

Department of Public Works



COUNTY OF SAN MATEO

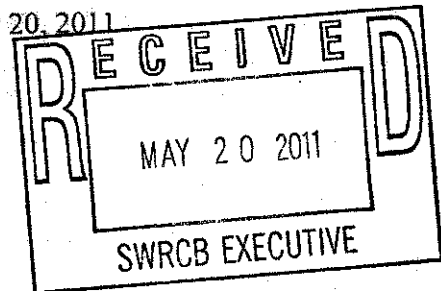
555 COUNTY CENTER, 5th FLOOR • REDWOOD CITY • CALIFORNIA 94063-1665 • PHONE (650) 363-4100 • FAX (650) 361-8220

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

BOARD OF SUPERVISORS
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JAMES C. PORTER
DIRECTOR

May 20, 2011



By email: commentletters@waterboards.ca.gov

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

Dear Ms. Townsend:

Re: Comment Letter – ASBS Special Protections

The County of San Mateo (County) appreciates this opportunity to provide comments on the Program Draft Environmental Impact Report Exception to the California Ocean Plan for Areas of Special Biological Significance (ASBS) Waste Discharge Prohibition for Storm Water and Nonpoint Source Discharges, with Special Protections (PDEIR) dated January 18, 2011. The enclosed comments are built upon and incorporate by reference comments previously submitted on the Initial Study and Notice of Preparation for the subject Exception including draft "Special Protections" by the County¹.

We are concerned about the mandates in the ASBS Special Protections and General Exception. These mandates would be costly for the County to meet given the economic and fiscal challenges that we are now facing. This is of special concern given the fact that the most recent data for the ASBS waters indicate no peril to them, and exceptional water quality. For example, a recent technical publication, *Summation of Findings: Natural Water Quality Committee 2006-2009*², summarizes findings from a State Water Board-funded 2008-09 statewide monitoring effort that was designed to assess the water quality in ASBS near and far from regulated discharge sites. The statewide survey illustrated generally good chemical water quality in mainland ASBS sites.

The County is additionally concerned about the one-size-fits-all urban oriented approach contained in the Special Protections, the misplaced emphasis on end-of-pipe monitoring for Ocean Plan Table B toxic pollutants, and the failure to recognize the considerable efforts already employed by the County (see Attachment) to identify and control conveyances of constituents of concern via stormwater to the James V. Fitzgerald ASBS (Fitzgerald ASBS).

¹ Submitted March 15, 2010.

² Southern California Coastal Water Research Project. Technical Report 625 – September 2010. Accessible online: http://www.swrcb.ca.gov/water_issues/programs/ocean/docs/asbs/asbsnwqc/625_nwqc_smmrv.pdf.

Ms. Jeanine Townsend, State Water Resources Control Board

Re: Comment Letter – ASBS Special Protections

May 20, 2011

Page 2

The Fitzgerald ASBS is located in an unincorporated area of San Mateo County. The area primarily consists of a rural setting with the dominant land uses being residential, park/open space, small-scale agriculture/ranching, and light commercial. More than two thirds of the watershed is unincorporated rural lands. The population of Montara and Moss Beach, the two primary urbanized areas within the watershed, was less than 5,000 according to the 2000 census. The urbanized areas are primarily medium and very-low density residential. The County is responsible for 11 municipal storm drain discharges to the Fitzgerald ASBS. Two of the eleven discharges are greater than 18 inches in diameter. The largest discharge is a 36-inch storm drain pipe that receives flow from Highway 1 and the surrounding residential areas.

The County began instituting stormwater protection programs in the early 1990s. As part of the Municipal Stormwater Phase I National Pollutant Discharge Elimination System (NPDES) Permit, the San Mateo Countywide Water Pollution Prevention Program (SMCWPPP), a partnership of the City/County Association of Governments, the County of San Mateo, and incorporated cities and towns within San Mateo County, developed a stormwater management program that contains detailed best management practices (BMPs) and specific levels of implementation information to protect stormwater from urban runoff pollutants. SMCWPPP has evolved over the last 20 years and is currently regulated under the San Francisco Bay Municipal Regional Stormwater NPDES Permit (MRP). This permit is administered by the San Francisco Bay Regional Water Quality Control Board and imposes strict controls designed to reduce stormwater pollution. Under the MRP, the County, as a member agency of SMCWPPP, works to reduce the amount of pollutants that enter the storm drain system. Our detailed comments (see Attachment) summarize the extensive existing programs implemented by the County that are designed to reduce pollutants in stormwater.

The approach to ensuring that ASBS are protected should be based upon sound science and demonstrated cause-and-effect linkages between identified water quality problems within an ASBS and what is causing the problem(s). In order to avoid significant expenditures that do little to protect ASBS (e.g., Ocean Plan toxic pollutant monitoring), an assessment of existing and potential anthropogenic influences on each ASBS should be conducted, and these influences ranked in terms of their threats to the ASBS. Priorities can then be assigned to reducing and minimizing the anthropogenic influences that pose the greatest threats to individual ASBS. The County supports and continues to follow this focused practical problem solving approach to stormwater management and to ASBS protection.

The County supports the Monterey Peninsula communities of Pacific Grove, Carmel-By-The-Sea, County and City of Monterey as well as the Pebble Beach Company and other interested ASBS stakeholders' (Central Coast ASBS stakeholders) request that the State Water Resources Control Board (SWB) develop and employ an Alternate Approach to the proposed Special Protections approach. As presented in our detailed comments (attached), there are several fundamental and scientifically irreconcilable flaws in the proposed Special Protections approach that mandate an Alternative Approach be developed and implemented.

Ms. Jeanine Townsend, State Water Resources Control Board
Re: Comment Letter – ASBS Special Protections
May 20, 2011

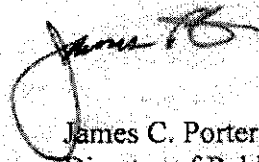
Page 3

The County strongly recommends that the SWB direct staff to convene an inclusive and transparent stakeholder process, similar to the one that resulted in the successful Recycled Water Policy, to develop an Alternative Approach to the Draft Special Protections, similar to that outlined by the Central Coast ASBS stakeholders. The County would be pleased to actively participate in such a collaborative stakeholder process, which we believe can lead to a more widely accepted and more effective ASBS protection program.

Our past and on-going efforts to maintain the quality of the environment of our ASBS clearly indicate that our criticisms of shortcomings found in the PDEIR and Special Protections must not be taken as any indication of unwillingness on our part to do all that is reasonable and feasible to protect our ASBS. The significant problems we found in the monitoring and natural water quality sections of the PDEIR and Special Protections reflect activities that are neither scientifically valid nor reasonable in terms of cost-benefit analysis. A mandate to carry out these inappropriate monitoring efforts could be counter-productive. Thus, the large sums of funds and the time and energy the staff would need to commit to these invalid efforts would represent an indefensible waste of finite financial and human resources and, ironically, might reduce the level of positive activities we could afford to perform related to maintaining the status of the ASBS ecosystem that we and the SWB are committed to protect.

We appreciate the opportunity to provide these comments and look forward to working collaboratively with SWB staff and other stakeholders to develop an effective site specific, water quality issue identification and problem solving ASBS protection program. Please contact Julie Casagrande (650-599-1457) or myself (650-599-1421) if you have any questions.

Very truly yours,



James C. Porter, P.E.
Director of Public Works

JCP:AMS:MC:jc

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PEIR\EOA\San_Mateo_ASBS_SP_Comment_Ltr_05_013_11.doc

Attachment: County of San Mateo Detailed Comments on ASBS Special Protections

cc: Mr. Dane Hardin, Applied Marine Sciences, 911 Center Street, Suite A, Santa Cruz, CA 95060
Mr. Matt Fabry, Program Coordinator, San Mateo Countywide Water Pollution Prevention
Program, 50 Park Place, Brisbane, CA 94005-1310
Mr. Tom Hall, EOA, Inc., 1410 Jackson Street, Oakland, CA 94612

COUNTY OF SAN MATEO
DETAILED COMMENTS ON ASBS SPECIAL PROTECTIONS

1) Site Specific Assessments of the Type and Potential Magnitude of Stormwater Conveyance of Constituents of Concern to the Fitzgerald ASBS Should be Conducted First to Determine the Extent, if any, of Additional Controls Needed to Prevent an Undesirable Alteration of Natural Water Quality

The County believes that it is a minimal contributor of potential stormwater conveyed constituents of concern to the Fitzgerald ASBS due to the watershed's rural setting. Also, as summarized in 2) below, the County has been and continues to implement a wide variety of controls on potential contributions of constituents of concern to the Fitzgerald ASBS via its stormwater and other land use management programs.

We believe that the County storm drain system has not resulted in an undesirable alteration of natural water quality in the Fitzgerald ASBS because of rural nature of the watershed and extensive existing stormwater and land use management programs. The County is not aware of any investigations documenting adverse impacts to the Fitzgerald ASBS due to stormwater discharges under its control. If the State believes that there is an undesirable alteration of natural water quality occurring in the Fitzgerald ASBS, the State should fund any additional studies needed to prove that belief. The County should not be required to fund new stormwater and receiving water monitoring or to implement additional BMPs until there are statistically significant data documenting that there is an undesirable alteration of natural water quality occurring in the Fitzgerald ASBS traceable predominantly to a County storm drain.

The County and other similar primarily rural and rural residential Counties should only be required to participate in stakeholder agreed upon ASBS protection and/or monitoring activities in proportion to their relative area and/or population in the watershed contributing stormwater runoff to an adjacent ASBS.

The County is responsible for 11 municipal storm drain discharges to the Fitzgerald ASBS. Two of the eleven discharges are greater than 18 inches in diameter. The largest is a 36-inch concrete storm drain pipe located on Wienke Way that receives flow, primarily when it is raining, from Highway 1 and the surrounding residential areas. The County and Caltrans are the Responsible Parties for this 36-inch conveyance.

Appendix 5 to the PDEIR contains the SWB's List of ASBS Drainages for the Fitzgerald ASBS. County staff conducted field verification of the drainage conveyance points listed for the Fitzgerald ASBS. Results of field verification found that some of the listed County sites have no potential for discharge. In addition, the above-mentioned 36-inch storm drain was apparently missed during field documentation by the Southern California Coastal Water Research Project (2003). Other requested corrections to the SWB's List included changes to the responsible party, source code, pipe size, and material.

These corrections to the SWB's List are documented in a letter to the SWB dated May 20, 2011, a copy of which is included as Appendix A to these detailed comments.

2) There are Minimal Urban Pollutant Sources within the Fitzgerald ASBS Watershed and Significant Source Identification and Control Measures have Already Been Implemented to Address Potential Sources from this Primarily Rural Setting

The County began instituting stormwater protection programs in the early 1990s. As part of the Municipal Stormwater Phase I NPDES Permit, SMCWPPP developed a stormwater management program that contains detailed BMPs and specific levels of implementation information to protect stormwater from urban runoff pollutants. SMCWPPP has evolved over the last 20 years to and is currently regulated under the San Francisco Bay MRP. This permit is administered by the San Francisco Bay Regional Water Quality Control Board and imposes strict controls designed to reduce stormwater pollution. Under the MRP, the County, as a member agency of SMCWPPP, works to reduce the amount of pollutants that enter the storm drain system. Table 1 below summarizes existing programs implemented by the County that are designed to reduce pollutants in stormwater.

TABLE 1 – Existing Regulatory Programs Addressing Stormwater Discharges to the Fitzgerald ASBS		
Program	Sources Controlled/BMP	POCs Addressed
Municipal Regional Stormwater NPDES Permit	Source control at commercial businesses and industrial sites	Pesticides Metals PAHs Sediment Trash
San Mateo Countywide Water Pollution Prevention Program (SMCWPPP)	Inspection and follow-up of illicit discharges Construction site BMPs to address sediment, erosion, run-on and run-off control Control for post-project stormwater discharge rates and durations Trash, PCB, copper, and mercury controls Public outreach and education Water quality monitoring	
Department of Public Works (DPW) Watershed Protection Program	Permitting and compliance for DPW projects Erosion control design and implementation Development and implementation of Watershed Protection Maintenance Standards for DPW activities Training for County staff Participation in local conservation efforts	Sediment Pesticides Trash Oil & Grease
County Integrated Pest	Reduced use of pesticides on property owned or	Pesticides

TABLE 1 – Existing Regulatory Programs Addressing Stormwater Discharges to the Fitzgerald ASBS		
Program	Sources Controlled/BMP	POCs Addressed
Management Policy	managed by the County to the maximum extent practicable	
<u>Local Coastal Program (LCP)</u> The LCP is the County's guiding document for implementing the State Coastal Act.	<p>Runoff containing fertilizers or pesticides must be stored on site and not released to any perennial or intermittent streams, and disposed of in accordance with U.S. Environmental Protection Agency & State Regional Water Quality Control Board</p> <p>Non-point surface runoff control measures</p> <p>Impervious surface zoning standards</p> <p>Buildout and development policies</p> <p>BMPs for new development</p> <p>Erosion and sediment control plans</p> <p>Limited land disturbance and grading restrictions</p> <p>Sensitive species and habitat protections</p>	<p>Fertilizer</p> <p>Pesticides</p> <p>Sediment</p> <p>Non-point source pollution in runoff</p>
<u>County Storm Water Management and Discharge Control Ordinance (Section 5000, Chapter 12)</u>	<p>Prohibits discharges of material other than storm water into County storm drains unless in compliance with a NPDES permit or a specified exception</p> <p>Requires use of BMPs for any activity or operation which may contribute to storm water pollution</p> <p>Prohibits littering in streets, storm drains, catch basins, conduits or other drainage structures such that it may become a pollutant</p>	<p>Non-point source pollution in runoff</p>
County Environmental Health and Recycle Works	Education and outreach on topics including green gardening and landscaping, recycling, green business and building, and hazardous waste	<p>Non-point source pollution in runoff</p>

TABLE 1 – Existing Regulatory Programs Addressing Stormwater Discharges to the Fitzgerald ASBS

Program	Sources Controlled/BMP	POCs Addressed
<p><u>Fitzgerald Marine Reserve (FMR) Master Plan</u> Goals and policies to protect the FMR.</p>	<p>Natural resource management</p> <p>Visitor management program</p> <p>Uses and facilities program</p> <p>Water quality improvement program</p>	<p>Non-point source pollution in runoff</p>
<p>Critical Coastal Area Program (CCA) CCA is part of the CA Nonpoint Source Pollution Control Program, administered by the SWB and the California Coastal Commission.</p>	<p>Pilot project underway for the Fitzgerald Marine Reserve</p> <p>Watershed assessment was conducted to identify potential pollution impacts to coastal resources</p> <p>Action Plan to be developed and implemented to address these impacts and improve water quality</p>	<p>Non-point source pollution in runoff</p>
<p>Monterey Bay Sanctuary Citizen Watershed Monitoring Network Snapshot Day and First Flush Monitoring</p>	<p>Water quality monitoring at locations within the Fitzgerald ASBS watershed</p>	<p>pH</p> <p>Temperature,</p> <p>Dissolved oxygen</p> <p>Nutrients</p> <p>Bacteria</p> <p>Metals</p> <p>Suspended sediment</p>
<p>County Environmental Health Recreational Water Quality Program</p>	<p>Bacteria water quality monitoring at locations within the Fitzgerald ASBS watershed</p>	<p>Bacteria</p>
<p>James V. Fitzgerald ASBS Pollution Prevention Program (Proposed to be implemented between May 2011 – March 2015)</p>	<p>Storm drain inventory and assessment</p> <p>Pathogen source tracking study</p> <p>Implementation of storm drain and private upland BMPs</p> <p>Construction of a green demonstration parking lot at the Fitzgerald Marine Reserve</p> <p>BMP effectiveness water quality monitoring</p> <p>Public education and outreach</p> <p>Future stormwater pollution reduction planning</p>	<p>Non-point source pollution in runoff</p>

Existing Pollution Controls and Best Management Practices

Treatment processes, pollution controls and BMPs within the Fitzgerald ASBS watershed have been implemented, tracked and documented by several agencies and programs including the Department of Public Works Watershed Protection Program, the San Mateo Countywide Water Pollution Prevention Program (SMCWPPP), and the Fitzgerald Critical Coastal Areas Pilot Project.

The SMCWPPP stormwater management plan has five major components: Municipal Maintenance, Industrial and Illicit Discharge Controls, Public Information and Participation, New Development and Construction Controls, and Watershed Assessment and Monitoring. The County works to reduce the amount of pollutants that enter the storm drain system by having staff routinely inspect the storm drain system and document pollution and sources of illegal dumping. We routinely inspect commercial businesses, industrial properties, construction sites, and municipal facilities for stormwater discharges and implementation of appropriate BMPs. Staff also educate the public about causes and impacts of stormwater pollution and methods and benefits of stormwater pollution prevention.

The County reports on selected activities within our jurisdiction such as litter control, street sweeping, illicit discharges, public education and outreach, new development and redevelopment construction site inspections and implementation of associated pollution control measures, water quality monitoring, and municipal maintenance staff training. This information is summarized in the annual reports, which are available at: <http://www.flowstobay.org>.

As part of the MRP requirements, SMCWPPP, as part of the Bay Area Stormwater Management Agencies Association's Regional Monitoring Coalition (RMC), will be sampling waterbodies to characterize potential impacts of stormwater runoff. Waterbodies are selected based on factors such as watershed area, land use, likelihood of urban runoff impacts, and existing monitoring data. The waterbodies listed in the MRP are currently limited to the urban creek areas of the County and do not include the Fitzgerald ASBS. It is not clear that storm drain discharges to the Fitzgerald ASBS would meet these criteria. However, the RMC could potentially select an additional monitoring site(s) draining to the Fitzgerald ASBS if deemed by the RMC of high enough priority relative to the currently proposed sites and if funding were available.

The County is currently implementing measures protective of Fitzgerald ASBS by:

- Reviewing the existing stormwater management program and identifying areas that are applicable to protecting stormwater runoff to the Fitzgerald ASBS.
- Identifying existing source control or other BMPs appropriate for the Fitzgerald ASBS that are effectively implemented at an enhanced level and that may further improve water quality of runoff discharged to the Fitzgerald ASBS. These include:
 - Restricting pesticide and herbicide use
 - Following maintenance practices described in the Fishnet 4C Roads Manual and the County DPW Watershed Protection Program Maintenance Standards
 - Conducting illicit discharge inspections

- Educating County staff and the public about how to reduce stormwater pollution
 - Annually evaluating the effectiveness of BMPs and determining if additional BMPs are needed
- A considerable amount of stormwater runoff from the residential area of the watershed originates on private property. Therefore, the SMCWPPP Stormwater Management Plan (SWMP) will be modified to incorporate public outreach to residents located within the Fitzgerald ASBS. The outreach will focus on educating residents about the significance of the Fitzgerald ASBS and suggested measures for preventing stormwater pollution and protecting the habitat.
 - Modifying the SWMP to include stormwater protection efforts focusing on the Fitzgerald ASBS.
 - Collaborating with local resource agencies such as the San Mateo County Resource Conservation District on planning and restoration projects within the Fitzgerald ASBS watershed to prevent stormwater pollution and improve water quality. Projects include the Fitzgerald Marine Reserve CCA Pilot Project and Watershed Assessment, Fitzgerald ASBS Pollution Reduction Program, San Mateo County RCD Rural Roads Program (County staff on Technical Advisory Committee), San Mateo County Livestock and Land Program (County staff on Technical Advisory Committee).

ASBS protection programs need to be custom-tailored for each ASBS, with actions prioritized and focused on protection of beneficial uses, as with the above programs. County stormwater management funds are limited. If the County were required to fund the proposed storm drain and receiving water monitoring program that is narrowly focused on water chemistry, the above beneficial programs would be adversely impacted.

3) The PDEIR Alternatives Analysis (Section 4.3.1 p. 56) Provides No Technical Basis or Rationale for Rejecting Alternative A: Allow Permitted Storm Water and Nonpoint Source Discharges with No Additional Conditions

The PDEIR provides no technical basis or rationale for rejecting the sole alternative presented to the Special Protections approach for permitted storm water and nonpoint source discharges (Alternative A: Allow Permitted Storm Water and Nonpoint Source Discharges with No Additional Conditions Beyond those in Existing Permits). In the very abbreviated discussion presented, the PDEIR states that "The storm water NPDES permits require the discharger to develop and implement a SWMP or SWPPP with the goal of reducing the discharge of pollutants to the maximum extent practicable (MEP).

However, there is no further analysis or technical information presented to support the following conclusory statement dismissing this Alternative from further consideration:

"However, reduction of pollutants to MEP is not adequately protective of natural water quality in ASBS." (PDEIR p. 57 of 331)

The County finds this dismissive rejection of all the activities conducted by stormwater management (MS4) programs throughout the State to be unacceptable and contrary to CEQA

requirements to conduct a thorough and reasoned analysis of reasonable alternatives to the proposed project (i.e. Special Provisions) subject to CEQA.

As noted in item 1) above, stormwater pollutant sources from the Fitzgerald ASBS watershed are limited due to its rural setting. As noted in item 2) above, the County has numerous programs currently in place and proposed to implement in the near future to address potential sources of stormwater contaminants. The County requests that the PDEIR Alternative A under section 4.3.1 be extensively modified to provide a complete analysis and technical rationale for the conclusory statement that stormwater programs implementation of control measures to achieve reduction of pollutant to MEP is not adequately protective of natural water quality in ASBS.

This analysis should also address the discussion in item 5) below regarding the full legal definition of ASBS where alteration of natural water quality is undesirable.

4) The Proposed ASBS Special Protections Approach is Fundamentally Flawed and Needs to be Replaced by a Collaborative Stakeholder Developed Alternative Sound Science Weight of Evidence Based Approach

The County supports the Monterey Peninsula communities of Pacific Grove, Carmel-By-The-Sea, County and City of Monterey as well as Pebble Beach Company and other interested ASBS stakeholders' request that the SWB develop and employ an Alternate Approach to the proposed Special Protections approach. There are several fundamental and scientifically irreconcilable flaws in the proposed Special Protections approach that mandate an alternative approach be developed and implemented (see comments from Hopkins Marine Station dated March 11, 2011). These include the fact that a meaningful comparison of 'reference' and discharge sites is impossible. This is due to the heterogeneity of the ASBS and candidate reference sites, the statistical invalidity of simply comparing one reference site with one discharge site (i.e. no statistical power), and the high degree of natural variability in the ecosystem. For the Fitzgerald ASBS, there is the significant uncontrollable impact from outgoing flows from San Francisco Bay being conveyed to and through the ASBS depending on prevailing winds, tides, and currents.

The County strongly recommends that the SWB direct staff to convene an inclusive and transparent stakeholder process, similar to the one that resulted in the successful Recycled Water Policy, to develop an Alternative Approach to the Draft Special Protections, similar to that outlined by the Central Coast ASBS stakeholders (excerpted below). The County would be pleased to actively participate in such a collaborative stakeholder process, which we believe can lead to a more widely accepted and more effective ASBS protection program.

Step 1: State-funded Panel would gather the necessary scientific data to define natural water quality in each ASBS and determine whether or not any of the ASBSs are experiencing degradation of water quality which is harming beneficial uses. Degradation would be evaluated relative to the standard of an undesirable alteration in natural water quality. This would maintain consistency with the Public Resources Code (PRC) section 36700(f) definition of State Water Quality Protection Areas (SWQPAs) as "a nonterrestrial marine or estuarine area designated to protect marine species or biological communities from an undesirable alteration in natural water quality, including, but not limited to, areas of special biological significance that

have been designated by the SWB through its water quality control planning process.” (emphasis added)

Step 2: If it is shown that there is statistically significant water quality degradation occurring within an ASBS such that it is adversely impacting beneficial uses, the location(s) and cause(s) of such degradation would be mapped. A determination would be made as to whether the degradation was occurring due to the discharge of pollution into the ASBS, and, if so, what is the pollutant(s) of concern. If the degradation is not being caused by the discharge of pollutants, no restrictions or requirements would be imposed on the dischargers for purposes of mitigating the degradation.

Step 3: If degradation is determined to be caused by the discharge of pollutants, the location(s) of degradation would be compared to the location(s) of existing discharges (e.g. storm drains and natural conveyances like rivers) to determine possible sources of the pollutants.

Step 4: If the location(s) of degradation that is determined to be caused by the discharge of pollutants is in reasonable proximity to an existing storm drain discharge, then the entity responsible for that discharge would be directed to perform end-of-pipe sampling to determine whether or not the pollutant(s) of the type determined to be causing the degradation are being discharged at that location.

Step 5:

- (a) If this sampling finds that the storm drain discharge does not contain appreciable amounts of the pollutant(s), then the discharge would be deemed not to be causing the degradation.
- (b) If the sampling finds that a discharge is a significant contributor of the pollutant(s) associated with the degradation, then the discharger responsible would be required to mitigate those impacts by implementing new or enhanced Best Management Practices (BMPs) and/or source-control measures pursuant to associated MS4 Stormwater Discharge Permits or waste discharge requirements. Compliance would be determined based on receiving water quality measured at the offshore edge of the zone-of-initial-dilution, not end of pipe.

5) The Public Resource Code Section 36700(f) and Ocean Plan Definition of Natural Water Quality Need to be Accurately Referenced throughout the PDEIR, Special Protections, and Related Documents

The Public Resources Code (PRC) section 36750 states that, as of January 1, 2003, all ASBS are now included in the Marine Managed Area category of SWQPAs. PRC section 36700(f) then defines a SWQPA as “a nonterrestrial marine or estuarine area designated to protect marine species or biological communities from an undesirable alteration in natural water quality, including, but not limited to, areas of special biological significance that have been designated by the SWB through its water quality control planning process.” (emphasis added)

The Ocean Plan Appendix I Definition of Terms (p. 24) similarly defines an ASBS as “those areas designated by the State Water Board as ocean areas requiring protection of species or biological communities to the extent that alteration of natural water quality is undesirable. All Areas of Special Biological Significance are also classified as a subset of STATE WATER QUALITY PROTECTION AREAS.” (emphasis added)

The PDEIR cites the above PRC definition of the ASBS (p. 41) and cites the above OP Appendix I definition of the ASBS (p. 38). Inclusion of the term "undesirable" relative to the definition of the degree of alteration of natural water quality incorporates the concept that some degree of water quality alteration may be able to occur while still reasonably protecting beneficial uses.

However, the PDEIR, first on p. 22 and continuing thereafter including in the Special Protections (Appendix 1), deletes the term "undesirable" from the PRC statutory definition and the OP regulatory definition. The definition is changed from "*alteration of natural water quality is undesirable*" to "In order not to compromise beneficial uses, natural water quality must be **maintained** in an ASBS." (emphasis added)

The PDEIR and Special Protections also uses slight variations on the above "natural water quality must be **maintained**" definition including "Discharges composed of stormwater shall not alter natural ocean water quality in an ASBS" (Appendix 1 p. B-2) or that "natural water quality conditions in the receiving water are **achieved and maintained**" (Appendix 1 p. B-4). (emphasis added)

The County believes that staff's omission of the word "undesirable" relative to assessing changes in natural water quality is problematic. When evaluating the impact of stormwater discharges on an ASBS, this serves to shift the benchmark from a weight of evidence approach to an absolute, no change (i.e. non-degradation) compliance approach. This alternative and more stringent definition of natural water quality appears to be used at least in part as the basis for proposing in the Special Protections that stormwater discharges (at a minimum from 36-inch and larger diameter pipes) need to comply at the end-of-pipe with Ocean Plan Table B toxic pollutant Water Quality Objectives (WQO).

This is equivalent to establishing end-of-pipe water quality effluent limits for intermittent stormwater discharges. This approach is contrary to the Ocean Plan, which calculates and establishes Table B WQO (intended for continuous wastewater and industrial discharges) as the edge of the mixing zone (i.e. after initial dilution).

6) The SWB Natural Water Quality Committee Found Problems with the Conceptual NWQ Approach and an Absence of Measured Chemical Water Quality Impacts in ASBS Monitoring Data

The SWB created its own "Natural Water Quality Committee" which released a report in September 2010 titled "*Summation of Findings - Natural Water Quality Committee, 2006-2009.*" The following are several excerpts from that report:

- The Committee felt that even if anthropogenic land-based waste discharges were to be completely eliminated from a section of coastline, there would be no guarantee that natural water quality would be reestablished there. Aerial deposition, pollutants carried by oceanic currents from distant sources, and vessel discharges may influence water quality conditions.
- Based on recent studies at targeted reference sites in southern California, the Committee found that average water quality in the ASBS they evaluated was very similar to reference

sites that were selected to approximate what ambient marine water quality would be like in the absence of (or minimally influenced by) waste discharges, i.e. "Natural Water Quality."

- At times concentrations of certain constituents at reference sites were higher than concentrations in the Table B water quality objectives listed in the California Ocean Plan.
- An SWB-funded statewide survey conducted in 2008-2009 found generally good chemical water quality in the ASBS sites that were sampled. None of the constituents measured exceeded the instantaneous maximum objectives listed in the California Ocean Plan (the appropriate "benchmark" for intermittent stormwater discharges).
- One concern related to the management and regulation of a specific ASBS is that the conditions of the ambient receiving waters may be influenced as much, or more, by discharges outside of the ASBS. These external ASBS discharges, if large enough, may overwhelm discharges inside the ASBS.

This Committee's work shows that little to no impact on the quality of water in the ASBSs that were monitored was found to be occurring as a result of the current stormwater discharges into them.

Department of Public Works



COUNTY OF SAN MATEO

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DIRECTOR

May 20, 2011

Ms. Constance Anderson
State Water Resource Control Board
Division of Water Quality
Connie Anderson
P.O. Box 100
Sacramento, CA 95812-0100

Dear Ms. Anderson:

Re: Corrections to Drainages for James V. Fitzgerald ASBS – Appendix 5: List of Drainages in All of the ASBS

The following information is being provided in response to the updated list of ASBS (Areas of Special Biological Significance) drainages for the James V. Fitzgerald ASBS located in San Mateo County. This list is referenced as *Appendix 5: Lists of Drainages in All of the ASBS – this is a Working Draft (List) to the Program Draft Environmental Impact Report: Exception to the California Ocean Plan for Areas of Special Biological Significance Water Discharge Prohibition for Stormwater and Nonpoint Source Discharges with Special Protections (PDEIR)*, which is posted on the State Water Resources Control Board website. Discharge points on this List will be subject to Special Protections regulating discharges of stormwater to the ASBS. Therefore, it is important that information on the List be as accurate as possible. To that end, County of San Mateo (County) staff conducted field verification of the discharge points listed for James V. Fitzgerald ASBS. Results of the field verification showed errors and inconsistencies in the following information:

- Responsibility Party
- Source Code
- Pipe Size and Material

In addition, some discharge points were found to have no potential discharge. Lastly, a County storm drain located on Wienke Way should be added to the list. The following information is provided to support needed corrections to the List.

Correct Information for Discharge Points. The primary corrections to the List are changes to the responsible party and source code. In addition, a few corrections are needed for pipe size and material. The attached Table 1 lists the requested corrections for the James V. Fitzgerald ASBS discharges.

Ms. Anderson, State Water Resource Control Board, Division of Water Quality
Re: **Corrections to Drainages for James V. Fitzgerald ASBS – Appendix 5:**
List of Drainages in All of the ASBS
May 20, 2011

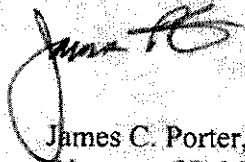
Page 2

Add to List – Discharge Located on Wienke Way. The County maintains a 36-inch concrete storm drain pipe on Wienke Way. This storm drain was apparently missed during field documentation by the Southern California Coastal Water Research Project (2003). This pipe receives flow, primarily when it is raining, from Highway 1 and the surrounding residential area. It is recommended that this discharge point be added to the List. Photographs and coordinates of this discharge can be provided upon request. The County and Caltrans should be listed as the Responsible Parties.

Removal from List - Discharge Points with No Potential for Discharge. Discharge points FIT011, FIT013, and FIT014 are located in an area of natural coastal bluff erosion and are adjacent to an informal trail system. There are no drainage pipes at these locations. FIT023 is an inactive drainage pipe that no longer receives stormwater. FIT039 has been removed by the County. It is recommended that FIT011, FIT013, FIT014, FIT023, and FIT039 be removed from the List. Photographs of these discharge points can be provided upon request.

We appreciate the opportunity to make the List as accurate as possible. Please contact Julie Casagrande (650-599-1457) or myself (650-599-1421) if you have any questions regarding this information.

Very truly yours,



James C. Porter, P.E.
Director of Public Works

JCP:AMS:MC:jc

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Enclosures: Table 1.

cc: Mr. Dane Hardin, Applied Marine Sciences, 911 Center Street, Suite A, Santa Cruz, CA 95060
Mr. Matt Fabry, Program Coordinator, San Mateo Countywide Water Pollution Prevention Program, 50 Park Place, Brisbane, CA 94005-1310
Mr. Tom Hall, EOA, Inc., 1410 Jackson Street, Oakland, CA 94612

Table 1. Requested Corrections to List of Drainages to James V. Fitzgerald ASBS

Sample ID	Responsible Parties Corrections	Source Code Corrections	Other Corrections	Reason for Correction
FIT002	County and Caltrans	No change	none	Responsible parties currently listed as Caltrans. Flow is from the County and Caltrans to a County-maintained storm drain pipe.
FIT003	County and Caltrans	No change	none	Responsible parties listed as Caltrans. Flow is from the County and Caltrans to a County-maintained storm drain pipe.
FIT006	County	No change	none	Responsible parties currently listed as Caltrans. Flow is from the County and not Caltrans.
FIT008	County and Caltrans	No change	Pipe diameter is 12 inches.	Responsible parties currently listed as Caltrans. Flow is from the County and Caltrans to a County-maintained storm drain pipe. Width listing is currently incorrect.
FIT009	County and Caltrans	No change	Material is ADS (polyethylene).	Responsible parties currently listed as Caltrans. Flow is from the County and Caltrans to a County-maintained storm drain pipe. Material listing is currently incorrect.
FIT010	Waters of the State	stream	none	Source code currently listed as gully. Drainage is Montara Creek.
FIT011	none	Non-point	none	Source code currently listed as muni/industrial storm drain. However, there are no storm drains or pipes present at this location.
FIT012	County and Caltrans	Muni/industrial storm drain	none	Flow is from the County and Caltrans to a non County-maintained drainage and concrete gutter located on County-owned property. Source code currently listed as small storm drains.
FIT015	County and Caltrans	Muni/industrial storm drain	none	Flow from County and Caltrans to an earthen ditch and County-maintained 12-inch storm drain pipe into a 20" earthen gully. Source code currently listed as non-point.
FIT016	Private	No change	none	No County-maintained roadways or storm drain pipes at this location.
FIT017	Private	Small storm drains	none	No County-maintained roadways or storm drain pipes at this location. Source code currently listed as muni/industrial storm drain.
FIT018	Private	Small storm drains	none	No County-maintained roadways or storm drain pipes at this location. Source code currently listed as muni/industrial storm drain.
FIT019	Private	Small storm drains	none	No County-maintained roadways or storm drain pipes at this location. Source code currently listed as muni/industrial storm drain.
FIT020	Private	No change	none	No County maintained roadways or storm drain pipes at this location.
FIT021	Private	No change	none	No County-maintained roadways or pipes at this location.

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Sample ID	Responsible Parties Corrections	Source Code Corrections	Other Corrections	Reason for Correction
FIT022	Waters of the State	stream	none	Source code currently listed as muni/industrial storm drain. Drainage is Dean Creek.
FIT026	No change	No change	Dirt and gravel access trail	Material currently listed as asphalt.
FIT027	none	No change	Pipe diameter is 15 inches.	Width listing is currently incorrect.
FIT028	Private	Small storm drains	none	Not a County-maintained storm drain. Source code currently listed a muni/industrial storm drain.
FIT029	No change	No change	Pipe diameter is 15 inches. Material is CMP.	Width and material listings currently incorrect.
FIT030	Waters of the State	No change	none	Natural seep from coastal bluff (open space).
FIT031	Waters of the State	No change	none	Natural seep from coastal bluff (open space).
FIT032	Waters of the State	No change	none	Natural seeps from coastal bluff (open space).
FIT033	Waters of the State	No change	none	Natural seep from coastal bluff (open space).
FIT034	Waters of the State	No change	none	Natural seep from coastal bluff (open space).
FIT035	Waters of the State	No change	none	Natural seep from coastal bluff (open space).
FIT037	Waters of the State	No change	none	Natural seep from coastal bluff (open space).
FIT040	Private Montara Water and Sanitary District	No change	none	No County-maintained roadways or storm drain pipes at this location. Facility owned and operated by the Montara Water and Sanitary District.