



California Stormwater Quality Association™

Dedicated to the Advancement of Stormwater Quality Management, Science and Regulation

August 15, 2005

Mr. Bruce Fujimoto, Chief
Storm Water Program
State Water Board
P.O. Box 100
Sacramento, CA 95812-0100

Subject: State Water Board Process for the Development of Quantitative Measurements for Stormwater Program Compliance

Dear Bruce:

On behalf of the California Stormwater Quality Association (CASQA), I am submitting this comment letter to express CASQA's position regarding the State Water Resources Control Board's (State Water Board's) efforts to evaluate the feasibility of developing quantitative measurements for stormwater program compliance. The "Question", as it has become to be known, is paramount to members of CASQA and, as a result, CASQA appreciates the opportunity to contribute to your early planning efforts and looks forward to fully contributing to the State Water Board's efforts to address the Question.

Given the potential ramifications and impacts that the answer to the Question may have, CASQA believes that the State Water Board would be well served to: 1) develop a work plan for answering the Question and incorporating its' context within the overall development of a Statewide Stormwater Policy; 2) include additional statistical, economic, and stormwater program implementation expertise in the Question review process; and 3) actively engage the public and other interested parties. Our specific concerns and recommendations for each of these areas are provided in further detail below.

Need for Work Plan

CASQA believes that there is a vital need for the State Water Board to lay out a work plan for answering the Question as well as for developing the Statewide Stormwater Policy, of which the impending deliberations on the Question are obviously a key element. The listening sessions at the start of this year were a welcome launch of the State Water Board's effort to bring cogent thought to a major area of water quality management that was evolving in a piecemeal fashion. In the absence of any reference to the Statewide Stormwater Policy effort, consideration of the Question risks being more of the same piecemeal effort that has attracted justifiable criticism and concern. Indeed, although CASQA does not believe this to be the case, the formation of the Question and the Blue Ribbon Panel in the absence of a work plan risks projecting the appearance of an overly expedited effort that is primarily set up to provide the most expedient answer so that the Statewide Construction and Industrial General Permits may be reissued.

CASQA comments on State Water Board Process for the Development of Quantitative Measurements for Stormwater Program Compliance

For the past several years, CASQA has recommended that the State Water Board develop a Statewide Stormwater Policy, via a transparent and structured process, to provide much needed guidance for subsequent permitting and enforcement actions. One benefit of such a process would likely be greater shared commonality regarding schedules and outcomes as well as ‘buy-in’ from all stakeholders. In this regard, it is instructive to consider the wastewater field. The wastewater field took 30 years to get to a point of developing water quality based effluent limits, which evolved from the initial use of technology based effluent limits (e.g., 30/30 TSS/BOD limits and pond technology). Furthermore, the Clean Water Grant program provided major funding for control efforts and it is this funding, perhaps more than any other factor, which provided for and accelerated the implementation of a water quality based program. If the Question is being considered so as to inform the Statewide Industrial and Construction General Permits, then CASQA believes it to be preemptory, independent of, and potentially detrimental to the Statewide Stormwater Policy effort.

Recommended Approach

While it is presumed that reissuance of the Statewide Industrial and Construction General Permits is a priority, CASQA is advocating that the State Water Board consider a more strategic and defined approach to the Question in order to address the quantitative measures issue and to serve as a model for the development of a Statewide Stormwater Policy. We understand the State Water Board views the Blue Ribbon Panel as the first step in a process of considering the feasibility of quantifiable measures and that the panel may very well propose the technical process necessary for both investigating and ultimately establishing feasible quantifiable measures. However, it is up to the State Water Board to define and establish a public process that integrates with the technical process.

In fact, we would submit that such an approach has already been successfully employed for the State Water Board’s efforts to develop the sediment quality criteria. For this effort, the State Water Board developed a work plan that carefully considered the scientific and regulatory challenges and provided for stakeholder involvement. Establishing sediment quality objectives is a three-year effort with significant resources being provided to retain experts in the technical/scientific fields and facilitation. In addition, the work plan recognizes and incorporates three key subcommittees: Advisory, Scientific and Regulatory. By providing such a structure and developing a work plan, the State Water Board has provided an opportunity for the major policy aspects of sediment criteria to be considered and adequately addressed.

Since the Question addresses a defining issue in stormwater management, CASQA strongly recommends that the State Water Board provide a level of effort, strategy, resources, and time commensurate with its significance.

Composition of Blue Ribbon Panel

Pursuant to an e-mail from Mr. Tom Howard, dated July 8, 2005, our understanding is that the following individuals have been selected by the State Water Board to participate on the Blue Ribbon Panel that will be convened on September 14th and 15th to address and attempt to answer the Question:

CASQA comments on State Water Board Process for the Development of Quantitative Measurements for Stormwater Program Compliance

- Eric Strassler (USEPA);
- Gary Minton (Resource Planning Associates);
- Larry Roesner (Colorado State University);
- Mike Stenstrom (UCLA);
- Robert Pitt (University of Alabama);
- Eric Strecker (GeoSyntec Consultants);
- Ken Schiff (SCCWRP); and
- Brian Currier (CSUS).

While CASQA believes these individuals are well qualified to serve on the panel to consider the technical and scientific elements of the issue, we believe the State Water Board would be well served by the addition of expertise in statistics and, in particular, economics. We also believe the inclusion of this expertise along with personnel involved with the implementation of stormwater programs (i.e., practitioners) should be incorporated into the process, be it with the expert panel or as suggested above through a subcommittee/stakeholder framework.

CASQA interprets State Water Board efforts regarding the Question as the initiation of a process to develop a State Stormwater Implementation Policy for Water Quality Criteria similar to the State's efforts to develop the State Implementation Policy for Toxic Standards. Consistent with that effort, the State should enlist the expertise of statisticians and economists. Pending the recommendations of the panel, this stormwater implementation policy may have major economic ramifications for our members and the State Water Board must address the requirements of Porter Cologne Sections 13241 and 13242. These other aspects of the feasibility question are at least as important and complex as the technical aspects. Moreover, the recent Burbank decision affirmed that the State Water Board must consider cost implications when proposing permit requirements beyond Federal requirements.

Public Participation

Given the complexity and diverse set of the issues that should be considered when answering the Question fully, CASQA would strongly encourage the State Water Board to actively engage the public and interested parties. Various models have been used over the years by the State Water Board to engage the public. As noted previously the Sediment Quality Criteria model appears to be a good fit for this stormwater effort. Regardless of which model is used, we believe the following principles should be incorporated.

Overall Process

- The process must be independently facilitated by an individual who has a strong understanding of stormwater, water quality, and policy development issues. CASQA suggests that the State put forward a short list of 3-4 qualified facilitator candidates for stakeholder groups to review and provide feedback to the State Water Board prior to selection.
- The process must be inclusive. Whatever model is used, the State Water Board should ensure that the process is transparent and does not give any one party interest a stronger position than another. At the same time, CASQA is aware of the disadvantages associated

CASQA comments on State Water Board Process for the Development of Quantitative Measurements for Stormwater Program Compliance

with the Toxic Hot Spot Public Advisory Group and the AB982 Public Advisory Group. CASQA participants of both of these processes are concerned with committee deadlock that can result from a process that pits one side against another. We are hopeful that a strong facilitator could assist in avoiding a similar situation.

Establishment of an Implementation Advisory Group

- CASQA would recommend that the State Water Board establish an Implementation Advisory or similar group to provide input to the Blue Ribbon Panel and State Water Board.
- Participation in an Implementation Advisory Group should not preclude associations represented from submitting divergent comments during public comment periods.

General Public

- All meetings should be open and noticed. The public should be given the opportunity to provide comments at a designated time during the meetings.

CASQA supports improving water quality programs and developing assessment tools to ensure progress towards the attainment of receiving water standards. Quantitative measurements are one possible proxy for this assessment, but the development of these measurements should be done in the context of a broader and more comprehensive policy for managing stormwater in California. As always, CASQA looks forward to working with you and the State Water Board in crafting stormwater policy that protects our environmental resources and reflects technical and economical feasibility.

Yours truly,



Karen Ashby, Chair

cc: CASQA Board of Directors
CASQA Executive Program Committee
Art Baggett, Chair – State Water Board
Alan Lloyd, Secretary – Cal EPA
Celeste Cantú, Executive Director – State Water Board
Tom Howard, Deputy Director – State Water Board
Betsy Jennings, Staff Counsel – State Water Board
Geoff Brosseau, Executive Director – CASQA