

California Ocean Plan Areas of Special Biological Significance



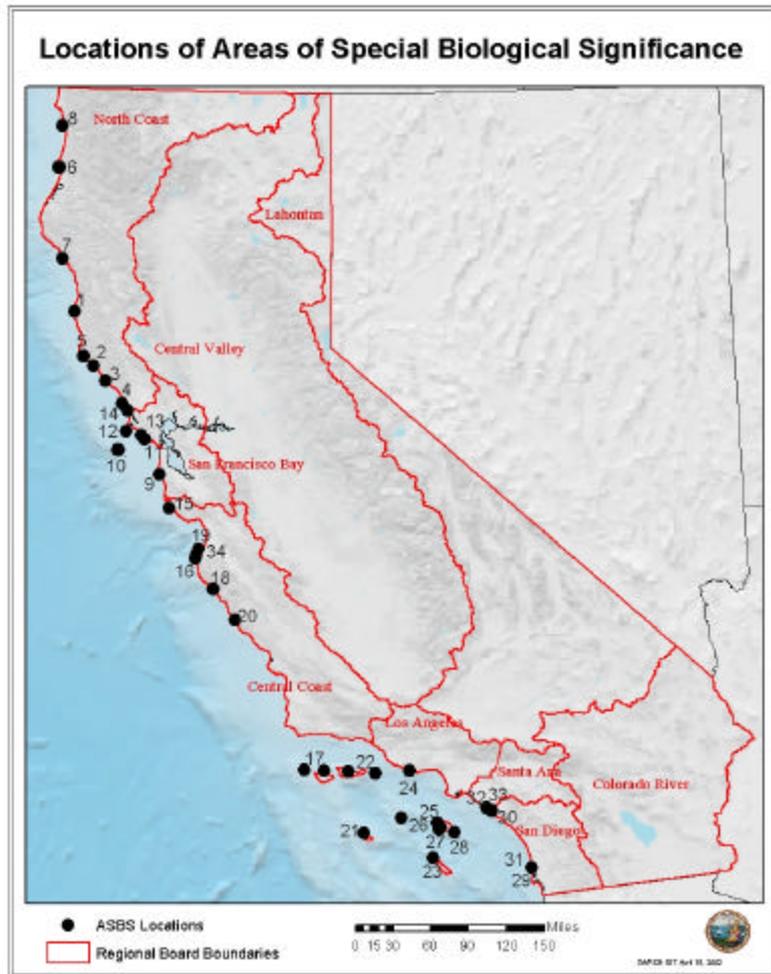
Dominic Gregorio, Senior Environmental Scientist, Ocean Unit, State Water Resources Control Board, Division of Water Quality

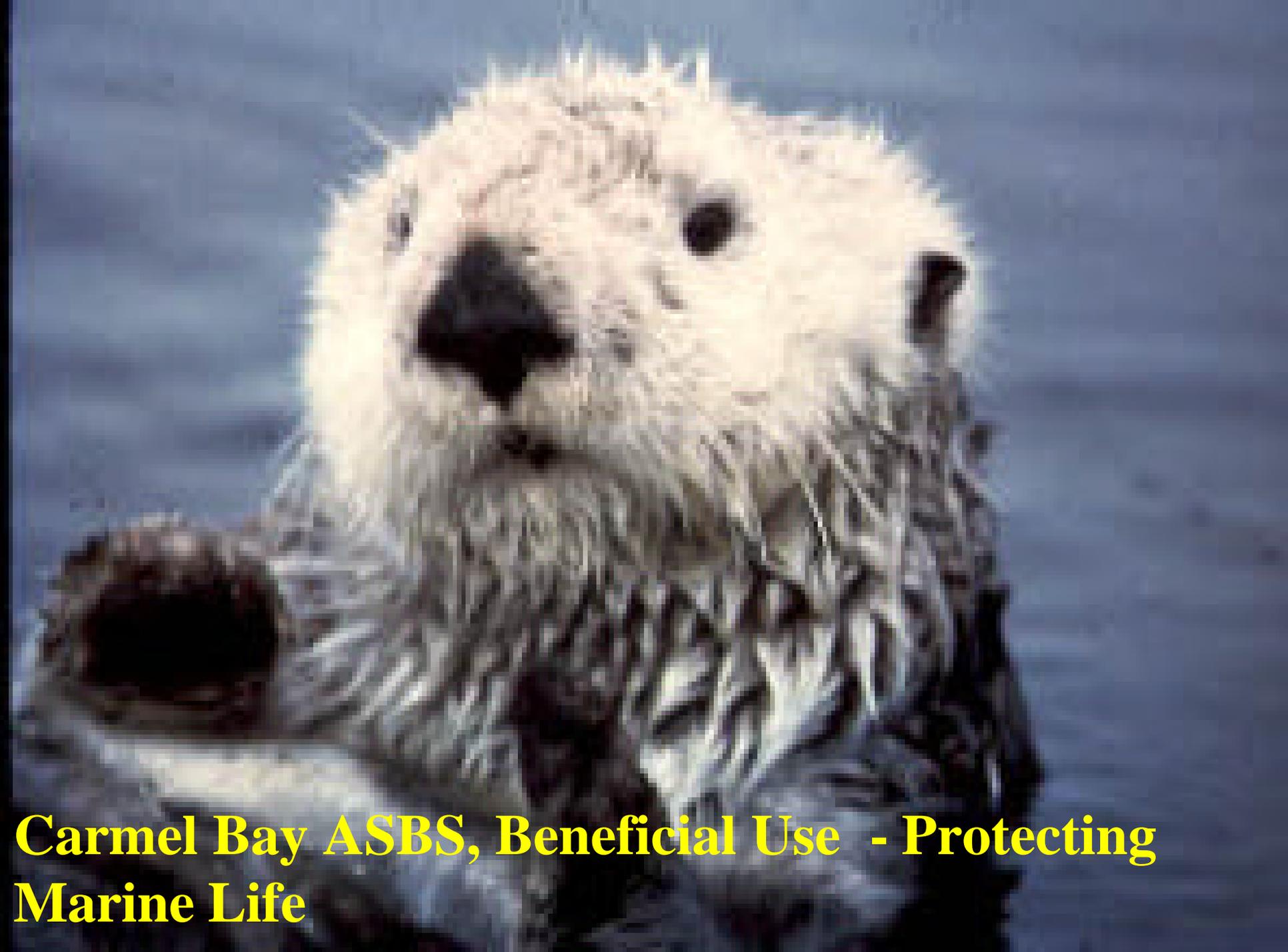
1972 California Ocean Plan

“Waste shall be discharged a sufficient distance from **areas** designated as being of **special biological significance** to assure maintenance of natural water quality conditions in these areas.”

34 ASBS, designated in 1974-75

State Board Resolution No. 74-28, March 21, 1974: “The list of **Areas of Special Biological Significance** will be used to identify for planning purposes, those areas where the regional water quality control boards will **prohibit waste discharges** from all sources...”





**Carmel Bay ASBS, Beneficial Use - Protecting
Marine Life**

Carmel Bay ASBS Beneficial Use, Significant Contact Recreation



1978 California Ocean Plan

“This Plan is applicable, in its entirety, to point source discharges to the ocean. **Nonpoint sources** of waste discharges to the ocean are subject to ...Chapter V – **Discharge Prohibitions.**”

Chapter V(B): “Waste shall be discharged a sufficient distance from **areas** designated as being of **special biological significance** ...”

1983 California Ocean Plan

“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.”

* Note: All discharges (including nonpoint) are prohibited. This remains in the 2005 Ocean Plan, Chapter III(E)(1)

What is waste?

It is broadly defined in the Porter-Cologne Water Quality Control Act, Water Code Section 13000 et seq., to include sewage and "any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin" (Water Code Sec. 13050(d))

For example, waste includes pollutants in runoff, and sediment from road construction.

McWay Falls, Julia Pfeiffer Burns ASBS nonpoint source, sediment

Before 1983, when road clearing operations dumped sediment into the ASBS



February 2003, the only marine cove in California with a waterfall is now filled in



U.S. Clean Water Act (CWA)

- In 1987 the CWA was amended to clarify that storm water runoff is a point source and NPDES permits are required for most storm water discharges.
- Since 1990, the State and Regional Boards have issued NPDES permits for storm water runoff, including to Caltrans.

Enforceability of NPDES Permits

- NPDES permits must be consistent with state water quality standards, including the Ocean Plan
- The Water Boards enforce permit requirements under the California Water Code
- Citizen groups enforce permit requirements in federal court lawsuits

Irvine Coast ASBS – Crystal Cove 2001 Decision

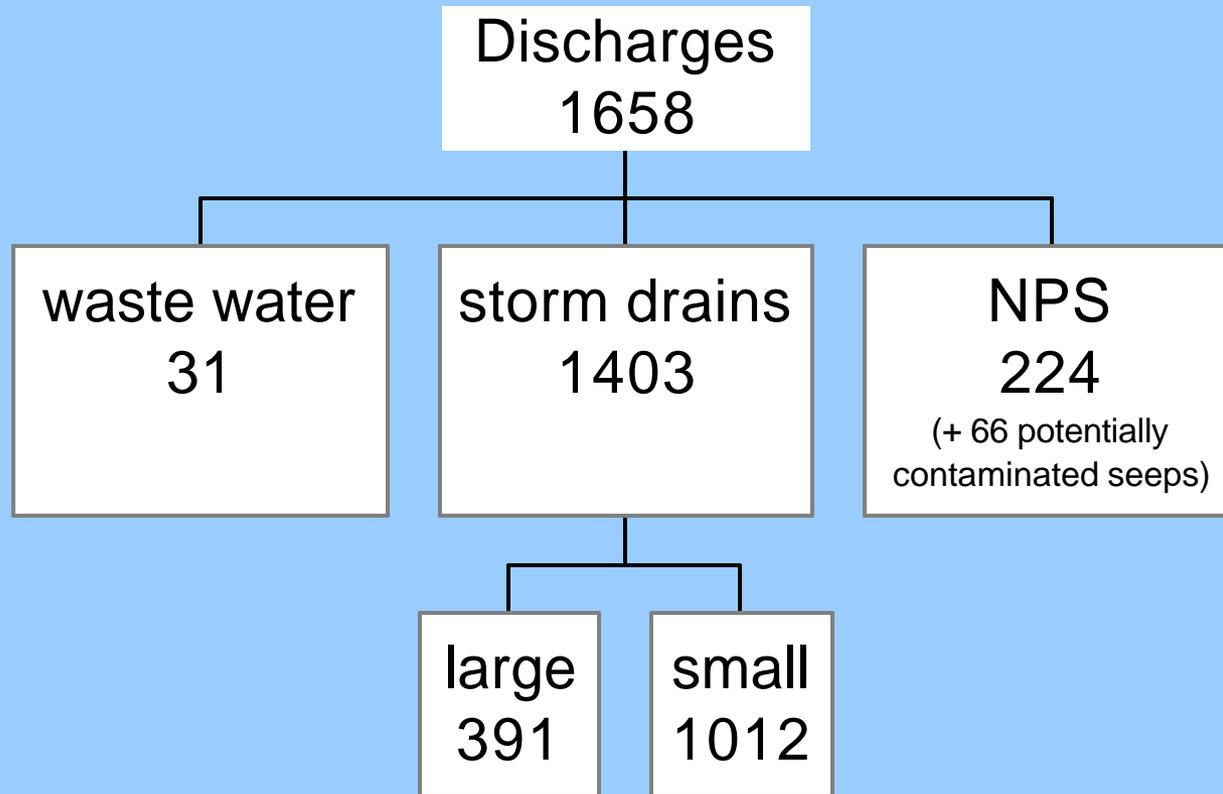
- Discharges of waste from Pacific Coast Highway are violating the waste discharge prohibition.
- Discharges on the beach above the high tide line constitute discharges to the ASBS.
- The Ocean Plan prohibition applies to discharges through storm water conveyances.
- Caltrans' statewide storm water NPDES permit prohibits waste discharges into an ASBS.

AB 2800, Marine Managed Areas Improvement Act

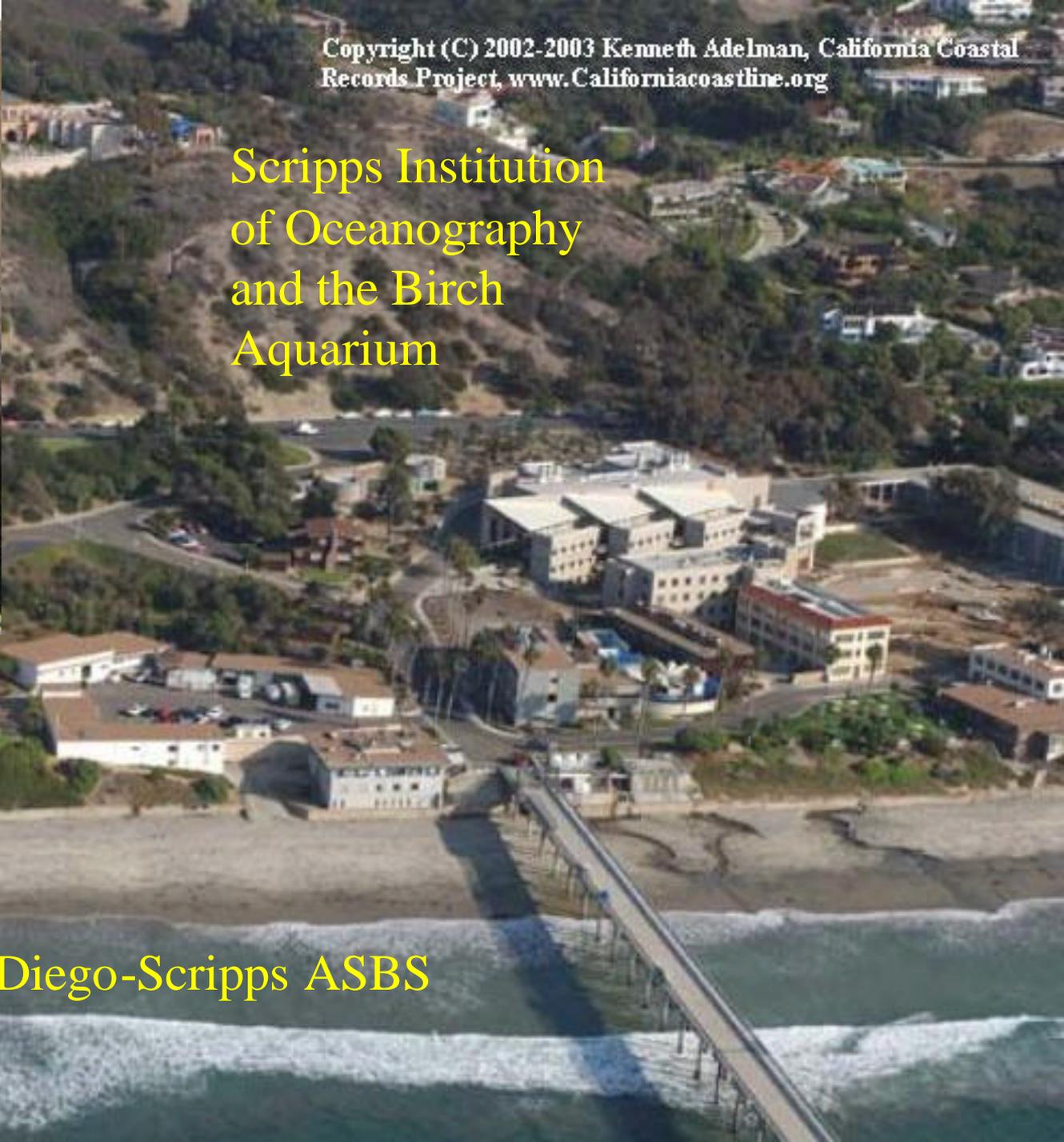
- Six Marine Managed Areas defined, including State Water Quality Protection Areas (SWQPAs)
- SWQPA: “a nonterrestrial marine or estuarine area designated to protect marine species or biological communities from an undesirable alteration in natural water quality, including, but not limited to, areas of special biological significance that have been designated by the [State Water Board] through its water quality control planning process.” (PRC Section 36700(f))

Final Report: Discharges into State Water Quality Protection Areas, SCCWRP, July 2003

Statewide ASBS/SWQPA Discharges



Scripps Institution
of Oceanography
and the Birch
Aquarium



San Diego-Scripps ASBS

University of California, Scripps Institute of Oceanography, Individual Exception

- **State Board Resolution 2004-0052**
- **19 Conditions**
- **Some Point Source Oriented**
- **Some Storm Water and NPS**
- **Effluent and Receiving Water Monitoring**

SB 512, statutes of 2004

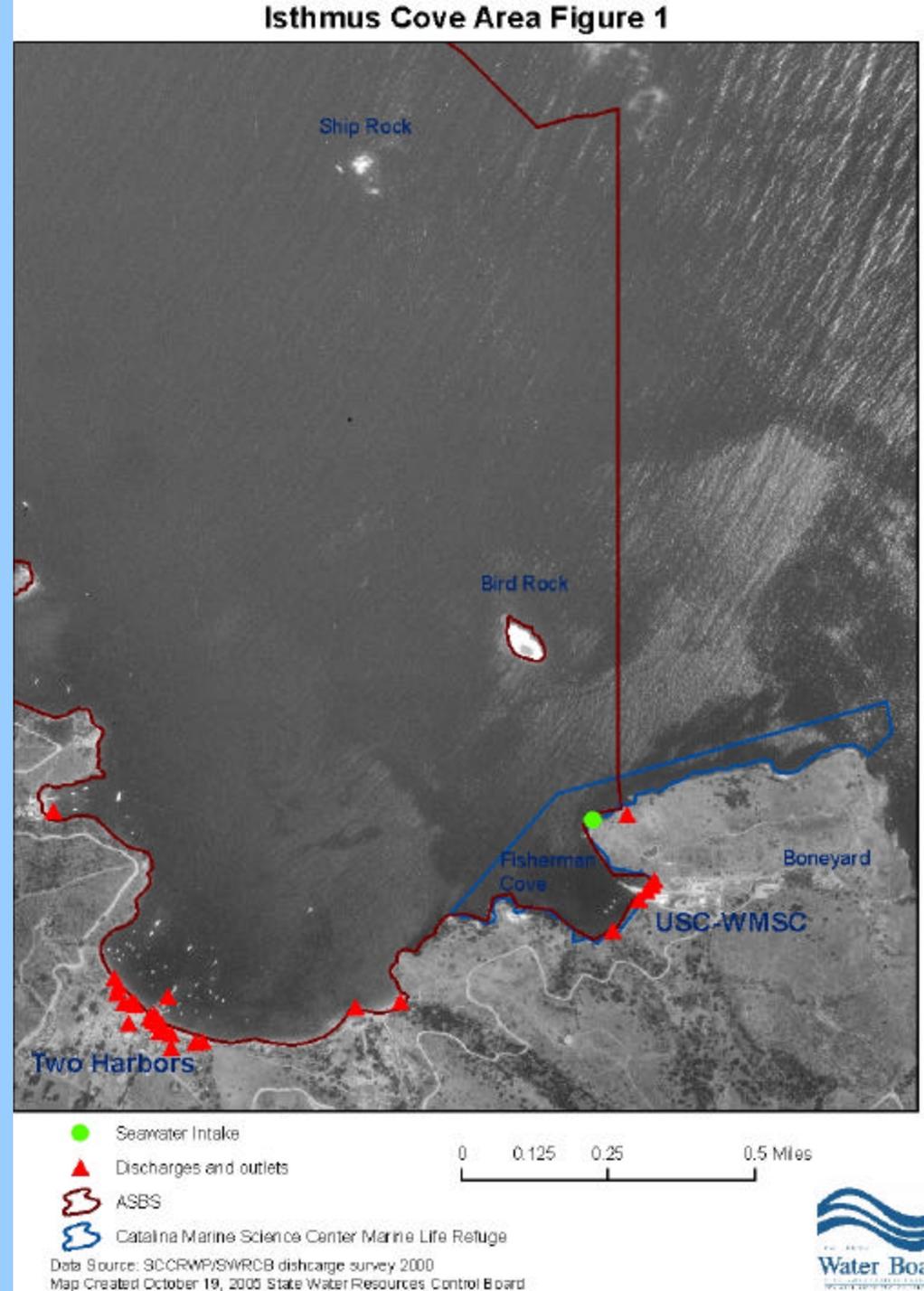
“Areas of special biological significance are a subset of state water quality protection areas, and require **special protection** as determined by the [State Water Board] pursuant to the California Ocean Plan adopted and reviewed pursuant to [Water Code Sections 13160 et. seq.] and pursuant to the [Thermal Plan] adopted by the state board.” (PRC Section 36700(f))

Two Ways to Comply with the Ocean Plan:

- 1) Cease all waste discharges into ASBS, or
- 2) Apply for and receive an **Exception**, which includes mitigating **conditions** that limit the composition and impacts of the discharge, constituting “**special protections**” for the ASBS.

NW Santa Catalina Island ASBS - USC Wrigley Marine Science Center

- Initial Study released December 2005, Public Hearing February 1, 2006
- Proposed conditions (20) similar to Scripps, but with site specific differences.



Recent State Board Activities

- October 18, 2004 letters offer exception to entities in violation of the prohibition
- Approximately 25 requests for exceptions
- January 13, 2005 Stakeholder Meeting
- April 2005 Amendments to the COP
- August 18, 2005 letters – responses to requests for exceptions
- August 31, 2005 Board Workshop
- October 24, 2005 Board Workshop

Staff Proposal: “Special Conditions to Limit Storm Water and Nonpoint Source Discharges and Impacts in ASBS.”

- The Special Conditions would **allow permit coverage for ASBS discharges.**
- **An accelerated iterative BMP approach**, via permits and management plans
- A **time schedule** would be included.
 - All **dry weather flows would be eliminated** initially (except emergency fire fighting and certain hillside de-watering projects)
 - **Percent reductions in storm flow wastes would be required per year**, until goal of minimal wastes is reached.

Staff Proposal: “Special Conditions to Limit Storm Water and Nonpoint Source Discharges and Impacts in ASBS.”

What do we mean by **minimal pollutants**?

- **“Zero” is impractical** and may not be ecologically sound for all constituents.
- Synthetic pollutants should not be detectable in receiving water.
- Not detects for metals and other naturally occurring constituents may not be natural or beneficial to marine life.

Staff Proposal: “Special Conditions to Limit Storm Water and Nonpoint Source Discharges and Impacts in ASBS.”

- **Compliance would be determined by meeting natural water quality** in the ASBS receiving water.
- **Strict monitoring requirements** would be included to provide adequate data for evaluating the status of beneficial uses.
- The resolution would also encourage discharger participation in regional or watershed **Stakeholder Workgroups** (modeled on the Critical Coastal Area pilot project committees).
- **Regional scientific advisory panels** would be established to help State and Regional Board staff address the question of meeting natural water quality.

Next Steps – “Special Protections”

1. Staff will prepare a report: “What we already know about ASBS and what we don’t know?”
2. Staff will develop Draft Board Resolution
3. Scoping Meeting, spring 2006
4. Dischargers data due by May 31, 2006
5. Staff will incorporate all this information into a Draft FED (4-6 months)
6. Public Hearing - fall 2006?
7. Final Board decision to follow