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April 18, 2012

Submitted via email: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

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Clerk of the Board  
State Water Resources Control Board  
1001 I Street, Sacramento, CA 95814



**SUBJECT:** Proposed Amendment to the California Ocean Plan Regarding Designating State Water Quality Protection Areas (SWQPA) to Protect Marine Protected Areas

The Orange County Sanitation District (OCSD) appreciates this opportunity to provide written comments on the State Water Resources Control Board's (SWRCB) proposed amendments to the California Ocean Plan (COP) regarding designating State Water Quality Protection Areas (SWQPA) to protect Marine Protected Areas. Our comments focus on the provisions related specifically to municipal wastewater activities, permit obligations and infrastructure.

OCSD is a publicly owned wastewater agency, operating two treatment plants, one in the city of Fountain Valley and the other in the city of Huntington Beach, California. For more than 50 years, OCSD has been safely collecting, treating, disposing, and reclaiming wastewater generated by 2.5 million people living and working in central and northwestern Orange County. Each day OCSD treats approximately 200 million gallons of wastewater, recycles 70 million gallons into the Groundwater Replenishment System, and discharges treated and disinfected secondary effluent into coastal marine waters. OCSD is committed to protecting the ocean environment through an extensive ocean monitoring program that evaluates and protects water quality, the marine environment and public health.

OCSD has reviewed the Draft Staff Report and Substitute Environmental Document on the proposed amendments to the CAP specifically addressing the State Marine Protected Areas. Our comments are as follows:

### State Water Quality Protection Area – General Protection

It is our understanding that the proposed amendment seeks to establish a second category of SWQPAs, identified as SWQPA – General Protection, that would be less restrictive than the provisions associated with the existing category SWQPA – Areas of Special Biological Significance (ASBS). OCSD appreciates that this new category would provide increased protection to marine protected areas while permitting current Publicly Owned Treatment Works (POTW) infrastructure and compliance permit parameters to remain in place. This allows for extra protection for water quality and maintains financial feasibility for POTWs to operate, treat, and responsibly protect the ocean environment.

OCSD appreciates that the amendment recognizes the substantial public service and infrastructure provided to the public by the municipal wastewater community. The existing infrastructure and service provided by OCSD represents billions of dollars of public investment and is a valuable asset in protecting ocean water quality, wildlife and public health. We support the concept of the proposed category SWQPA - GP as it provides a





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good compromise in meeting the water quality goals of the State and recognizes that ASBS designations would cause severe financial impacts to the public in areas where public infrastructure currently exist.

We noted that the proposed amendment does not designate SWQPA – General Protection areas at this time. Creating a new category in itself does not pose a feasibility or economic risk, however, the financial impacts of future designations under these categories are real, difficult to anticipate and likely case specific. The State is obligated to maintain and protect water quality but it should be done in a responsible manner that evaluates the financial implications of monitoring the area and the science based need for that level of protection. For this reason we request that an economic feasibility study be conducted as part of each future nomination of a SWQPA category. The economic consequences could be substantial and should be taken into great consideration.

We also want to call attention to the fact that the proposed amendment does not provide guidelines on how to distinguish between the two SWQPA categories. We understand that the SWQPA-GP would be less restrictive but if an interested party wanted to propose a new SWQPA area how would they choose the appropriate category and nominate it to the Regional Board? These categories need to have defined parameters for implementation that meets a specific defined set of circumstances. This is critical information that should be defined so that when decisions to designate areas occur in the future regulators, stakeholders, and the general public will understand which category is appropriate. We request that the State clearly define each category and provide specific guidelines for how the categories should be applied.

We note that the amendment does provide a generalized framework for interested parties to make a nomination for a SWQPA area, with final approval determined by a representative from the Regional Board. This process does not explain how to make decisions or provide enough information on the regulatory framework for the general public to make informed decisions. To facilitate this process we recommend that the State provide a flow diagram explaining how all the marine designated areas (MPA, ASBS, MMA, and SWQPA etc.) are regulated and how they can overlap. Currently it is confusing and we do not believe that the general public could easily distinguish these designations and make appropriate nominations for many of these categories. If the State is going to open nominations up to the general public, there needs to be better public education materials explaining the regulatory framework of how ocean waters are protected and regulated. Much of the existing material is not well explained or provided in a way that a layperson could easily follow or understand. Additionally, it would be helpful to all interested parties if the proposed amendment could also provide specific details on all the materials and supporting documents that should be included in a nomination packet for a SWQPA proposed designation. This would save time and frustration for all stakeholders involved and provide clear guidelines and expectations. There should be a minimum criteria set for an application/nomination so that the Regional Boards can focus on those applications that have a basis for nomination.



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OCSD requests that the nomination and approval process, for both categories of SWQPA (General Protection and Areas of Special Biological Significance), have a data driven science based nomination process. A science driven process would ensure that protection is indeed necessary and the locations selected have data to support the need. OCSD would recommend that the State seek input and consultation from an independent Blue Ribbon Panel or Scientific Advisory Committee as part of the decision criteria in designating an area in either of the two SWQPA categories. SWQPA areas are expensive to implement and should be designated based on a scientific rationale that demonstrates the need for that area to be further protected.

#### Dry Weather Urban Runoff

Section 7 on page 42 of the Draft Staff Report and Substitute Environmental Document, the State Water Resource Control Board (SWRCB) proposes the following:

"(3) Non-storm water flows are effectively prohibited as required by the applicable permit. Where capacity and infrastructure exists, all dry weather flows shall be diverted to municipal sewer systems."

OCSD is concerned with the proposed language that requires all dry weather flows be diverted into the sanitary sewer system where capacity and infrastructure exist. OCSD believes that diversion of dry weather runoff into the sanitary sewer system is considered the last viable option for proper treatment and disposal for this type of discharge. All other treatment and disposal alternatives must be weighed and considered before requesting a sanitary sewer agency to accept the discharge.

OCSD has available limited system capacity to accept pollutant-laden runoff that is considered to have public health or environmental impact. Only in cases where treatment and disposal of dry weather runoff are infeasible to economically or practically control has OCSD accepted the discharge.

SWRCB must take into consideration the financial impacts that will be levied on the discharger or municipality planning to divert dry weather runoff into the sanitary sewer system. In the case of OCSD, not only are there costs associated with monitoring requirements imposed on the discharger under a waste discharge permit, but also OCSD will charge for the treatment of dry weather runoff at a cost of \$1,312 per million gallons a day. Accordingly, SWRCB should consider revising the provision to include and open other types of viable treatment and disposal alternatives for dry weather runoff. In addition, SWRCB should stress that diversion into the sanitary sewer system is the last option and only consider this alternative when the discharge is infeasible to economically or practically control. As with all other sanitary sewer agencies, OCSD has limited collection and treatment capacity. SWRCB's proposed language of directing all dry weather flows be diverted to municipal sewer systems where capacity and infrastructure exist may in the long run adversely affect OCSD's primary function of collection, treatment and disposal of sanitary sewer discharges.



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OCSD appreciates the opportunity to provide comments on the proposed amendment to the California Ocean Plan regarding designating State Water Quality Protection Areas (SWQPA) to Protect Marine Protected Areas. OCSD looks forward to working with SWRCB. If you have any questions, please call Lisa Haney from my staff at (714) 593-7404.

A handwritten signature in black ink, appearing to read "James Colston", with a long horizontal flourish extending to the right.

James Colston  
Environmental Compliance Manager

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