

May 17, 2004

Via E-mail

Mr. Frank Roddy
Division of Water Quality
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Re.: Comments on the State Water Resources Control Board's Triennial Review of the California Ocean Plan

Dear Mr. Roddy:

On behalf of the Coalition for Practical Regulation (CPR), an ad hoc group of 43 cities within Los Angeles County that have come together to address water quality issues, I would like to submit the following comments regarding the State Water Resources Control Board's Triennial Review of the California Ocean Plan. CPR previously submitted written comments on January 29, 2004 and provided testimony at both the January 23 scoping meeting and the February 3 State Board workshop.

The May 6 California Ocean Summit focused much needed attention on ocean policy. As Secretary Chrisman noted, the U.S. Commission on Ocean Policy's Preliminary Report could result in major changes in how the United States manages its oceans, and the Governor's response to the Preliminary Report is likely to be used as a basis to review ocean policy in California. Therefore, CPR recommends that the State Water Resources Control Board limit its immediate actions to addressing issues 1, 2 and 4 from the December 2003 Information Document. Issue number 3 should be deferred until a new California Stormwater Policy is formulated and adopted. It should then be combined with selected outstanding issues from prior Triennial reviews and new issues that the Board determines to be important and considered during formulation of an early 2007 amendment to the Ocean Plan. The revised plan could then be reviewed during another Triennial Review later in 2007.

The State Board Should Develop a Comprehensive Stormwater Policy before establishing Implementation Provisions for Discharges into State Water Quality Protection Areas (SWQPAs)

As we noted in our letter of January 29, 2004, the proposed amendments to the Ocean Plan's Implementation Provisions for Areas of Special Biological Significance provide further evidence

of the need for a Comprehensive Stormwater Policy. The proposed amendments focus heavily on the regulation of stormwater, which is already heavily regulated through NPDES permits/Waste Discharge Requirements that contain special conditions limiting stormwater and non-stormwater discharges to all receiving waters. Furthermore, these permits/WDPs contain receiving water limitations that incorporate an iterative process for progressively improving source control and treatment control to ensure that water quality standards are achieved.

At the September 2003 SIP hearing, the State Board committed to develop a separate policy document addressing regulation of stormwater in California. Development and adoption of this policy should receive high priority and should be the basis for amending State and Regional Water Quality Control plans in California, including the Ocean Plan. We urge the State Board to adopt a State Stormwater Policy before expanding regulation of stormwater in the Ocean Plan.

California Indicator Organisms Should Be Consistent with USEPA Requirements

As we noted in our letter of January 29, 2004, CPR supports the deletion of single sample standards and supports using single sample results as triggers for further sampling. Further, we recommend that California adopt enterococcus as the single indicator organism for water-contact bacteria standards as recommended by USEPA. If the State Board wants an additional indicator, it should be fecal coliform since it is a much better indicator of fecal contamination than total coliform. Total coliform is almost ubiquitous in the environment and is virtually useless as a meaningful indicator of anthropogenic water pollution.

California Should Establish a Fecal Coliform Standard for Shellfish Harvesting Areas

CPR continues to support the replacement of the total coliform standard for Shellfish Harvesting Areas with the fecal coliform standard recommended by the Department of Health Services (DHS). Furthermore, the State Board should make clear that this standard is only applicable to shellfish growing areas approved or conditionally approved by DHS and that the standard is to be applied as a geometric mean consistent with DHS practice.

At this time, the only change to the Ocean Plan's Implementation Provisions should be the addition of a statement that clarifies that stormwater point source discharges are limited-term activities that are already regulated by Waste Discharge Requirements limited by special conditions and therefore allowed into SWQPAs. This provision could be modified, if necessary, after adoption of a State Stormwater Policy. In the meantime, it would reduce time-consuming and expensive appeals to the State Board and possibly discourage excessive litigation.

The Ocean Plan Should Clearly State that the "Reasonable Potential" Approach Proposed by Staff Does Not Apply to Stormwater Discharges

The State Board has previously determined that the establishment of numeric limits for stormwater discharges is technically infeasible. Therefore, a statistical approach to determine the

need for an effluent limitation is also technically infeasible, and the Ocean Plan should clearly state that the "Reasonable Potential" approach does not apply to stormwater discharge.

Several High Priority Issues from the 1999-2002 Triennial Review should be Reviewed and Considered for Incorporation into a 2007 Amendment to the Ocean Plan

CPR recommends that the State Board address the following unresolved high priority issues from the 1999-2002 Triennial Review over the next two years for possible inclusion in a comprehensive 2007 amendment to the Ocean Plan:

- Revision of the List of Beneficial Uses in the Ocean Plan;
- Biological Objectives;
- Incorporation of Site-Specific Water Quality Objectives into the Ocean Plan;
- Regional Ambient Water Quality Monitoring and the Ocean Plan;
- Regulatory Control of Stormwater Discharge; and
- Regulatory Control of Nonpoint Source Discharge.

Some of these issues could be addressed during development of the Comprehensive Stormwater Policy that the State Board has committed to develop. This policy, together with the Governor's Response to the Preliminary Report of the U.S. Commission on Ocean Policy would form a solid basis for amending the Implementation Provisions of the Ocean Plan.

Conclusion

CPR continues to believe that there is no need to establish a new special condition to authorize stormwater discharges into State Water Quality Protection Areas, including Areas of Special Biological Significance (ASBS). Instead, the Ocean Plan should be amended to recognize that stormwater discharges are limited-term activities and already "limited by special conditions" in the Waste Discharge Requirements/NPDES permits under which they are now regulated. As such they are allowed into State Water Quality Protection Areas, including Areas of Special Biological Significance.

Thank you for the opportunity to provide these comments about the Triennial Review of the California Ocean Plan. CPR looks forward to working with the State Board on the development of new stormwater and ocean policy for California.

Sincerely,
COALITION FOR PRACTICAL REGULATION

Larry Forester
CPR Steering Committee

Mr. Frank Roddy
Division of Water Quality, State Water Resources Control Board
May 17, 2004
Page 4 of 4

City Council Member, City of Signal Hill