



## CITY OF LAGUNA NIGUEL

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

Joe Brown

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April 18, 2012

Submitted via email: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814



**Subject:** Proposed Amendments to the California Ocean Plan Regarding Designating State Water Quality Protection Areas to Protect Marine Protected Areas

Dear Ms. Townsend:

The City of Laguna Niguel appreciates the opportunity to comment on the proposed amendments to the California Ocean Plan regarding designating State Water Quality Protection Areas to protect Marine Protected Areas. We have many concerns regarding the justification of, and necessity for, the proposed amendments and their impact on inland cities such as the City of Laguna Niguel.

By way of context, the City of Laguna Niguel is an inland community of approximately 63,000 residents located in the southwestern portion of Orange County. The City's storm water discharges are regulated by a NPDES Permit issued and administered by the San Diego Regional Water Quality Control Board. The City discharges storm water and dry weather runoff into three coastal creeks: Aliso Creek, Salt Creek and Oso Creek. Aliso Creek and Salt Creek flows ultimately discharge into the Pacific Ocean at locations that are currently designated as Marine Protected Areas.

The City has reviewed Draft Staff Report and Substitute Environmental Documentation in support of the proposed amendments to the Water Quality Control Plan for Ocean Waters of California.

We have the following questions and concerns:

- **What is the Problem?** It is unclear from our reading of the Draft Staff Report as to what problem is being addressed by the proposed amendments. The proposed amendments purportedly implement State Water Resources Control Board Resolution No. 2010-0057. The proposed amendments allow the State Water Board (and/or Regional Water Boards?) to designate a new subcategory of State Water Quality Protection Areas (SWQPAs) called a State Water Quality Protection Area – General Protection (GP). The Draft Staff Report provides little, if any, rationale or justification for the creation of this new subcategory. The Draft Staff Report fails to explain how the existing regulatory scheme for Marine Managed Areas, Marine Protected Areas and NPDES Storm Water Permits are insufficient to protect and maintain coastal water quality.

- **What is the Impact of the Proposed Amendments on Inland Cities?** As mentioned above, the City of Laguna Niguel is an inland community that discharges storm water and dry weather runoff into local creeks that flow to the Pacific Ocean and discharge into Marine Protected Areas. It is unclear from our reading of the Draft Staff Report whether the proposed amendments affect inland cities such as Laguna Niguel. Is the proposed trash discharge prohibition a "zero tolerance" regulation? Will it require the installation of trash/debris screens or filters on all upstream catch basins within the MS4 system? Non-storm water flows are effectively prohibited and must be diverted to municipal sewer systems where capacity and infrastructure exists. What does this mean in practice? Who determines whether or not there is sufficient infrastructure capacity? The proposed amendments provide that there shall be no increase in non-point sources or permitted storm drains into a SWQPA-GP. What does this mean in practice? What is its impact on new development or significant redevelopment projects?
- **De-Facto Storm Water Regulations and/or TMDLs?** The proposed amendments provide that an SWQPA-GP shall not be designated over existing permitted point source wastewater discharges. This would appear to exempt sewage treatment plant discharge points, but not municipal storm water discharge points. In this context, the proposed amendments take on the character of a new and overlapping set of municipal storm water regulations and/or TMDLs (i.e. the trash discharge prohibition) without going through the normal Regional Basin Plan Amendment and NPDES permitting processes.

The City of Laguna Niguel has reviewed the comments submitted by the County of Orange, the City of Dana Point and the California Stormwater Quality Association (CASQA) and adopts and incorporates those comments into this letter by reference. We share their concerns and urge the State Water Resources Control Board to take no action on the proposed Ocean Plan Amendments until the issues, questions and comments raised by our City and these other interested agencies and organizations have been fully reviewed and answered.

Yours truly,

  
Tim Casey  
City Manager

Cc: Mayor and City Council  
City Attorney  
Senior Environmental Programs Administrator