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Bruce Fujimoto
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Subject: **COMMENTS ON THE USE OF NUMERIC STANDARDS FOR STORMWATER PERMITS**

Dear Mr. Fujimoto:

Thank you for the "Notice of Public Meeting – Meeting of Storm Water Panel of Experts". When the stormwater program in California started, cities were told that numeric effluent limitations would take approximately 10 – 20 years. We are within that time span, and it is a good time to convene a panel of experts to evaluate where the state is on developing numeric limits. While the following comments relate to the stormwater program in the Los Angeles region, they generally apply on a statewide basis and should be considered in evaluating potential stormwater effluent standards:

1. In the February 2003 study by Dr. Paulson (a *Review of the Los Angeles Basin Plan Administrative Record*), she noted that "When the RWQCB initially established water quality objectives in the mid 1970s, it explicitly did not intend those objectives to be applied to non-point sources (including stormwater and urban and rural runoff)." The same water quality standards are now being applied to some stormwater discharges without the economic and other assessments required by Porter-Cologne.

2. In the June 30, 1994, update to the Basin Plan, the **Urban Runoff** component of *Strategic Planning and Implementation* states that the "Regional Board's urban runoff management program (through both the Storm Water and non-point source programs) continues to assess specific urban runoff problems and control strategies to remediate those problems." Program elements under this strategy include "Participating on the State Board Storm Water Quality Task Force in the development and implementation of statewide urban storm water management guidance and strategies". It does not include the use of numeric limitations for storm water discharges.

3. Specific urban runoff problems (see comment #2) have not been identified in any formal process. There continues to be findings placed in stormwater permits regarding the general nature of urban runoff, which is frequently at odds with the site-specific analytical results of sampling required under the monitoring and reporting programs for the various permit holders. In our program (Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges Within Ventura County Flood

Control District, County of Ventura, and the Cities of Ventura County) for instance, the finding states that "(The primary pollutants of concern currently identified by the Program for these discharges are total and fecal coliform, mercury, polyaromatic hydrocarbons (PAHs), DDT and their by-products, diazinon, sediment/total suspended solids (TSS), chlorpyrifos, copper, lead, thallium, bis(2-ethylhexyl) phthalate, and phosphorous." Comparison of the most recent sampling results to existing Basin Plan objectives shows that, other than bacteria indicator organisms, the only contributions by residential land uses to exceedances in "receiving water" stations are of aluminum, specific PAHs, and DDE. Industrial land uses from urban areas only contribute aluminum, mercury, selenium, specific PAHs, and DDE to exceedances in "receiving water" stations.

Since we have specific pollutants of concern identified, and have provided specific information on receiving water conditions and the role of urban runoff discharges on the receiving waters, the state should be able to identify specific urban runoff problems and address their sources. The information necessary to perform this analysis is not available to local agency permit holders (i.e., regional monitoring such as SWAMP, analytical data from the general permit program, CalTrans data, and other NPDES discharge characterizations).

4. The development and implementation of statewide urban storm water management guidance and strategies has only recently been suggested by the holding of "listening sessions" related to a stormwater policy. It would seem premature to suggest numeric effluent limitations for stormwater discharges without this policy in place. Some key points brought out at the listening sessions were:

   - **Effluent limits/Numeric standards**

     Many are concerned that end-of-pipe numeric standards for storm water are difficult to achieve given local jurisdictions' budget constraints, and would result in third party lawsuits. There are also concerns that numeric standards could force the municipalities to focus their resources on specific constituents and as a result, efforts to improve water quality on a watershed basis will be neglected. In other words, while a discharger may be in compliance with a benchmark or numeric limit, the receiving waters could still be stressed due to other pollutants or synergistic effects, etc. They suggest that the Policy maintain the current iterative, adaptive management approach to regulating discharge of storm water, and that quantitative measures should only be used as a tool to measure the effectiveness of a BMP. Comments received from the environmental groups suggest that numeric standards are necessary to provide consistency, certainty, transparency, accountability and enforceability to the storm water program.

   - **Relationship with other water quality programs**

     There are concerns about the confusion caused by different requirements between the storm water permits and other program requirements such as total maximum daily load (TMDL) and Clean Water Act Section 401water quality certification, the California Toxic Rule (CTR) and the California Ocean Plan.

- **Wet weather discharge**
  Many suggest that the Policy should recognize the unique, variable nature of storm water. Storm water discharges are not like waste water discharges where the flows and pollutant loadings are somewhat predictable. The quantity of a storm water discharge is linked to the storm size. Pollutant loading is linked to factors including the antecedent dry period and the time and intensity of a storm event. The issue of the variability of pollutant concentrations during a storm event was also raised.

5. The 1994 Basin Plan further defines the stormwater program elements under *Comprehensive Control Program*:

   "All cities and counties in the Region are required to develop and implement comprehensive urban runoff control programs which focus on the prevention of future water quality problems and remediation of existing problems. The requirements of the municipal control program are intended to be consistent with NPDES regulations for municipal storm water discharges". NPDES regulations for stormwater discharges do not include numeric effluent limitations for municipal storm discharges, only for certain industries (e.g., Subchapter N industries), with performance goals for others. The state, in their general permits, acknowledges the EPA's four-tiered approach to permitting industries, including construction. This strategy is only effective as long as the permits are held to a BMP-based management of pollutant controls until the tiered evaluation is complete and the problematic sources of pollutants of concern are further identified.

6. During the recent Triennial Review process, numerous stakeholders requested an expansion of the beneficial uses to include flood control, and the addition of water quality objectives for wet weather conditions. To bypass these concerns and move directly to numeric limits for stormwater discharges using the current water quality standards is to further keep us from developing fiscally responsible environmental solutions.

We suggest the following cooperative approach to enhancing the stormwater program in the state:

a. Share data – local agencies are required by permit to supply program information, but if the local agencies are expected to assist the state in developing numeric criteria for sources of pollutants of concern, additional NPDES and receiving water data must be made available.

b. Modify beneficial uses to include stormwater runoff, as appropriate – stormwater, by nature, causes short-term impacts to receiving water by its quality and quantity.

c. Continue with the development of a statewide Stormwater Policy – this is an essential link between current stormwater strategies and future plans for increased use of numeric effluent standards.

d. Identify problematic discharges – since the conception of the stormwater program, little has been done to further define contributors of pollutants of concern so that those contributors could be subjected to increased regulatory scrutiny.

e. Consider effluent limitations if the discharges are not already regulated under another program (e.g., TMDL) – these programs are already putting in place increased monitoring and special studies to identify discharges and non-point source inputs of pollutants that are impacting receiving water bodies. Guidance and Policy for 303(d) listing of water body segments has had a logical progression that should be the model for the proposed stormwater policy and any policy developed for numeric effluent criteria for stormwater discharges.

Thank you for the opportunity to comment on the meeting of the panel of experts. Please feel free to call Mark Pumford, Technical Services Manager at (805) 271 – 2220 if any clarification of our comments is required.

Mark S. Norris
Wastewater Superintendent

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