

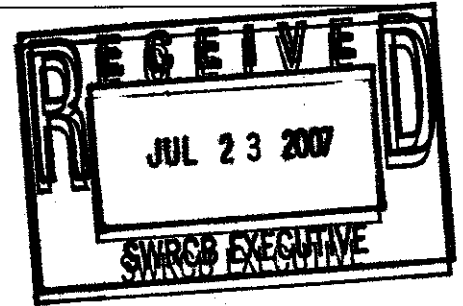


# City of Malibu

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6/26/07 Scoping Mtg.  
CA Ocean Plan Amend.  
Deadline: 7/27/07 Noon

July 20, 2007



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

Re: Comment Letter – California Ocean Plan Triennial Review and Five-Year Strategic Plan

Dear Ms. Her:

The City of Malibu submits this letter in response to the State Water Resources Control Board's request for public comments on proposed amendments to the California Ocean Plan contained in a June 2007 scoping document entitled "Amendment of The Water Quality Control Plan: Ocean Waters of California." Both as a regulator and as an NPDES co-permittee, the City of Malibu is committed to improving the quality of California's waters. One of California's Areas of Special Biological Significance ("ASBS") is located within the city limits; so the City has a special interest in the manner in which ASBS are addressed in the Ocean Plan. In order to assure the most effective implementation of the Ocean Plan, the City urges the State Board to include as part of the scope of the proposed amendments to the Ocean Plan a comprehensive approach for the regulation of discharges of storm water and other runoff into ASBS. The City would like to work with the State Board and other interested parties to develop such an approach as part of the proposed amendments.

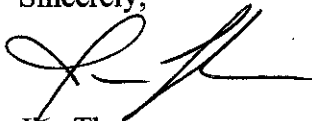
The current proposed amendment process presents an appropriate opportunity for the State Board to develop a workable program with respect to the protection of ASBS. At the moment the City is preparing its application for an exception in connection with the ASBS in Malibu; however, after closer review, we believe that you will conclude that the exception process is inadequate to achieve the best results. Instead, an achievable standard should be created for uniform application.

ASBS are currently regulated under water quality provisions contained in state laws, including the Ocean Plan. These standards require that ASBS be protected and prohibit discharges of waste absent the imposition of Special Conditions. State Board staff apparently is interpreting the Ocean Plan to prohibit the discharge of all storm water to ASBS from areas with development. This approach treats storm water as *per se* waste, placing it in the same category as sewage, and creates the universal need for "exceptions." The City worries that this approach

misses the opportunity to develop cooperative, comprehensive, achievable regulations that improve water quality.

In order to address this issue, the City agrees with other commenters that the State Board should explore during this amendment process whether the Ocean Plan can and should differentiate which storm water discharges to ASBS constitute waste, and which do not, based on whether the storm water contains harmful quantities of pollutants or would result in an undesirable alteration of natural water quality. The City joins the other commenters who have respectfully requested the inclusion of this issue on the triennial review priority list and in the current scoping document.

Sincerely,



Jim Thorsen  
City Manager