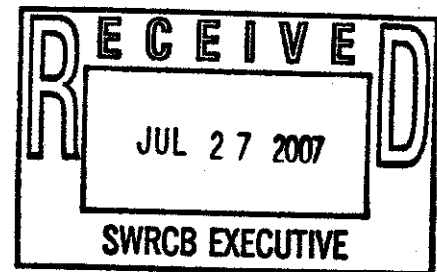


BY EMAIL (commentletters@waterboards.ca.gov) **and FAX:** (916) 341-5620
(Original signed document on file and available upon request.)

July 27, 2007

Song Her
Clerk to the Board
Executive Office
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100



Dear Ms. Her,

The City of Daly City and the North San Mateo County Sanitation District (NSMCSD) appreciates the opportunity to comment on the current Scoping Document and Appendix III associated with the proposed Ocean Plan Amendment. Both the City of Daly City and the NSMCSD are local government agencies, serving a City population of approximately 106,000 and for municipal wastewater treatment 120,000. We are governed by elected officials and managed by professionals who are dedicated to protecting our water environment and the public health.

NSMCSD owns and operates a wastewater treatment plant that discharges treated wastewater into the Pacific Ocean west of Ocean Beach in San Francisco County. As a "publicly owned treatment works" (POTW) that discharges to the Pacific Ocean, we are subject to the provisions contained in the California Ocean Plan.

In addition, The City of Daly City is one of several co-permittees listed in the Municipal Countywide Stormwater NPDES Permit and as such will be subject to new requirements being proposed.

Thus, we offer the following comments on the proposed Ocean Plan Scoping Document dated June 2007, to the extent that the proposed amendment applies to our discharges.

Issues 14, 15, 17, and 18 (starting on page 12) and Preliminary Draft Appendix III

- 1. The monitoring of public beaches is the responsibility of local health officers, as specified in AB 411.**

The language in Section 1(d) of AB 411 is as follows:

(d) The local health officer shall be responsible for testing the waters adjacent to, and coordinating the testing of, all public beaches within his or her jurisdiction.

The Ocean Plan creates new requirements for parties other than local health officers to monitor public beaches, which is inconsistent with the law passed by the California legislature. These new requirements

will create confusion, at a minimum, regarding which agencies or other entities are supposed to be monitoring under what conditions. The agencies request leaving the responsibility for monitoring of public beaches with the local health officers, and not with other entities, as indicated in AB 411.

2. The State Water Board should adopt Alternative 2 for the Model Monitoring Approach.

Alternative 3 is overly burdensome on dischargers because the decisions regarding monitoring are better left defined by local entities more familiar with the issues and needs of their region. Even within the California Ocean Plan scoping document (page 13), staff included a warning from EPA who “recommended that any modifications to the Appendix III standard monitoring requirements should be worded carefully so as not to lock in sampling, monitoring, or data management protocols that may quickly become outdated”. Therefore, the current staff preliminary recommendation to include minimum monitoring frequencies (alternative #3) is inconsistent with the fundamental principles of the model monitoring framework. Such prescriptive monitoring requirements, even listed as minimums, have the potential to unnecessarily waste public resources that could be better spent on other, more important society priorities.

3. The requirement for public agencies, regardless of size, to greatly increase receiving water monitoring is too burdensome and costly.

The Scoping Document and Preliminary Draft Appendix III indicates additional “core monitoring” for indicator bacteria. This additional monitoring is overly burdensome and we are concerned that this provision inappropriately reduces the Regional Water Board’s discretion to establish effluent monitoring requirements that they feel are appropriate to each individual discharger and each individual discharger’s permit requirements. Furthermore, sampling of the effluent for all dischargers does not take into account the dilution that occurs after discharge nor does it provide useful information to determine if a POTW is meeting applicable water quality objectives or impacting applicable beneficial uses (many San Mateo County beaches have extremely limited and potentially dangerous access due to cliff areas). For example, NSMCSD discharge is considered to have at least a 70 to 1 dilution. The cost associated with this additional and inflexible monitoring requirement may not be proportional to the Regional Water Board’s data needs for determining permit compliance.

To address this concern, the NSMCSD requests that language be changed in Preliminary Draft Appendix III (page 4) as follows:

To answer these questions, core monitoring shall be conducted in receiving water for the indicator bacteria at a minimum five times per month for any point sources discharging treated sewage effluent:

- ~~a. within one nautical mile of shore, or~~
- ~~b. within one nautical mile of a commercial shellfish bed, or~~
- ea. if the permitted discharge is in excess of 10 MGD-, AND
- b. within one nautical mile of shore, or
- c. within one nautical mile of a commercial shellfish bed, or

This approach is also consistent with the current Ocean Plan.

In regards to storm water discharges a significant amount of new monitoring is being proposed. The responsibility for conducting this new monitoring should be reviewed more carefully to as to not only who conducts the monitoring but the implications of funding long term solutions.

4. The monitoring of chemical constituents for point sources should be limited to POTW effluent and storm water sources should be limited to receiving water (when deemed safe and accessible) adjacent to storm drains.

The chemical constituents monitoring requirements starting on page 5 of Preliminary Draft Appendix III are unclear about whether the monitoring is of the effluent or the receiving water. Please confirm that this monitoring for point sources is of the effluent only. If the monitoring is of receiving water, the NSMCSD believes this requirement is too burdensome, and not commensurate water quality impacts. See also Comment No. 2 above and Comment 8 below.

5. Benthic Community Monitoring

We are uncertain as to the purpose of requiring benthic community monitoring for non-stormwater dischargers. The Ocean Plan does not currently contain sediment quality objectives for bio-accumulative pollutants. Thus, the State and Regional Boards will be unable to evaluate the results of the benthic community monitoring to determine if Ocean Plan objectives are being met. We are concerned that the proposed monitoring requirement will increase POTW monitoring costs without providing pertinent information. The proposed benthic community monitoring requirement should be removed until the State Water Board can justify its need for determining compliance with adopted Ocean Plan objectives.

6. Mussel Watch Monitoring

Like the benthic community monitoring discussed above, the State Water Board has not justified an appropriate need for mussel watch monitoring. Bioaccumulation monitoring in the absence of adopted objectives is an extra expense to the District's rate-payers that provides no useful information to determine compliance with the goals and objectives of the California Ocean Plan.

7. Acute and chronic toxicity monitoring requirements should remain the same as the 2005 Ocean Plan.

Preliminary Draft Appendix III contains a brand new, greatly expanded monitoring program for acute and chronic toxicity testing for POTWs. In addition, Appendix III contains statements that are incorrect. The significantly expanded monitoring would increase costs to local governments, moving away from a program that was just adopted two years ago, and does not adequately address the potential water quality impacts associated with the range in conditions for various discharges.

The presumption that compliance with toxicity limits "ensures" achievement of water quality standards is inaccurate. Toxicity results do not provide a direct link to the achievement of water quality standards due to many factors, including dilution, whether or not multiple sources of pollutants are occurring in the same vicinity, the species being tested, and the conditions of the test in the laboratory, to name a few. And it is inappropriate to so closely link these two concepts – toxicity and water quality standards,

because toxicity is only an indicator of potential pollutants in a non-specific sense, and often times the source of any toxicity is not even identified before it is not longer observed.

In addition, it is inaccurate to extrapolate the effects of toxicity to test organisms to the universe of aquatic life automatically. It is more accurate to indicate what is actually being measured – which is whether toxicity is being observed in test organisms.

For these reasons, language should be revised as follows:

Toxicity tests are another method used to assess risk to aquatic life. These tests assess the overall toxicity of the effluent, including the toxicity of unmeasured constituents and/or synergistic effects of multiple constituents.

7.1 Point Sources

1. Does the effluent ~~exhibit meet permit effluent limits for~~ toxicity ~~thereby ensuring that water quality standards are achieved in the receiving water to~~ test organisms?

2. If not:

Are unmeasured pollutants causing ~~risk toxicity to~~ ~~aquatic life~~ test organisms?

Are pollutants in combinations causing ~~risk toxicity- to~~ ~~aquatic life~~ test organisms?

Core monitoring for Table B Water Column toxicity shall be required periodically ~~as indicated in the Ocean Plan. For discharges less than 10 MGD, the monitoring frequency for acute and chronic toxicity of the effluent should be at least annually. For discharges greater than 10 MGD, the monitoring frequency for acute and chronic toxicity of the effluent should be at least semiannually.~~

If a discharge consistently exceeds an effluent limitation based on a toxicity objective in Table B, a toxicity reduction evaluation (~~TIE/TRE~~) is required.

Core monitoring for acute sediment toxicity ~~when required~~, will utilize alternative amphipod species (*Eohaustorius estuarius*, *Leptocheirus plumulosus*, *Rhepoxynius abronius*) at a minimum once per year.

8. Mass discharge monitoring as indicated in preliminary draft Appendix III, page 5, needs to have a flexible approach.

Mass loadings are specified in permits over different seasons, or have other different methods for calculation. A simple indication of annual mass limits does not capture the range of conditions that are encountered in permits. The NSMCSD requests revising language as follows:

5.1 Point Sources:

Primary questions addressed:

1. Does the effluent meet permit effluent limits thereby ensuring that water quality standards are achieved in the receiving water?
2. What is the mass of the constituents that are discharged ~~annually~~?
3. Is the effluent concentration or mass changing overtime?
4. What is the fate of the discharge plume?

8. What water quality standards are being expected to be achieved under question 1 part 7.2 beginning on page 8?

It is fundamentally inappropriate to link water quality standards to stormwater discharges when the regulatory scheme is based upon adherence to best management practices aimed at eliminating pollutants. The implications of this linkage are significant both from an aspect of long term success as well as financial impacts associated with the construction of treatment plants.

9. The option for participation in a regional monitoring program must also allow for sufficient time and infrastructure to develop a regional monitoring program over a reasonable period of time.

If new requirements are being imposed, and are expected to be met through a regional monitoring program, the proposed Ocean Plan amendment must provide for sufficient time and infrastructure to develop a regional monitoring program over a reasonable period of time.

10. Since golf courses are listed for additional monitoring (page 14 of Scoping Document), have these entities been contacted regarding these new requirements?

We are concerned that these entities, especially to the degree that their discharges are tributary to municipal discharges, are not aware of the significant additional monitoring being proposed.

Issue 23 – Plastic Debris Regulation

The implementation of a narrative objective for plastic debris (page 18) should be developed before, or along with, the adoption of a new objective.

The new narrative criterion for plastic debris which would be added to the Ocean Plan does not have any implementation schedule, nor any indication of what steps would be required for implementation. These considerations need to be worked out prior to just inserting a new water quality objective in the Ocean Plan. There are many sources of trash and plastic debris, including homeless encampments, especially for urban areas. This is a societal issue and people's behavior affects the degree to which trash and plastic debris that gets into waterways. This fact needs to be taken into consideration and the burden not just placed on a few public agencies. In any event, the controls should take the form of Best Management Practices, and a narrative objective should not be promulgated until we know how we are going to measure the success of attaining it. In addition, a citation should be provided for the statement that "there are estimates that approximately 60 to 80 percent of marine debris in the world's oceans originates from land-based sources" in the Scoping Document.

Song Her, Clerk to the Board
State Water Resources Control Board
July 27, 2007
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Requested Revision to Existing Ocean Plan

For Section III.A.2.e., a provision should be made to address the conditions under which a discharge can occur to the Pacific Ocean without disinfection.

It is recognized that chlorine is a toxic chemical and the use should be minimized in our society. The Ocean Plan recognizes this with existing language as follows:

Waste* that contains pathogenic organisms or viruses should be discharged a sufficient distance from shellfishing* and water-contact sports areas to maintain applicable bacterial standards without disinfection. Where conditions are such that an adequate distance cannot be attained, reliable disinfection in conjunction with a reasonable separation of the discharge point from the area of use must be provided. Disinfection procedures that do not increase effluent toxicity and that constitute the least environmental and human hazard should be used.

However, the reasons behind whether or not to require disinfection are not standard and the decisions around which discharges are required to disinfect appear inconsistent in application. Some point discharges are required to disinfect while others are not. We request that additional guidance be provided for decision-making regarding when disinfection is appropriate. When and where this applies should be determined so long term chronic problems are not created. We therefore feel there is value to vetting out this discussion now.

Thank you for your consideration. If you have any questions, please do not hesitate to contact me at (650) 991-8201 or the Manager of Technical Services Cynthia Royer at (650) 991-8203.

Sincerely,

Patrick Sweetland
Director of Water and Wastewater Resources

L07-162

C: Patricia Martel, City Manager
Cynthia Royer, Manager of Technical Services