



United States Department of the Interior

NATIONAL PARK SERVICE
Point Reyes National Seashore
Point Reyes, California 94956

IN REPLY REFER TO:

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May 20, 2011

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 2nd Floor
Sacramento, California 95814

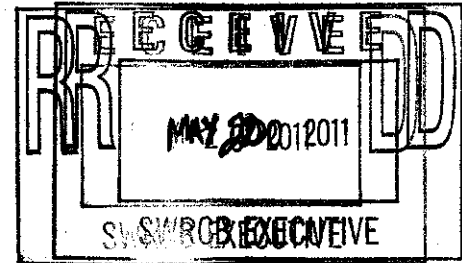
Dear Ms. Townsend

RE: Point Reyes National Seashore comments, PEIR "Exception to California Ocean Plan for Areas of Special Biological Significance Waste Discharge Prohibition for Storm Water and Nonpoint Source Discharges, with Special Protections"

Thank you for the opportunity to comment on the Program Draft Environmental Impact Report (EIR) prepared by the Water Resources Control Board for statewide general exception to the California Ocean Plan discharge prohibitions, published for public comment on January 18, 2011. Point Reyes National Seashore (PRNS) manages more than 90,000 acres of terrestrial, estuarine and marine resources, including four Areas of Special Biological Significance: Bird Rock, Double Point, Point Reyes Headlands Reserve and Extension, and northern portions of the Duxbury Reef Reserve and Extension. In 2006 PRNS applied for an exception from the California Ocean Plan waste discharge prohibition for discharges into the Point Reyes Headlands and Extension Area of Special Biological Significance (Point Reyes ASBS), and the National Park Service managed portions of the Duxbury Reef ASBS.

Point Reyes National Seashore was established in 1962 "...to save and preserve... a portion of the diminishing seashore of the United States that remains undeveloped," making the protection of coastal resources a fundamental component of the national seashore mission and a high priority for management. The Seashore has been an active and important steward of terrestrial, aquatic and marine park resources since its establishment particularly in the protection of water quality.

The National Park Service Organic Act (16 U.S.C. 123, and 4) states the mission of the Park Service as; "...to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." The NPS mission and the enabling legislation for PRNS have provided strategic direction for the management, stewardship and preservation of the natural and cultural resources within the Seashore. Rigorous



environmental and historic compliance procedures are applied to management actions to ensure the preservation of resources for the enjoyment of future generations.

We commend the State Water Resources Board for their efforts to protect and preserve ocean water. While we agree with the overall objectives for preserving and improving ocean water conditions, we have concerns about the broad application of requirements and the breadth and scope of monitoring and reporting requirements as outlined within the EIR, related appendices and implementation documents. Generally, it appears as though regulatory criteria are being applied to all applicants for exception to the Ocean Plan without regard for the type and intensity of presumed discharge from jurisdictions adjacent to Areas of Special Biological Significance.

We agree with the overall purpose and objectives of the proposed program for granting exception to the Ocean Plan for discharge into ASBS for the purpose of improving water quality and habitat for aquatic species. Given that the basis for the Special Protections is predicated upon an assumption of "natural ocean conditions", a condition that is unknown, this raises a contradiction among objectives regarding the intent of reducing potentially suspect discharges and quantifying and qualifying natural conditions. There are many references within the EIR stating that natural ocean conditions are not known, and that many of the prescriptions enumerated in the document and appendices are based upon assumptions. Consequently there is some uncertainty regarding the optimal scope, breadth and cost of any proposed monitoring program that might eventually reduce discharges.

The introduction to the EIR states that; "Baseline biological information indicates that functioning marine communities persist in ASBS, but there is some inconclusive evidence that shows biota near discharges has a different species composition than areas away from discharges." And, further states in section 3.4.2 that; "...a final report from the NWQC was presented to the State Water Board, which included a definition of Natural Water Quality. The definition states that natural water quality is 'That water quality (based on selected physical chemical and biological characteristics) that is required to sustain marine ecosystems, and which is without apparent human influence, i.e., an absence of significant amounts of

- a) man-made constituents
- b) other chemical, physical, and biological constituents at levels that have been elevated due to man's activities above those resulting from the naturally occurring processes that affect the area in question; and
- c) non-indigenous biota that have been introduced either deliberately or accidentally by man."

Although there are likely few areas along the California Coast that meet the above definition, NPS management policies are aligned with the basic principles of the EIR and our common objective is the minimization of detrimental human impacts to coastal ecosystems. However as a proposed solution, the document relies overly on a highly complex and costly monitoring program that may not contribute to the overall objective of reducing discharge and pollution. The Seashore would like to see increased emphasis in the document on a monitoring program that relies upon the relative improvement in the quality of effluent from point sources, and those non-

point sources in areas where human activities are likely to result in these pollutants being washed into the ocean in storm water runoff.

Historically, PRNS uplands were inhabited by native wildlife and indigenous inhabitants. This biological community certainly contributed biological materials in stormwater runoff that fed the nearshore environment, particularly in areas where streams meet the ocean (estuaries). The focus on removing all detritus from effluent discharges is infeasible and would result in an unnatural reduction in food inputs to nearshore biotic communities. If Natural Water Quality is desirable, the focus for land managers should be on ensuring that natural functions and processes occur.

The preferred alternative (Alt D) proposes a general exception to the Ocean Plan with common requirements and conditions covering all applicants equally. Alternative C evaluated individual exceptions and was rejected due to the additional burden upon Water Board staff of separate environmental compliance and the likelihood of delayed implementation of ocean water protections. It should be noted that the Board has already implemented specific exceptions to a number of dischargers, mainly point source, a main source of pollutants.

In the Preferred Alternative, permitting a General Exemption from the Ocean Plan for selected dischargers assumes that all applicants are equal in their known or potential impact to receiving waters. The EIR analysis acknowledges differences in land management practices, yet is inconsistent in the application of requirements for an exception, irrespective of the source, type or nature of the discharge. The EIR states in S.7 that; "...Preliminary findings from the recent submittal of ocean plan exception applications show runoff to contain toxic levels of constituents, and receiving ocean water in some ASBS at times does not meet water quality objectives for the protection of marine life. Most of the significant discharges into ASBS are permitted storm water runoff (approximately 350). Hence certain developed ASBS are a more manageable microcosm of our greater ocean storm water issues. By focusing on ASBS storm water and certain nonpoint discharges, with comprehensive monitoring and control efforts, we will make measurable progress in solving the last great pollution problem in the coastal ocean." As the applicants for General Exemption cover a wide variety of geographic locations, population densities, development scenarios, transportation infrastructure and waste production, it would seem reasonable to tailor mitigation and monitoring requirements to the magnitude of expected impacts. This could be done within the context of the EIR for General Exemption through the implementation phase by prioritizing threats and known contaminant issues; and tailoring mitigations, management actions, BMPs and monitoring criteria for individual responsible parties.

The PEIR's proposed monitoring program is a uniform approach to monitoring which may not fully consider the nature and scope of discharges or adjacent environments or land management policies. The EIR states in S.6 that there are differences among the various ASBS; "Though this EIR governs potential impacts at 26 different geographic ASBS locations, generalizations are made about the impacts of different compliance measures (i.e. BMPs) and are expected to generate similar results. This is a reasonable assumption, given that the discharge of waste generated by the Responsible Parties is conveyed to the ocean waters of the ASBS primarily via storm drains and waste would be controlled and/or eliminated by any one of or a combination of the Special Protections implementation alternatives."

The proposed scope of the chemical/physical components to be included in the monitoring program is quite extensive, and would result in expensive lab costs for analysis. Chemical monitoring data presented in the EIR show a wide range in concentration of these contaminants across the ASBS locations sampled. The EIR states on page 207 that; "It is clear that ASBS discharges generally contain some concentrations of anthropogenic waste. However, it appears that a majority of the ASBS waste discharges exhibited metal concentrations below instantaneous maximum objectives, and a majority of ASBS receiving waters had concentrations of ocean plan metals below the six-month median objective for the protection of marine aquatic life. While most of the discharge samples exhibited chronic toxicity to marine life, the majority of the receiving water samples met the daily maximum chronic toxicity objective." In Appendix 3 (NOAA NS&T Mussel Watch Program Data: Most Recent Data 2007 – 2009, Resident Mussels, Comparison of ASBS with Non-ASBS Stations), the observed contaminants for the Point Reyes Headlands were listed generally at or below the median across ASBS, and often far lower than the median. Appendix 3 also observed: "At the Point Reyes ASBS, only results for two constituents, oxychlorane (one out of one test) and o,p'DDD (one out of five tests) indicated elevated levels above the EDL 95." The source of these chemical contaminants is not known, but given the lack of development on the Point Reyes Headlands, it is likely that the source lies in the ocean, transported from adjacent highly developed areas such as the San Francisco Bay. Monitoring plans and protocols should be based upon observed constituents of concern. In the case of nonpoint source discharges from undeveloped areas, applying a standardized suite of sampling and testing protocols may not be a cost effective use of financial resources that could be best employed toward reducing discharges in general through management actions. In fact, the EIS states that this is the usual policy (as noted on page 36): "In practice, the Regional Water Boards do not usually impose numeric effluent limits on nonpoint pollution sources. Rather they primarily rely on implementing management practices to reduce pollution."

Under the Preferred Alternative, we believe that a variety of monitoring plans could be designed around the type of the known discharges without requiring separate CEQA compliance for each of the 27 applicants. The monitoring plans would conform to Board Staff recommendations of either 1) individual plans or 2) participation in a regional monitoring program. Doing so would help adhere to two of the main objectives stated in the introduction of the EIR, namely:

- to help to ensure that marine life and beneficial uses of the State's Areas of Special Biological Significance waters are protected from waste discharges, and
- to ensure that the development of the statewide regulations and conditional Special Protections policy consider economic costs, practical considerations for implementation, and technological capabilities existing at the time of implementation.

Prioritizing the monitoring requirements to focus upon the most threatening contaminants with known sources would improve protection to receiving waters, and in doing so would direct financial resources appropriately toward the greatest threats. We agree with the Regional Board's approach to source reduction through management actions, mitigations and best management practices as the best solution for improving ocean waters.

Regarding discharge locations, the EIR states that a discharge point is from an 18-inch or greater culvert. The majority of discharge locations identified on the Seashore do not meet the definition of a discharge location. The EIR identified discharges for the Point Reyes Headlands that were characterized as high threats: "Point Reyes National Seashore has seven storm drains and nonpoint sources of discharges considered to be of higher threat. These discharges are primarily associated with the runoff and related contaminants from recreational facilities" (Pg185). The seven culverts are 2-inch step-drains in the historic incline/stairs used to provision the historic Point Reyes Lighthouse during its period of operation, and which currently provide public access. The volume of discharge attributed to these drains is de minimis as the average yearly rainfall at the Point Reyes Headlands is six inches. Subsequent to the observation made for the EIR, six of these step-drains were retrofitted during preservation activities with discharge being diverted outside of the ASBS watershed. In addition, the stairway to the sea lion overlook is considered a discharge point to the Headlands ASBS when there is in fact no evidence that surface water flow leaving this area is channelized and there is a significant grassland community between the observation point at the bottom of the stairs and the ocean. There is no evidence that would support an assumption that stormwater runoff from the stairway ever reaches the ocean.

A number of discharge locations identified at the Duxbury Reef ASBS do not meet the definition of a discharge point. The social trails leading from the bluff to the beach have been identified as discharge locations for sediment. These bluffs contribute significant sediment during episodic events. One hundred years ago the Marconi communications building near Duxbury Reef was approximately 330 feet from the bluff edge and is now approximately 50 feet from the bluff edge. This suggests that the bluff has eroded over 250 feet in 100 years. The photos below illustrate the significant rate of coastal bluff erosion between 1972 and 2005. In addition, a recent study on the effects of Climate Change on the California Coastline identifies the bluffs in the Duxbury Reef area as having a high potential for increased erosion due to sea level rise (Heberger et al 2009). Currently, the toe of these bluffs is directly impacted by wave action during significant storm events.

For areas such as PRNS and other areas that are predominantly undeveloped and subject to existing resource preservation missions, laws and regulations, we would hope programmatic emphasis could be placed upon management actions, mitigations and Best Management Practices to control what is primarily small nonpoint source discharge. We recommend that monitoring protocols for these areas be developed that take into consideration the source, type and volume of discharge, known chemical constituents of concern in adjacent ASBS, economic cost relative to benefit and safety risk to the monitors tasked with collecting samples. The Point Reyes Headlands are a good example of the need for site specific tailoring of monitoring programs. In the reporting data presented by the EIR, this area provided one of the smaller datasets because the Headlands are located in a highly inaccessible portion of coastline with steep cliffs, high energy surf zone, currents, boulder fields, resident marine mammals and sea birds protected from disturbance and one of the highest concentrations of great white sharks within the state. Prevailing currents and the proximity to San Francisco Bay confound the source attribution of any constituents of concern that may be detected through monitoring. Given the cost and other concerns associated with sampling in this area and the small potential for terrestrial inputs, it would seem reasonable to focus upon management actions to limit potential discharges.

The Seashore has been implementing sediment and erosion control measures, agricultural water quality improvements and monitoring and riparian, wetland and upland habitat restoration projects since the early 1980s utilizing federal and state grants, and appropriated funds. Restoration of natural hydrologic conditions, improving habitat for aquatic species and adding nearly 5% to the total of extant California tidal wetlands were recent accomplishments in major Seashore projects such as the Giacomini Wetlands Restoration and the Coastal Watershed Restoration.

We concur with the purpose and need of EIR and the general objectives. We respectfully submit that amendments be considered for the Preferred Alternative, namely a stratified and prioritized approach to monitoring and mitigations that takes into account the type and source of discharge, Natural Water Quality that supports functioning nearshore biotic communities, the existing conditions within adjacent ASBS, and economic costs in relation to benefits. The Seashore is committed to our mission of preservation and will continue to undertake proactive management of coastal resources. We look forward to partnering with the Water Board on the large stewardship tasks that await us. Please contact Chief of Natural Resources Natalie Gates (415-464-5189) or Range Ecologist John DiGregoria (415-464-5172) with any questions or concerns.

Cicely Muldoon
Superintendent

cc:



W Shook (5/18/11)

Citation

Heberger, M., H. Cooley, P. Herrera, P.H. Gleick, and E. Moore. 2009. The impacts of sea-level rise on the California coast. Pp 115.

Photo of the shoreline adjacent to the historic Marconi building (1972).

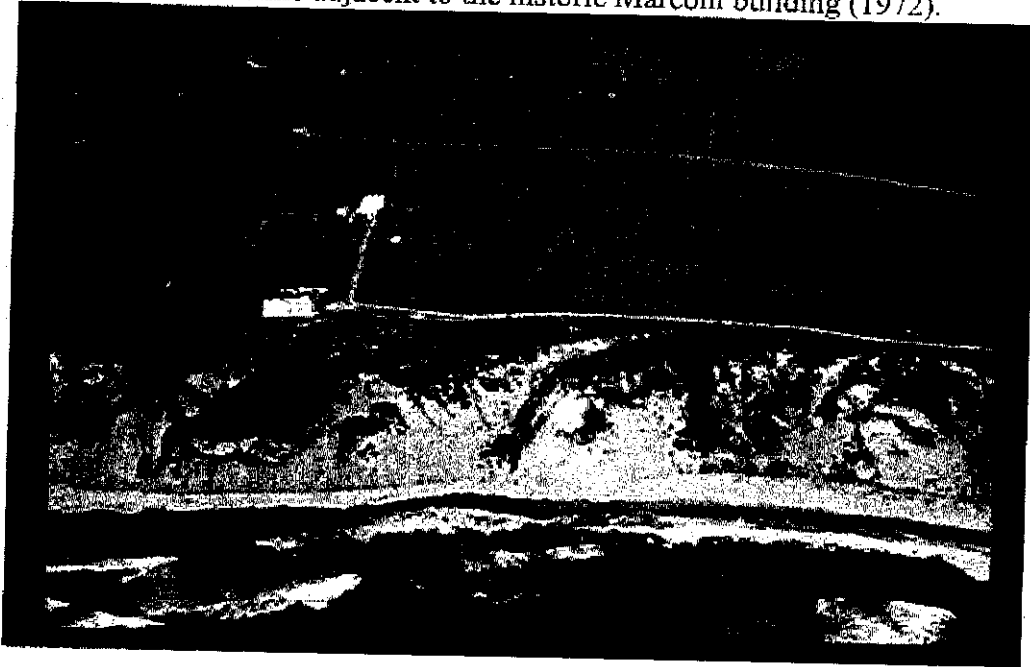


Photo of the shoreline adjacent to the historic Marconi building (2005).

