October 18, 2004

Mr. Richard Napier, Executive Director, CCAG
County of San Mateo
555 County Center, 5th Floor
Redwood City, CA  94063

Dear Mr. Napier:

PROHIBITION OF WASTE DISCHARGES INTO THE JAMES V. FITZGERALD MARINE RESERVE AREA 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.” Your discharge of storm water (dry and wet weather runoff) into the James V. Fitzgerald Marine Reserve Area of Special Biological Significance is subject to the prohibition against waste discharges to an ASBS.

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 must also concur.

Information regarding the Ocean Plan, ASBS, or existing exceptions to the Ocean Plan may be found at http://www.swrcb.ca.gov/plnspols/oplans/index.html.

Because you do not already have an exception issued by the State Board for discharges to the ASBS, you are 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 a copy sent to the San Francisco Bay Regional Water Quality Control Board.

The State Board staff will hold a workshop, at a date and location as yet to be determined, for those parties interested in pursing 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).

Sincerely,

Original signed by Tom Howard for

Celeste Cantú
Executive Director

cc:  Ms. Kathryn Slater-Carter, Chair
     Midcoast Community Council
     Post Office Box 64
     Moss Beach, CA 94038-0064

     Mr. Mark Church, President
     San Mateo County Board of Supervisors
     Hall of Justice
     400 County Center
     Redwood City, CA 94063

     Mr. Robert Davidson, Coordinator
     San Mateo County Stormwater Pollution Prevention Program
     310 Capstain Court
     Redwood City, CA 94065

     Mr. Bruce Wolfe, Executive Officer
     San Francisco Bay Regional Water Quality Control Board
     1515 Clay Street, Suite 1400
     Oakland, CA 94612
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
    Frank Palmer, DWQ
    Frank Roddy, DWQ
    Dominic Gregorio, DWQ

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