California Regional Water Quality Control Board

Los Angeles Region

Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

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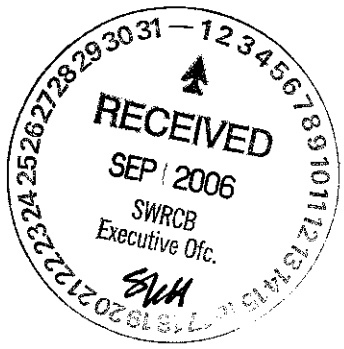
Arnold Schwarzenegger
Governor

Storm Water Panel Report
Deadline: 9/1/06 5pm



September 1, 2006

Tam M. Doduc
Chair, State Water Board

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

RE: COMMENTS ON THE REPORT BY THE STORM WATER EXPERTS PANEL

Dear Chairwoman Doduc:

I want to thank you for the opportunity to submit comments to the State Water Resources Control Board (State Water Board) on the Storm Water Experts Panel Report (the Panel). The California Regional Water Quality Control Board, Los Angeles Region (LA Water Board), has great interest in the recommendations made by the panel on the feasibility of numerical limits in storm water permits as municipal, industrial, and construction storm water discharges in the Los Angeles Region have been found to significantly cause or contribute to the impairment of our receiving waters. The LA Water Board has adopted Total Maximum Daily Load (TMDL) Waste Load Allocations (WLA) for municipal, industrial, and construction storm water discharges for several pollutants that will have to be enforced over the next few years through the NPDES program.

The LA Water Board concurs with the Panel's conclusions that numerical limits for storm water discharges subject to the federal NPDES program are generally feasible with certain exceptions. While it may be true that enforceable numerical Water Quality Based Effluent Limitations (WQBELs) may not feasible for all facilities at this time, it is clearly feasible and necessary to set numerical performance criteria to compel progress towards compliance with provisions in storm water permits and ultimately meet water quality standards. We also note that one of the challenges that the Water Boards face in developing numeric performance criteria short of WQBELs is that we have not developed a statewide storm water monitoring program for municipal, industrial, and construction storm water discharges in order to develop a data set to make such determinations and establish numerical criteria. The Panel Report notes this deficiency.

The LA Water Board has been a pioneer in both advancing the storm water program in the State and improving the enforceability of storm water permits. We have many individual permits for industrial sites that for some time have had numeric effluent limits and are in compliance with their permits. This fact clearly demonstrates that numeric limits for certain industrial facilities are both necessary and feasible. We are also leading the charge in

developing design storm criteria – which in conjunction with numeric limits will ensure that stormwater permitees will have both protective and achievable requirements in their permits.

For industrial storm water discharges, we commissioned a U.S. EPA funded study in 2002 to review the usefulness of the storm water monitoring data collected under the State Board's Industrial Storm Water General Permit, *Industrial Storm Water Monitoring Program, Existing Statewide Permit Utility and Proposed Modification*, M.K. Stenstrom, and H. Lee (2005).

We have also developed numerical mitigation criteria for post-construction storm discharges in 1999 to protect water quality (upheld by the State Board in the 'SUSMP Decision') for municipal storm water discharges. California Water Code § 13383.5 requires the development of a standardized monitoring program for storm water discharges in order to develop a scientific data set to support the enforceability of federal storm water regulations and protect the beneficial uses of receiving waters. As an involved member of the Southern California Storm Water Monitoring Coalition (SMC), we assisted in the development of a standardized monitoring program for MS4s, with State Water Board funding. The report was submitted to the State Water Board in 2004. The LA Water Board in 2002 together with the SMC commissioned a study to evaluate the adverse water quality impacts of higher flows resulting from urban development, *Effects of Increases in Peak Flows and Imperviousness on the Morphology of Southern California Streams, D. Coleman et al (2005).*

Recommendations

General

The LA Water Board endorses a mixture of numeric effluent limits and Best Management Practice (BMP) design criteria and action levels - - depending on the type of facility, permit, and the availability of TMDL WLAs. The Regional Board also agrees with the panel that design storm criteria should be developed in order to establish the limits of feasibility of permit limits during large and/or successive storms. The LA Water Board has commissioned a study through the Southern California Coastal Water Research Project (SCCWRP), with input from a stakeholder group, to review this very issue and make recommendations to the LA Water Board.

Municipal

The LA Board, as required by law, will incorporate WLAs and LAs and implementation schedules and provisions from adopted TMDLs into NPDES permits as appropriate. This will ultimately need to lead to achievement of water quality standards, but will often have iterative steps along the way. The LA Water Board expects to use the Panel's recommendations to develop action levels to define MEP using statistically based population parameters for municipal storm water permits.

The LA Water Board expects to include numerical criteria in MS4 permits, when reissued, to prevent the adverse effects of hydromodification from higher storm water flow volume, peak, and duration as a consequence of urbanization. The Panel recommendation included a

comment that adverse water quantity effects related to hydromodification should be considered, when establishing numerical criteria, in addition to water quality concerns.

Industrial

The LA Water Board concurs with the Panel's Findings for Industrial storm water discharges. We submitted similar recommendations during the public comment period for the renewal of the statewide Industrial Storm Water General Permit. We already issue individual NPDES permits for storm water discharges associated with industrial activity, which incorporate numeric effluent limitations for several industrial facilities. The need for numerical effluent limitations for storm water discharges is determined based on site-specific information such as facility type, monitoring information available, location, and other characteristics.

We also agree with the Panel's finding that industrial storm water discharge permits must incorporate WLAs defined by the TMDLs through numeric effluent limits that consider both the quantity and the quality of the discharge. Where TMDLs have not as yet been developed, or numeric effluent limits are not already contained in the permits, storm water discharges associated with industrial activity must be subject to storm water pollution prevention and treatment controls that in combination or individually, can be reasonably expected to achieve compliance with water quality standards. In addition, a robust monitoring program to validate the effectiveness of the BMPs needs to be implemented.

The LA Water Board recommends that the Action Levels set for industrial facilities discharging storm water should be at least as stringent as, and in most cases, more stringent than those set for MS4 permittees. The storm water discharges associated with industrial activity from industrial sites are subject to a stricter standard under the NPDES regulatory framework for storm water discharges, rather than the maximum extent practicable (MEP) standard that applies to municipalities. The action level must at a minimum contain a margin of safety so that the action level for industry will not jeopardize the compliance status of the MS4 permittees and will not conflict with the existing NPDES regulatory framework.

For general industrial and construction storm water permits, we expect to develop numerical effluent BMP performance criteria or presumptively identify BMPs that will achieve the numerical performance criteria, when properly maintained.

Construction

The Panel in its Findings on the Feasibility of Numeric Effluent Limits Applicable to Construction Activities, states, "while the Panel concludes that Numeric Limits or Action Levels are technically feasible, the Panel has several reservations and concerns". Among the Panel's concerns are cost and the possibility of treating or remediating natural runoff. We recommend that construction site monitoring and sampling for permitted sites be made a requirement to protect receiving waters. The statewide Construction Activities Storm Water General Permit has presently no provision for compliance with numeric effluent limits. Also, unfortunately, the U.S. EPA's initiative to develop effluent limitations for construction storm water discharges is presently tied up in the federal courts.

The LA Water Board recommends that, at a minimum, numeric effluent limits should be established for permitted construction sites during dewatering of ponded storm water and/ or

concentrated flow of storm water. Developers often request some effluent criteria during dewatering activities for purposes of guidance.

For storm water dewatering activities, at a minimum, we recommend numerical effluent limits for three constituents: Total Suspended Solids (TSS) at 100 mg/L; Turbidity between 10-75 Nephelometric Turbidity Units (NTU), and pH between 6-8.5 pH units. These values are taken from U.S. EPA benchmarks, and the construction industry has informally complied with them with little or no problem, as the technology of filtering, coagulation and sedimentation is sufficient for meeting the requirements.

In summary, numeric effluent limits or equivalent BMPs, which lead to full compliance with water quality standards, is the goal for all stormwater permits. We strongly believe in, currently utilize, and have experience that confirms the appropriateness of numeric effluent limits in certain industrial permits at this point in time. However others may need a compliance schedule per a TMDL or permit or other iterative steps in order to achieve the water quality standards. We do believe that in these cases, quantifiable goals should be established to measure success towards achievement of the water quality standard.

We look forward to continued discussion and progress towards addressing this important issue which is a key component of protecting and restoring California's waters. If you have any questions on this comment letter, please do not hesitate to contact me or have State Water Board staff contact Dr. Xavier Swamikannu at (213) 620-2094.

Sincerely

Jonathan S. Bishop
Executive Officer