



**Alan C. Lloyd, Ph.D.**  
*Agency Secretary*

# State Water Resources Control Board

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## Division of Water Quality

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**Arnold Schwarzenegger**  
*Governor*

August 18, 2005

Mr. Thomas F. Casey III, County Counsel  
Hall of Justice and Records, 6<sup>th</sup> Floor  
County of San Mateo  
400 County Center  
Redwood City, CA 94063-1662

Dear Mr. Casey:

### REQUEST FOR EXCEPTION FOR DISCHARGES INTO AREAS OF SPECIAL BIOLOGICAL SIGNIFICANCE

This letter is to acknowledge the receipt by the State Water Resources Control Board (State Water Board) of your letter dated March 14, 2005, which expressed your intent to seek an exception from the California Ocean Plan (Ocean Plan) waste discharge prohibition for your discharges into the James V. Fitzgerald Area of Special Biological Significance (ASBS). The following specific information needs to be submitted, by May 31, 2006, to support the State Water Board's consideration of an exception to the Ocean Plan for discharges to ASBS:

1. The discharger's name, address, and contact information.
2. Any applicable permit or order numbers, if the discharge is or has been regulated under a National Pollutant Discharge Elimination System (NPDES) Permit or Waste Discharge Requirements.
3. A signed statement requesting coverage under an exception from the ASBS waste discharge prohibition found in Sections III.E.1 and III.H.2 of the Ocean Plan.
4. Documentation that shows that allowing the discharge of storm water runoff to continue will not compromise protection of ocean waters for beneficial uses. Note that one beneficial use is the preservation and enhancement of ASBS, which are defined as "those areas designated by the [State Water Board] as requiring protection of species or biological communities to the extent that alteration of natural water quality is undesirable." This means that any data that you may have on the status and description of marine life in the ASBS, and on the natural background of the ASBS, are relevant and must be submitted. At a minimum, you must submit a representative, quantitative description of marine life near the discharges and at a reference location away from the discharges.
5. An analysis of all available historical data on discharge volume, chemical and physical constituents, toxicity, and indicator bacteria in the runoff and in the ambient marine water of the ASBS. At a minimum, the information must include the measurement of a representative

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sample within the last two years or the upcoming storm season (runoff and adjacent marine receiving water) during a storm event for each of the following constituents:

- a. total Ocean Plan metals
- b. polynuclear aromatic hydrocarbons (PAHs)
- c. oil and grease
- d. ammonia nitrogen
- e. acute toxicity for a marine species
- f. critical life stage (chronic) toxicity for three marine species
- g. indicator bacteria including total coliform, fecal coliform (or *E. coli*), and enterococcus.

The applicable Ocean Plan detection limits and other applicable monitoring requirements must be adhered to in performing this work. If you are responsible for more than ten municipal discharge points, then a representative sample must be (or have been) collected and analyzed for one of every ten discharge points. All samples must be collected during a storm event that is greater than 0.1 inch and at least 72 hours from the previously measurable storm event. Where feasible, the variance in the duration of the event and the total rainfall of the event should not exceed 50 percent from the average or median rainfall event in that area.

6. A characterization of the watershed areas draining to the ASBS in terms of land use, population density, and percentage of impervious surface. If there is land under your jurisdiction where pesticides or herbicides are applied, provide a listing of such treatments in terms of the chemicals and application rates.
7. A description of current treatment processes, pollution controls, and/or best management practices currently used or planned (with a schedule for implementation).
8. An analysis of alternatives to the discharge and their impacts if implemented.
9. Compliance history for drainages into the ASBS, including any spills or upset events that resulted in the discharge of toxic or otherwise prohibited substances, including untreated or partially treated wastewater.
10. Documentation that shows that the public interest will be served by granting the exception.

Please send this information to the State Water Board, Division of Water Quality, attention Dominic Gregorio, and to the Executive Officer of the San Francisco Bay Regional Water Quality Control Board (San Francisco Bay Water Board).

It is unfortunate that your staff was unable to attend the State Water Board's first stakeholder workshop on ASBS issues held in La Jolla on January 13, 2005. However, the State Water Board is holding a workshop in Monterey on August 31, 2005 to discuss the ASBS exception process. At that workshop, staff will propose the concept of a general exception as one option for addressing storm water runoff into ASBS. The exception process may be amended following the workshop. However, any exception is likely to include minimizing or eliminating dry weather flows, and reducing pollutants draining to ASBS to maintain natural water quality in the receiving waters. In the meantime, you are requested to plan for and institute best management

practices to eliminate or minimize dry weather flows and to reduce pollutants in storm water runoff.

If the State Water Board issues an exception, the San Francisco Bay Water Board may allow your discharges to be covered under the Phase I Municipal Separate Storm Sewer Systems NPDES Permit, with appropriate provisions required in your storm water management plan. In all cases, the San Francisco Bay Water Board will enforce the mitigation measures described in the exception if it is granted by the State Water Board.

Finally, you expressed interest in participation in a Critical Coastal Area pilot project to address discharges into the ASBS. We encourage you to work with the Coastal Commission staff and the staff of the State and Regional Water Boards within the Critical Coastal Area program. The Critical Coastal Area program is a non-regulatory program and therefore does not substitute the need for an exception. However, the development of a pilot project in the watersheds draining to the ASBS will likely be instrumental in reducing waste loads into that ASBS, a goal that we all share. Furthermore, the management measures developed in a pilot project will better prepare you for compliance with the conditions of an exception issued by the State Water Board.

If you have any questions, feel free to contact me at (916) 341-5458 or [smartinson@waterboards.ca.gov](mailto:smartinson@waterboards.ca.gov), or Dominic Gregorio, Chief of the Ocean Standards Unit, Division of Water Quality, at (916) 341-5488 or [dgregorio@waterboards.ca.gov](mailto:dgregorio@waterboards.ca.gov).

Sincerely,

*Original signed by*

Stan Martinson, Chief  
Division of Water Quality

cc: Mr. Bruce H. Wolfe, Executive Officer  
San Francisco Bay Regional Water Quality Control Board  
1515 Clay St. Suite 1400  
Oakland, CA 94612

Bcc: Celeste Cantú, EXEC  
Tom Howard, EXEC  
Sheila Vassey, OCC  
John Ladd, DWQ  
Bruce Fujimoto, DWQ  
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