



Western States Petroleum Association
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Steven Arita
Director of Operations and Cross Regional Issues

September 1, 2006

Ms. Song Her, Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento CA 95812-0100



Re: Western States Petroleum Association comments on the Storm Water Panel of Experts Report - "The Feasibility of Numeric Effluent Limits Applicable to Storm Water Discharges"

Dear Ms. Her:

The Western States Petroleum Association ("WSPA") is please to submit the following comments regarding the Storm Water Panel of Experts Report - "The Feasibility of Numeric Effluent Limits Applicable to Storm Water Discharges".

WSPA is a trade association comprised of companies engaged in the exploration, production, refining, marketing and transportation of petroleum and petroleum products in California and the western United States. WSPA members operate hundreds of facilities in California including petroleum refineries, bulk terminals, tank farms, retail service stations, oil and gas production fields, and pipeline distribution facilities which discharge storm water associated with these industrial operations. In most cases, these discharges are covered by the existing Industrial General Permit. Although the Panel's report is divided into three sections that cover the permit types -- municipal, construction and industrial -- WSPA agrees with the Panel's basic underlining finding that never to be exceeded "numeric limits" are not feasible at this time for any of the permit types.

In your notice for the workshops held in July 2006, you asked for comments and recommendations on how the Board can use the Panel's finding to improve the state's NPDES Stormwater Program.

In response to the Board's request, following are our comments and recommendations:

1. Iterative BMPs with Action Levels

As we have commented previously in several comment letters (see Attachment 1), storm water discharges are very different from traditional process wastewater discharges and current technical guidance and permit policies and procedures that are typically used to regulate non-storm water discharges, are not applicable to stormwater discharges. Additionally, unlike discharges of process wastewater which tend to be relatively stable in their composition, volume and flow, stormwater discharges vary widely in their timing, duration, quantity, flow and constituent concentrations. For this reason, the Panel agrees with the U.S. Environmental Protection Agency ("EPA") and the State Board who both have consistently found that the development of numeric limits for storm water discharges is currently infeasible. Accordingly, consistent with existing law, we agree that incorporation of iterative BMPs with performance "Action Levels" into an Industrial General Permit, as proposed by the Panel, is the most technically sound and legally proper approach.

The recommendation for iterative BMPs with Action Levels is consistent with the "quantifiable measures" proposal recommended by CASQA at the July workshops. WSPA supports the CASQA proposal and is willing and prepared to help the Board and other stakeholders develop the needed parameters and criteria to allow the practical and appropriate incorporation of an "Action Level" program into the General Industrial Permit. That Action Level program would guide facilities in evaluating the performance of their SWPPP and BMPs and in implementing appropriate corrective actions to improve BMP performance and stormwater discharge quality. The parameters and criteria included in such a program should provide answers for at a minimum the following:

- **How are pollutants of concern identified?**
- **How are performance Action Levels for pollutants of concern and for facilities/sectors to be set?**
- **What are the appropriate monitoring & assessment criteria for pollutants of concern and for facilities/sectors?**
- **What are the design storm criteria for the program?**
The Report references either design storm or similar hydrologic criteria for municipalities and construction, but not for industrial facilities. We believe this was an oversight and recommend that the State Board develop design storm criteria for the General Industrial Permit.
- **What are the design criteria for treatment?**
- **What are the corrective action program criteria?**
- **How corrective actions to be certified and what are is the certified specialist criteria?**

- **What are the performance auditing criteria?**
- **What is an appropriate safe harbor criterion?**

2. Data Needs

We agree with the Panel that the current industrial storm water data base is unacceptable to develop numeric limits and we also agree with the Panel that "...a reliable database, describing current emissions by industry types or categories and performance of existing BMPs" is needed. As WSPA stated during the workshops, we are willing to work with the Board and other stakeholders to develop a cost-effective program to obtain the required stormwater monitoring data and information that is necessary before the Board can establish numeric limits that are both practical and achievable.

3. Timeframes and Level of Difficulty

WSPA also agrees with the presentation made by Susan Paulsen of Flow Science during the Board's workshops. In particular, Dr. Paulson emphasized that data needs, timeframes and levels of difficulty increase substantially as one moves from iterative BMPs, to Action Levels, and on to Technology or Water Quality Based Effluent Limits. As such, Dr. Paulsen concurred with CASQA's approach to move progressively and cautiously toward numeric limits. She also stressed the inadequacy of current data and the need to carefully gather data, tailoring it to the types of limits under development. Further, she stated that development of different types of limits necessarily will require careful consideration of compliance and monitoring strategies and options to ensure their practicability.

4. TMDLs and Statewide Stormwater Policy

The Panel recommends that when there is a TMDL, the decision for the value of Numeric Limits should be set to meet the TMDL, but taking into account the pollutant concentration and the volume of runoff. Many of the same issues we have raised in our comments today are applicable to stormwater numeric limits established under TMDLs. Attached is WSPA's comment letter to the Los Angeles Regional Board regarding the Proposed Metals TMDL for the LA River and Ballona Creek, where we highlight the technical and legal issues related to setting a technically and practicably achievable, legally sound numeric limit TMDL. These issues are also applicable across many of the state's other water quality protection programs, which is why we join with CASQA to urge you to follow through with the Board effort, started a number of years ago, to develop a statewide stormwater policy that would be applicable across programs with stormwater issues (Ocean Plan, ASBS, Basin Plans, the Inland Bays and Estuaries SIP, TMDLs, NPDES permits, etc.) and across regional boards (see our attached letter to Chairman Arthur Baggett, SWRCB, January 5, 2004).

Finally, please see Attachment 1 for a list of WSPA letters included in this letter. Please note the copies that have been submitted to the Boardmembers and Executive Director, does not include the large February 18, 2005 supporting document, however, it does include copies of the submitted letters.

We look forward to working with the staff, Board and all stakeholders as the stormwater program moves forward. Thank you for considering our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cantu". The signature is fluid and cursive, with the first name "Steve" and last name "Cantu" clearly distinguishable.

cc: Ms. Tam Doduc, Chair, SWRCB
Mr. Gerald Secundy, Vice Chair, SWRCB
Mr. Arthur Baggett, Boardmember, SWRCB
Mr. Gary Wolff, Boardmember, SWRCB
Mr. Charles Hoppin, Boardmember, SWRCB
Ms. Celeste Cantu, Executive Director, SWRCB

ATTACHMENT 1

WSPA Submitted Comment Letters

1. WSPA Comments submitted to the SWRCB Storm Water Panel of Experts, September 14, 2005
2. WSPA Comments on SWRCB General Industrial NPDES Permit, February 18, 2005
3. WSPA Comments to LARWCB on proposed Metal TMDLs for the Los Angeles River and Ballona Creek watersheds, August 26, 2004
4. WSPA Comments to Chairman Arthur Baggett, SWRCB, January 5, 2004