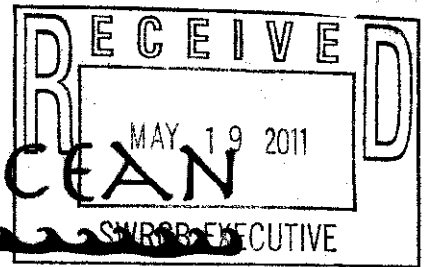


Public Hearing (5/18/11)
ASBS Special Protections
Deadline: 5/20/11 by 12 noon



HEAL THE OCEAN



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Thursday, May 19, 2011

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

RE: Draft Program Environmental Impact Report (PEIR) for a General Exception to the California Ocean Plan Waste Discharge Prohibition, for Selected Storm Water and Nonpoint Source Discharges into ASBS, including Special Protections for Beneficial Uses

Dear Ms. Townsend:

Please accept these comments from Heal the Ocean, a citizens' action group in Santa Barbara, California representing 3,000 people concerned about the health of the ocean not only in Santa Barbara, but in the state of California.

Although the Draft Program Environmental Impact Report for the proposed Ocean Plan exception for discharges into Areas of Sensitive Biological Significance (ASBS) encompasses only storm water and nonpoint source waste discharges by the applicants listed in Attachment A to the Resolution voted on by the State Board, and although all other waste discharges – including wastewater discharge to ASBS are prohibited unless covered by a separate, applicable Ocean Plan exception, Heal the Ocean directs its comments once again to the fact that the point discharge of wastewater into the ASBSs of California goes against the Ocean Plan itself.

Ocean Plan prohibits discharge of waste – including wastewater – into an ASBS

As recognized in the Draft PEIR, the 2009 Ocean Plan states: *“Waste shall not be discharged to areas designated as being of special biological significance. Discharges shall be located a sufficient distance from such designated areas to assure maintenance of natural water quality conditions in these areas.”*

The Ocean Plan further states, however, that “The State Board may, in compliance with the California Environmental Quality Act, subsequent to a public hearing, and with the concurrence of the Environmental Protection Agency, grant exceptions where the Board

determines: a. The exception will not compromise protection of ocean waters for beneficial uses, and, b. The public interest will be served.”

The State Board's system of blanket exception to Wastewater Treatment Plants (WWTPs) discharging into ASBSs is explained in the Draft PEIR as being reasonable because each WWTP has to comply with discharge and monitoring requirements of their NPDES permits, so that therefore, these discharges are “covered.”

NPDES Monitoring Requirements are for “Ocean Receiving Waters,” not ASBS

In Section 4.3.5 Monitoring and Compliance, the Draft PEIR states, “Typically, major dischargers to coastal waters, such as POTWs (Publicly Owned Treatment Works), have provided the bulk of monitoring data on ocean receiving waters. Point source dischargers implement self-monitoring programs under NPDES permits that are designed to assess compliance with effluent and receiving water limitations.”

The big problem is that NPDES permits are promulgated for “ocean receiving waters” – not Areas of Special Biological Significance!

The Draft PEIR even makes this statement about POTW self-monitoring programs: “Generally, these monitoring efforts have been the primary mechanism by which regulatory agencies, resource managers, and permitted dischargers have evaluated the condition of the ocean receiving water and effluent. However, this type of monitoring, with primary focus on major dischargers, has resulted in acknowledged data gaps and the lack of coordinated coast wide information. **Further, these efforts in general were not designed to assess compliance with the Ocean Plan prohibition against waste discharge to ASBS and the goal to maintain natural water quality in ASBS**”. (Page 63 of 331 of the Draft PEIR)

If POTW monitoring is “not designed to assess compliance with Ocean Plan prohibition against waste discharge to ASBS,” why is a specific program of exception, evaluation and monitoring not included in a document for a proposed Ocean Plan exception for discharges into ASBS? It is almost ludicrous that this important environmental impact report emphasizes in its point source discussion the matter of sinks and fish cleaning stations but not a wastewater plant.

Under the general, non-ASBS-specific cover of the NPDES permit, the Draft PEIR addresses four single point wastewater discharges being granted exceptions as being (1) the Navy's wastewater treatment plant outfall at San Clemente Island, (2) the Humboldt County Resort Improvement District wastewater treatment plant outfall at Shelter Cove, (3) the Carmel Sanitary District (currently Carmel Area Wastewater Treatment District) outfall, and (4) the Navy desalination plant discharge at San Nicolas Island, and there is reference to three additional exceptions that make a total of seven allowed point discharges into an ASPS.

Heal the Ocean notes there are at least six wastewater treatment facilities currently discharging wastewater directly into an ASBS - Shelter Cove (CA0023027), Half Moon

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Bay (CA0038598), Monterey Regional (CA0048551), Carmel/ Pebble Beach (CA0049417), Ragged Point Inn (CA0049417), San Simeon (CA0047961).

To be granted an exception the discharger must prove that the discharge will not have an "adverse impact" on the environment. However, it is not clear how an "adverse impact" is determined. Furthermore, there is no clear standard applied to all dischargers. POTWs discharging into an ASBS should be required to add the monitoring requirements of non-point dischargers – i.e. State Mussel Watch procedures, sampling of sand crab tissue, etc. Either that, or POTWs discharging into ASBS should be required to upgrade to tertiary treatment levels, in order that higher levels of pollutants will be removed.

Heal the Ocean recognizes that the draft PEIR in its present iteration does not and will not include POTW ("point") discharge into ASBS. However, we would only ask that in its next triennial review of the Ocean Plan the State Board reopens the issue of exceptions for ASBS discharge.

Thank you for this opportunity to comment.

Sincerely,

A handwritten signature in cursive script, appearing to read "Hillary Hauser".

Hillary Hauser, executive director