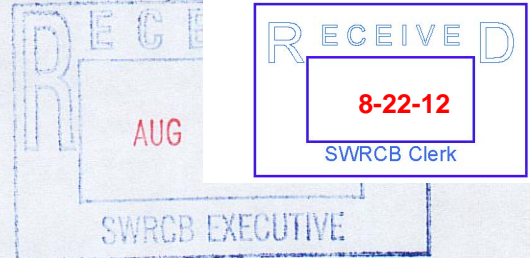




August 21, 2012

Charles R. Hoppin, Chair, and Members of the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814
Attn: Jeanine Townsend, Clerk to the Board

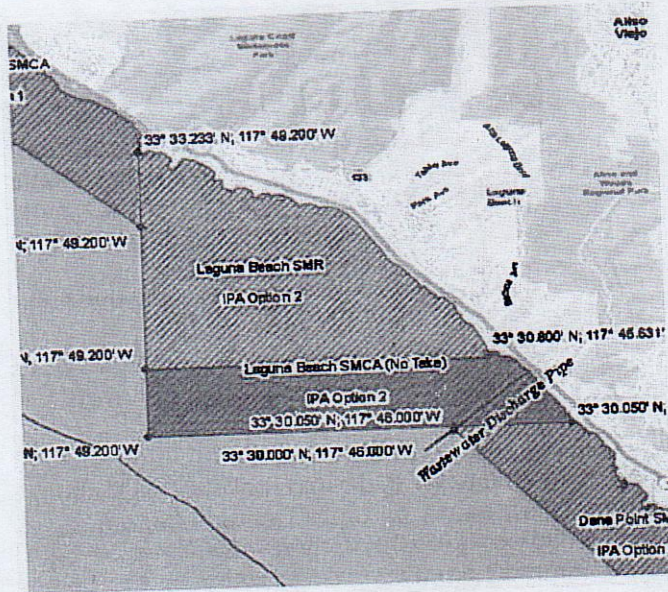


Dear Chair Hoppin and Members of the Board:

Re: Proposed California Ocean Plan Amendments Addressing Designating State Water Quality Protection Areas to Protect State Marine Protected Areas

I want to thank you for the opportunity to submit comments related to proposed amendments to the California Ocean Plan regarding designation of State Water Quality Protection Areas (SWQPA) to protect Marine Protection Areas (MPAs). Our comments will focus on provisions related to municipal wastewater outfalls. As you can see in Figure 1 the Marine Life Protection Act process conducted by the Fish & Game Commission placed a variety of Marine Protection Areas directly over and around Aliso Creek Ocean Outfall.

Figure 1. Aliso Creek Ocean Outfall & New Marine Protected Areas in Laguna Beach



The South Orange County Wastewater Authority (SOCWA) operates several wastewater facilities, including POTWs, as well as the Aliso Creek Ocean Outfall (Outfall) which extends off Aliso Beach in the southern portion of the City of Laguna Beach. The Outfall provides a vital service for the several hundred thousand residents and businesses that are located in the seventeen cities and communities served by SOCWA and its member agencies. The Outfall is used for treated wastewater disposal and for water recycling efforts that provide an alternative

source of potable water for the area. We appreciate the efforts taken by the State Board and Staff to develop ocean plan amendments that recognize the important environmental and public health protection role wastewater infrastructure provides. The Aliso Creek Ocean Outfall represents a \$400 million dollar public investment by our community. We are generally supportive of the amendments since they express the intent to not create discharge prohibitions or increased water quality requirements for existing discharges. However we urge the Board to address several important issues:

SOCWA appreciates the Water Board effort to recognize the significant public investment in wastewater infrastructure, the relatively low level to water quality threat posed by wastewater discharges and the fact that the MLPA was not intended to drive new regulation of existing wastewater discharges.

1. The economic benefits of concurrent MPA and SWQPA designation is not supported by a cost benefit analysis

Specifically language has been added to section 5.7.3 which now states in part *"The concurrent designation of an MPA and SWQPA-GP may lead to environmental economic benefits, including: increased fishery health and productivity, increased tourism value in the MPA areas, and the costs-saving efficiency of adopting modern pollution control technology."* We are concerned with the insertion of the statement because to the best of our knowledge no economic impact analysis to existing public infrastructure has been conducted in this Ocean Plan amendment process to create new SWQPA or in the MLPA process which created new MPAs. Touting cost saving efficiencies of adopting modern pollution control technology without conducting an analyze of the cost to install the pollution control technology is inappropriate.

One of the obvious potential outcomes associated with placing MPAs over and around an existing wastewater outfall and then developing State Water Quality Protection Areas to protect the water quality within the areas, is that greater water quality requirements and possible discharge prohibitions could result. Although the draft Substitute Environmental Document (SED) states that the Draft Amendment does not change any provisions related to designation of or regulation of discharges to ASBS, it is clear that the intent of the SWRCB is for new and additional ASBS to be designated as a result of the implementation of the network of Marine Protected Areas under the Marine Life Protection Act. (SWRCB Resolution No. 2010-0057 at Resolved Nos. 1 and 2). As such, one Issue not disclosed in the CEQA checklist in the draft SED is the potential for environmental impacts associated with regulation of existing wastewater discharges in the vicinity of State Marine Reserves over which SWQPA-ASBS may be designated in the future. If the State Board intends to regulate these dischargers in accordance with the most stringent designation, this option could include a prohibition on discharge that could result in either a need to relocate an outfall or to implement costly measures to achieve zero discharge (which may not even be achievable for some dischargers). Examples of the types of impacts that could occur include higher energy use (due to the potential need for reverse osmosis and other forms of advanced treatment), air quality impacts, including increased greenhouse gas emissions, the need to manage brine, which might potentially require management as a hazardous waste, and other potentially significant environmental impacts. Furthermore, there could be potentially significant impacts on utilities and service systems, construction-related environmental impacts (i.e. item XVII(b) of the CEQA Checklist, "require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects").

2. Changes to Resolve 4 which would lead to discharge regulation outside of the Ocean Plan

Language changes to section 7.1. E.2 now states in part *"The designation of State Marine Parks and State Marine Conservation Areas may not serve as the sole basis for new or modified limitations, substantive conditions, or prohibitions upon municipal point source wastewater discharge outfalls"*. The addition of the word **"sole"** completely changes the meaning and allows the placement of an SMP or SMCA near an existing outfall to be a driver for imposing new regulations on existing outfalls. The Water Board Resolution 2010-0057 directed staff to propose an amendment *"clarifying that no new or modified limitations, substantive conditions, or prohibitions will be imposed upon existing municipal wastewater outfall"*. Given that the MLPA process did not provide adequate means for preventing MPA placement over existing outfall, further that MPAs were placed over and near the point of discharge of our outfall it is extremely disconcerting that the meaning of the resolution has been completely reversed by this change. We ask that you strike the word sole from the revised text.

In summary our agency is generally supportive of the draft amendments attempts to establish that State Water Quality Protection Areas were not intended to create new or modified limiting conditions or prohibitions of discharges located near State Marine Parks or State Conservation Areas. However based on the placement of MPAs including State Marine Reserves over and near our outfall we believe it is important to provide the protections incorporated in Resolution 2010-0057 to all existing wastewater outfalls. Thank you for the opportunity to comment on the draft SED and would request that our proposed modifications to the Draft Ocean Plan Amendments be incorporated into the final amendments proposed for adoption. If you have any questions or comments please feel free to contact me

Very truly yours,

SOUTH ORANGE COUNTY WASTEWATER AUTHORITY



Tom Rosales
General Manager

TR/bf

cc: