

State Water Resources Control Board



Terry Tamminen
Secretary for Environmental
Protection

Executive Office

1001 I Street • Sacramento, California 95814 • (916) 341-5615
Mailing Address: P.O. Box 100 • Sacramento, California • 95812-0100
Fax (916) 341-5621 • <http://www.swrcb.ca.gov>



Arnold Schwarzenegger
Governor

TO: Dave Schaub
Department of Parks and Recreation
PO Box 942896
Sacramento, CA 94296-0001

Original signed by Tom Howard for

FROM: Celeste Cantú
Executive Director
EXECUTIVE OFFICE

DATE: October 18, 2004

SUBJECT: PROHIBITION OF WASTE DISCHARGES INTO AREAS OF SPECIAL
BIOLOGICAL SIGNIFICANCE

The California Ocean Plan (Ocean Plan), adopted by the State Water Resources Control Board (State Board) and approved by the U.S. Environmental Protection Agency (U.S. EPA), lists 34 coastal marine waters which the State Board has designated as Areas of Special Biological Significance (ASBS). ASBS are defined as “those areas designated by the State Board requiring protection of species or biological communities to the extent that alteration of natural water quality is undesirable.”

The Ocean Plan, Section III.E.1., requires that: “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.” “Waste” is defined as the “total discharge, of whatever origin.” The Department of Parks and Recreation (Department) is responsible for discharges from storm drains (dry and wet weather runoff) and other nonpoint sources into the following ASBS:

- Redwood National Park ASBS
- Pygmy Forest Ecological Staircase ASBS
- Gerstle Cove ASBS
- Ano Nuevo Point and Island ASBS
- Carmel Bay ASBS
- Point Lobos Ecological Reserve ASBS
- Julia Pfeiffer Burns Underwater Park ASBS
- Mugu Lagoon to Latigo Point ASBS
- Irvine Coast Marine Life Refuge ASBS

California Environmental Protection Agency

These discharges are subject to the prohibition against waste discharges to an ASBS.

ASBS are now also classified as State Water Quality Protection Areas (SWQPAs) pursuant to Section 36750 of the Public Resources Code (PRC). Section 36700 (f) of the PRC, as amended by SB 512, now states: "A "state water quality protection area" is 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 State Water Resources Control Board through its water quality control planning process. "Areas of special biological significance" are a subset of state water quality protection areas, and require special protection as determined by the State Water Resources Control Board pursuant to the California Ocean Plan adopted and reviewed pursuant to Article 4 (commencing with Section 13160) of Chapter 3 of Division 7 of the Water Code and pursuant to the Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Waters and Enclosed Bays and Estuaries of California (California Thermal Plan) adopted by the state board." Further, Section 36710 (f) of the PRC, as amended by SB 512, now states: "In a state water quality protection area, waste discharges shall be prohibited or limited by the imposition of special conditions in accordance with the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) and implementing regulations, including, but not limited to, the California Ocean Plan adopted and reviewed pursuant to Article 4 (commencing with Section 13160) of Chapter 3 of Division 7 of the Water Code and the Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Waters and Enclosed Bays and Estuaries of California (California Thermal Plan) adopted by the state board. No other use is restricted."

This classification does not change the ASBS designated use for these areas. Practically speaking, this means that waste discharges to ASBS are prohibited under the Ocean Plan unless an exception is granted. Information regarding the Ocean Plan, ASBS/SWQPAs, or existing exceptions to the Ocean Plan may be found at <http://www.swrcb.ca.gov/plnspols/oplans/index.html>.

The Ocean Plan, Section III.I.1, allows the State Board to grant exceptions to this prohibition provided that the exception "will not compromise protection of ocean waters for beneficial uses, and, [t]he public interest will be served." Prior to granting an exception, the State Board must hold a public hearing, and there must be compliance with the California Environmental Quality Act (CEQA). The U.S. EPA also must concur.

Because the Department does not already have an exception issued by the State Board for discharges to any of the listed ASBS, the Department is required to cease discharging. You may, however, request an exception to the prohibition if you believe your discharge will not compromise protection of ocean waters for beneficial uses, and the public interest will be served. Please notify the State Board prior to January 1, 2005 whether you intend to cease discharging to the specified ASBS or whether you will seek an exception. We will discuss further steps with you subsequently. Your response should be sent to Dominic Gregorio of the Division of Water

Quality, Ocean Standards Unit, with copies sent to the applicable Regional Water Quality Control Boards.

The State Board staff will hold a workshop, at a date and location as yet to be determined, for those parties interested in pursuing an exception. The purpose of this workshop will be to provide information on the procedures for applying for an exception, and possible funding sources that may be available to address discharges into ASBS. You will receive an invitation to this workshop in the near future.

If you have any questions, please feel free to contact Stan Martinson, Chief, Division of Water Quality, at (916) 341-5458 (marts@swrcb.ca.gov) or Dominic Gregorio, Division of Water Quality, Ocean Standards Unit, at (916) 341-5488 (gregd@swrcb.ca.gov) .

cc: Ruth Coleman, Director
Department of Parks and Recreation

Mike Chrisman, Secretary
Resources Agency

Terry Tamminen, Secretary
California Environmental Protection Agency

Catherine Kuhlman, Executive Officer
North Coast Regional Water Quality Control Board

Roger W. Briggs, Executive Officer
Central Coast Regional Water Quality Control Board

Jonathan Bishop, Executive Officer
Los Angeles Regional Water Quality Control Board

Gerard Thibeault, Executive Officer
Santa Ana Regional Water Quality Control Board

John Robertus, Executive Officer
San Diego Regional Water Quality Control Board

bcc: Board members, EXEC
Tom Howard, EXEC
Sheila Vassey, OCC
Betsy Jennings, OCC
John Norton, OSI
Stan Martinson, DWQ
John Ladd, DWQ
Gerald Bowes, DWQ
Bruce Fujimoto, DWQ
Syed Ali, DWQ
Frank Palmer, DWQ
Frank Roddy, DWQ
Dominic Gregorio, DWQ

W:\Standards\Letters\Dominics 5 letters\Dave Schaub - Parks and Rec.DOC