

RW RICHARDS | WATSON | GERSHON
SG ATTORNEYS AT LAW – A PROFESSIONAL CORPORATION

355 South Grand Avenue, 40th Floor, Los Angeles, California 90071-3101
Telephone 213.626.8484 Facsimile 213.626.0078

Matthew E. Cohen
mcohen@rwglaw.com

September 1, 2006

VIA E-MAIL AND U.S. MAIL

Song Her
State Water Resources Control Board
1001 I Street
Sacramento, CA 95812-0100



Re: Findings of the Storm Water Numeric Limits Panel

Dear Ms. Her:

Our firm represents the Cities of Agoura Hills, Artesia, Beverly Hills, Hidden Hills, La Mirada, Mission Viejo, Monrovia, Norwalk, Rancho Palos Verdes, San Fernando, San Marino, Seal Beach, South El Monte, and Westlake Village ("Cities"). This letter addresses the findings of the State Water Resources Control Boards' (State Board) Storm Water Panel Recommendations on "*The Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities.*" The Cities appreciate the opportunity to submit comments for this Public Workshop.

The Cities are committed to improving water quality and working with the State Board, our Regional Water Quality Control Boards, the environmental community, and the public to implement programs that will result in affordable, clean water. The Cities support the efforts of the State Board to implement water policy based on appropriate, reasoned, and scientific principles. Accordingly, in addition to supporting those comments submitted by other Stakeholders, the Cities submit the following comments:

Consistent with the findings of the State Numeric Limits Panel, the Cities believe that the State Board should adopt a policy prohibiting Regional Boards from establishing absolute numeric limits for urban discharges or municipal best management practices ("BMPs") at this time. Rather, the State Board should direct Regional Boards to develop and set "action levels" for contaminants that have caused water quality impairments (*i.e.* 303 (d) listing). Monitoring results for an impaired water body showing a listed contaminant in excess of an action level would trigger heightened scrutiny by the Stakeholders and the Regional Board.

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The scrutiny would follow a concise protocol. As an initial step, the Stakeholders would immediately act to confirm the water quality monitoring finding by performing repeated sampling and analysis of the affected water body for the contaminant in a defined length of time. In this manner, the Stakeholders and the Regional Board will be able to confirm that the initial result was not merely an aberration.

Assuming subsequent monitoring verifies the initial finding, the Stakeholders could then undertake a survey to determine the cause or source of the exceedance. In consultation with the Regional Board, the regulated community would take appropriate remedial action to mitigate that cause or source, if found to be anthropogenic. A reasonable amount of time should be allowed for the remedial action to take effect before any enforcement action is subsequently undertaken by the Regional Board. In this manner, the Cities will be provided sufficient notice and opportunity to demonstrate that no water quality impairment has taken place and/or respond to any alleged exceedance of the waste load allocation water quality prior to being found in violation of an effluent standard.

One of the key problems with current waste discharge standards is that they are frequently based on incomplete or unknown conditions. The present policy applied by many Regional Boards, whereby an overly cautious numeric limit (such as zero) is adopted, is not analogous to sound scientific principles. The Cities believe that additional monitoring and research must be completed prior to utilizing numeric effluent criteria as an enforceable standard for urban discharges and municipal BMPs. Applying action levels based on well-established scientific documentation assures Stakeholders, the Regional Boards, and the public that progress is being made to elucidate the causes and processes leading to storm water contamination. Furthermore, the proper use of scientific data will enable Stakeholders to avoid additional receiving water body impairments. The Cities believe this process can be accomplished within the timeframe established by the consent agreement between the United States Environmental Protection Agency and the Courts.

The Cities support the Panel's conclusions that water quality regulation should be based upon specific, beneficial use impairment in a receiving water body rather than a strict standard. A central goal of the State Board should therefore be to establish and fund a BMP testing and certification program. Such a program would permit the State Board to collect data and develop a set of reliable criteria for estimating the removal of pollutants by various BMPs. This would provide the regulated communities with the ability to select BMPs proven to address one or more sources of impairment to the maximum extent practicable.

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The Cities, and indeed all Stakeholders, have limited resources to dedicate to storm water quality programs. In order for these programs to have a positive effect, the State and Regional Boards must ensure that those resources are allocated in the most efficient manner possible. The Cities believe that the most appropriate use of those resources can be accomplished through the State Board's implementation of a systematic program which (1) proves the problem, (2) clearly identifies the source of that problem, and (3) suggests corrective BMPs to address those problems.

The Cities believe that BMPs can and do have the ability to make significant improvements in water quality, but only when used consistently and appropriately. We support efforts by the State Board to develop guidelines in order make the use and application of BMPs more consistent so as to attain the greatest potential improvements to storm water quality.

In addition to developing BMP guidelines, the Cities urge the State Board to create pollutant specific source identification guidelines.

The Cities appreciate the State Board's initiative in commissioning the Panel and look forward with working with the State Board on implementing the Panel's recommendations. If you have any questions or comments, please contact me at any time.

Respectfully,



Matthew E. Cohen