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## State Water Resources Control Board

**DRAFT FINAL**  
**MITIGATED**  
**NEGATIVE DECLARATION**  
Pursuant to Section 21080(c)  
Public Resources Code

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To: Office of Planning & Research State Clearinghouse 1400 Tenth Street Sacramento, CA 95814	From: State Water Resources Control Board Division of Water Quality 1001 I Street Sacramento, CA 95814
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**Project Title:** Exception to the California Ocean Plan for the Monterey Bay Aquarium Discharge into the Pacific Grove Area of Special Biological Significance

**Applicant:** Monterey Bay Aquarium  
886 Cannery Row  
Monterey, CA 93940

**Project Description:** The Monterey Bay Aquarium (MBA) seeks an exception from the California Ocean Plan's prohibition on discharges into Areas of Special Biological Significance (ASBS). The exception with conditions, if approved, would allow their continued waste seawater and storm water discharges into and adjacent to the Pacific Grove ASBS.

### Terms and Conditions:

#### Seawater System

The discharge must comply with all other applicable provisions, including water quality standards, of the Ocean Plan. Natural water quality conditions in the receiving water must not be altered as a result of the discharge(s) and marine communities must be protected from pollution. Natural Ocean Water Quality will be determined by a comparison to the range of constituent concentrations in reference areas agreed upon via the regional monitoring program(s) or in the absence of a Central Coast regional monitoring program by the State Water Board in consultation

with the Central Coast Regional Water Quality Control Board (Regional Water Board).

MBA will not discharge chemical additives, including antibiotics, in the seawater discharge system effluent. In addition and at a minimum, MBA, for its seawater effluent, must comply with effluent limits implementing Table B water quality objectives as required in Section III.C. of the Ocean Plan.

MBA must pursue and implement a program for prevention of Biological Pollutants (non-native invasive species) in consultation with the California Department of Fish and Game Marine Resources Division.

### **Dry Weather Flows**

MBA must continue to prevent all discharges of non-storm water facility runoff (i.e., any discharge of facility runoff that reaches the ocean that is not composed entirely of storm water), except those associated with the operation and maintenance of the seawater system, and emergency fire fighting.

MBA must specifically address the prohibition of non-storm water runoff and the reduction of pollutants in storm water discharges draining to the ASBS in a Storm Water Management Plan/Program (SWMP).

The SWMP must describe the measures by which non-storm water discharges have been eliminated, how these measures will be maintained over time, and how these measures are monitored and documented.

### **Storm Water Runoff**

The SWMP must also address storm water discharges, and how pollutants have been and will be reduced in storm water runoff into the ASBS through the implementation of BMPs. The SWMP must describe the BMPs currently employed and BMPs planned (including those for construction activities), with an implementation schedule.

Discharges must be free of trash, petroleum products and pesticides.

The BMPs and implementation schedule must be designed to ensure natural water quality conditions in the receiving water due to either a reduction in flows from impervious surfaces or reduction in pollutants (with Table B Instantaneous Maximum objectives measured in the effluent as target levels), or some combination thereof. The implementation schedule must be developed to ensure that the BMPs are implemented within one year of the approval date of the SWMP by the Regional Water Board.

The SWMP must include a map of surface drainage of storm water runoff, including areas of sheet runoff, and any structural Best Management Practices employed. The map must also show the storm water conveyances in relation to other facility features such as the laboratory seawater system and discharges, service areas, sewage treatment, and waste and hazardous materials storage areas. The SWMP must also include a procedure for updating the map and plan when other changes are made to the facilities.

MBA is required to submit their final SWMP to the Regional Water Board within one year of the effective date of this exception.

### **Waterfront Management Plan**

MBA must prepare a waterfront and marine operations non-point source management plan containing appropriate management practices to address non-point source pollutant discharges. Appropriate management measures will include those described in the State's Non-point Source Program Implementation Plan for marinas and recreational boating, as applicable. The Regional Water Board staff, in consultation with the State Water Board's Division of Water Quality staff, will review the plan. The Regional Water Board must appropriately regulate non-point source discharges in accordance with the State Water Board's Policy for Implementation and Enforcement of the Non-point Source Pollution Control Program. The plan must be implemented within six months of its approval.

### **Monitoring**

#### *Rocky Intertidal Marine Life Survey*

At least once every permit cycle (every five years), a quantitative survey of rocky intertidal marine life must be performed near the discharge and at a reference site. The Regional Water Board staff, in consultation with the State Water Board's Division of Water Quality staff, must approve the survey design. The results of the survey must be completed and submitted to the Regional Water Board **at least six months prior to** permit expiration. Alternatively this requirement may be met by participation in a regional monitoring program approved by the State Water Board staff.

#### *Bioaccumulation Study*

Once during the upcoming permit cycle, a bioaccumulation study using California mussels (*Mytilus californianus*) must be conducted to determine the concentrations of metals near the discharge and at a reference site. The Regional Water Board staff, in consultation with the State Water Board's Division of Water Quality staff, is to approve the study design. The results of the survey must be completed and submitted to the Regional Water Board at least six months prior to the permit expiration. Based on the study results, the Regional Water Board staff, in

consultation with the Division of Water Quality staff, may adjust the study design in subsequent permits, or add additional test organisms. Alternatively this requirement may be met by participation in a regional monitoring program approved by the State Water Board staff.

### *Sediment Study*

Once annually, the subtidal sediment near the discharge and at a reference site must be sampled and analyzed for Ocean Plan Table B constituents. For sediment toxicity testing, only an acute toxicity test using the amphipod *Eohaustorius estuarius* must be performed.

Based on the first year sample results the Regional Water Board staff will determine specific constituents to be tested during the remainder of each permit cycle, except that acute toxicity for sediment must be tested annually. **The Regional Board may subsequently alter this requirement once beneficial uses are shown to be protected. If initial results show no impact, than sediment toxicity study may be changed to once per permit cycle. Alternatively this requirement may be met by participation in a regional monitoring program approved by the State Water Board staff.**

### *Butyltin Study*

**A butyltin study must be performed during the first year of the permit cycle for water, sediment and marine life in the Monterey Boat Yard vicinity. The marine life bioaccumulation study may use crabs or mussels as the target species. Collaboration between HMS, Monterey Bay Aquarium and the City of Pacific Grove is encouraged as a collaborative approach for these studies.**

### *Waste Seawater Effluent Monitoring*

Flows for the seawater discharge system discharging near the ASBS must be measured monthly and reported quarterly to the Regional Water Board.

During the first year of each permit cycle, quarterly effluent samples must be collected from the waste seawater discharge. These samples must be analyzed for Ocean Plan Table A constituents (except oil and grease), Ammonia N, Biochemical Oxygen Demand, salinity, and temperature. Total residual chlorine (TRC) should also be monitored and meet Table B effluent limits.

Once annually, one of the effluent samples collected from the waste seawater discharge must be analyzed additionally for Ocean Plan Table B constituents (for marine life, except acute toxicity). Based on the results from the first year the Regional Water Board staff will determine the Table B constituents to be tested annually during the remainder of the permit cycle, except that ammonia nitrogen and chronic toxicity for at least one consistent invertebrate or algal species must be tested at least annually for the waste seawater effluent.

### *Storm Water Runoff Monitoring*

Flows for storm water runoff (by storm event) must be measured (or estimated) monthly and reported annually to the Regional Water Board.

The Hovden Way storm water outfall is a large storm drain carrying co-mingled flows with the City of Monterey and must be monitored. Monitoring of this storm drain in collaboration with the City of Monterey is encouraged, alternatively, MBA may elect to sample their storm water effluent at the confluence prior to co-mingling with the City of Monterey.

Once annually, during wet weather (storm event), the storm water runoff effluent must be sampled and analyzed from each storm drain for all Ocean Plan Table A constituents, and indicator bacteria. Sampling small storm drains on a rotating basis or composite basis may be used, and must include all drains throughout MBA even if outside ASBS boundary due to their proximity.

Once every permit cycle, during wet weather (storm event) on a rotating basis among discharge points, the storm water runoff effluent must be sampled and analyzed additionally for Table B constituents (for marine aquatic life except acute toxicity), PAHs, pyrethroids, and OP Pesticides.

The Regional Water Board may, at its discretion, after receiving and analyzing the required water quality monitoring data, choose to reduce and/or eliminate certain monitoring requirements for constituents that routinely are found in concentrations below Ocean Plan objectives.

### *Receiving Water Monitoring*

At least once per a permit cycle the receiving water adjacent to the seawater discharge system and storm water discharges must be sampled 24 hours prior to a storm event.

The receiving water adjacent to the seawater discharge system and storm water discharges must also be monitored during or immediately after a storm (Wet wather). Receiving water samples must be collected when annual waste effluent and storm water effluent is sampled and analyzed for the same constituents as the waste seawater samples and storm water samples. Wet weather samples in the receiving water may be collected immediately following a storm event, but in no case more than 24 hours after, if sampling conditions are unsafe during the storm. The sample location for the receiving water will be in the surf zone immediately adjacent to the outfall location where effluent is sampled. Optionally, specifically for storm runoff receiving water samples, samples may be composited.

For receiving water monitoring, alternatively, this requirement may be met by participation in a regional monitoring program approved by State Water Board staff.

### *Reference Site Monitoring*

Reference samples must also be monitored at the same time as the effluent samples and analyzed for the same constituents as annual waste seawater samples and storm water samples. Reference samples must be collected in the ocean at a station determined via a regional monitoring program, or, in the absence of such program, by State Water Board staff. Samples at the reference station during wet weather may be collected immediately following a storm event, but in no case more than 24 hours after, if sampling conditions are unsafe during the storm. Wet weather reference samples must be collected at the point where runoff from a reference watershed enters the ocean in the surf zone.

Alternatively this requirement may be met by participation in a regional monitoring program approved by State Water Board staff.

### **Metals Analysis**

For metals analysis, storm water effluent, reference samples, and receiving water samples must be analyzed by the approved analytical method with the lowest minimum detection limits (currently Inductively Coupled Plasma/ Mass Spectrometry) described in the Ocean Plan.

### **Alteration of Natural Water Quality**

If monitoring information indicates that *natural ocean water quality* is not maintained, but there is sufficient evidence that a discharge is not contributing to the alteration of natural water quality, then Regional Water Board staff may make that determination. In this case, sufficient information must include runoff and seawater system effluent sample data that has equal or lower concentrations for the range of constituents at the applicable reference area(s).

If the results of receiving water monitoring indicate that the storm water runoff is causing or contributing to an alteration of natural water quality in the ASBS, as measured at the reference station(s), MBA is required to submit a report to the Regional Water Board within 30 days of receiving the results. Those constituents in storm water that alter natural water quality or Ocean Plan receiving water objectives must be identified in that report. The report must describe BMPs that are currently being implemented, BMPs that are planned for in the SWMP, and additional BMPs that may be added to the SWMP. The report shall include a new or modified implementation schedule. The Regional Water Board staff may require modifications to the report. Within 30 days following approval of the report by the Regional Water Board staff, MBA must revise its SWMP to incorporate any new or modified BMPs that have been and will be implemented, the implementation schedule, and any additional monitoring required. As long as MBA has complied with the procedures described above and is implementing the revised SWMP, then

MBA does not have to repeat the same procedure for continuing or recurring exceedances of the same constituent.

**Construction Activity Potentially Affecting the ASBS**

MBA will notify the Regional Water Board within 180 days prior to any construction activity that could result in any discharge or habitat modification in the ASBS. Furthermore MBA must receive approval and appropriate conditions from the Regional Water Board staff prior to performing any significant modification, re-building or renovation of the facilities that drain to the ASBS, per the requirements of Section III.E.2 of the Ocean Plan.

**Implementation in Permits**

The Regional Water Board is required to include these mitigating conditions in a NPDES permit for the seawater effluent. Alternatively, the Regional Water Board may regulate the storm water discharge in a storm water NPDES permit, Waste Discharge Requirements, or a Conditional Waiver of Waste Discharge Requirements. In this case, the Regional Water Board is also required to include those conditions relative to storm water in that permit. In the latter case, all conditions would be included, in some combination, in the waste seawater effluent permit and the storm water permit.

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Adopted by the State Water Resources Control Board on \_\_\_\_\_, 2011.

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Jeanine Townsend  
Clerk to the Board

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Date