two-tiered system as intended.

B. The Need for Environmental Impact Analysis

Page 39, section 5.8, of the draft staff report states that ...

“...the State Water Board is not designating new SWQPAs through these proposed amendments. The State Water Board is adopting criteria and provisions for citing and designating SWQPA-GPs.”

Further, page 41 of the draft staff report states that ...

“In considering the designation of SWQPAs over MPAs, the State Water Board will consult with the affected Regional Water Quality Control Board, the Department of Fish and Game and the Department of Parks and Recreation ...”

Per the above provisions, it is our understanding that the designation of the MPAs as SWQPAs is beyond the scope of the proposed amendment, and that if the State Water Board would like to designate the MPAs as SWQPAs in the future, it would develop a separate resolution for that same purpose.

Page 39, section 5.8, of the draft staff report also states that ...

“Permittees discharging storm water or wastewater into the ocean waters would not be regulated any differently by this action [amendment]. ... as no additional controls or treatment would be needed to comply with these measures, there are no adverse environmental impacts associated with compliance actions.”

Using the above assessment as a basis, the State Water Board staff concluded that CEQA analysis is not warranted for the proposed amendment. Contrary to the above conclusion, however, the proposed amendment would establish conditions and prohibitions (as described in section 7 of the draft staff report), which eventually requires dischargers to take actions or control measures to meet the specified

conditions. Though we understand that the conditions and prohibitions being established as part of this amendment would not trigger immediate compliance action upon the adoption of this amendment, it will be the case later when MPAs are officially designated as SWQPA-GP. Irrespective of the time when the conditions in this amendment will be enforced or implemented, compliance with these conditions would likely cause adverse environmental and socio-economic impacts. Thus, we request that proper CEQA analysis be done for the proposed amendment.

C. Other Comments

a. The term “natural ocean water quality (NOWQ)” should be defined under “definition of terms” section. The definition should (1) allow a multiple line of evidence assessment approach (often called triad approach) that integrates the chemical, physical, and biological aspects of water quality in the receiving water and (2) allow the use of reference system approach for evaluating NOWQ.

b. Page 42, E.5(c)(2), we suggest that the second sentence be revised to read as follows (with underlines showing additions and strikethroughs showing deletions):

“...For purposes of SWQPA-GP, an undesirable alteration in natural ocean water quality means that for intermittent (e.g., storm runoff) discharges, ~~Table 1 instantaneous maximum concentration for chemical constituents, and daily maximum concentrations for chronic toxicity, must not be exceeded~~ the post-storm concentrations in the receiving water must not exceed the reference concentrations.”

c. Page 42-43, E.5(c)(4), the ranking mechanism for specific discharge into the low, medium, and high threat impact categories shall be described. As written, it is unclear how such categorization would be done based on collected data.

d. Page 43, E.5(c)(5), we suggest that the second sentence be revised to read as follows (with underlines showing additions and strikethroughs showing deletions):

“...If post-storm receiving water quality has larger concentrations of constituents relative to pre-storm and reference site, ~~and Table 1 instantaneous maximum concentrations for chemical constituents, and daily maximum concentrations for chronic toxicity, are~~

~~exceeded~~, then receiving water shall be re-analyzed during the next storm event along with storm runoff (end of pipe) for the constituents that are exceeded.”