

July 27, 2006

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



Re: Comment Letter—Storm Water Panel Report

Dear Members of the State Board:

The Boeing Company appreciates the opportunity to submit these comments on how the State Board should use the recommendations contained in the Storm Water Panel's report to improve the National Pollutant Discharge Elimination System Storm Water program. Boeing has several facilities throughout the state that are covered by the General Industrial Permit or by individual NPDES permits. The Company is committed to effective and responsible management of storm water discharges from our facilities, and we are proud to have pioneered and field-tested many new Best Management Practices ("BMP") approaches. As a result of our efforts, we have a large amount of data and information that we believe would be useful to the State and Regional Water Boards in evaluating various alternatives for storm water regulation. Much of this information has already been provided to the State and Regional Boards, but we would be happy to assist Board staff in providing and utilizing this information in the course of these proceedings.

Boeing is very concerned that any changes to the way in which storm water discharges are regulated should be scientifically defensible and reasonable. We are pleased that the State Board is holding two workshops to solicit the public's input on the Panel's findings and would like to offer our suggestions on an appropriate process for regulating storm water discharges.

First, Boeing notes that the regulation of storm water discharges raises many scientific issues that have not yet been adequately addressed. Examples include the effects on storm water discharges from atmospheric deposition of metals, dioxin, polycyclic aromatic hydrocarbons (PAHs), and other constituents, the effects of constituents present in native soils, and the contribution of constituents from areas burned in wild fires. In each of these cases, it may not be technically reasonable to require dischargers to meet limits for such constituents simply because they are required to obtain a storm water permit. We do not believe that any permit should require the discharger to control constituents that are not a result of its operations and which may be beyond its reasonable control.

Another issue is whether it is reasonable to require dischargers to be able to handle discharges from any size storm or whether some storms are simply too large. Storm flows by nature are highly variable, both in volume and concentration, and this variability must be incorporated into any policy or program regulating these discharges.

Given the complexity of these issues, Boeing recommends that a program for improving the quality of storm water discharges be adopted by the State Board based upon a thorough technical and scientific understanding both of the sources of contaminants in storm water discharges and of the most effective ways to control those sources. We suggest that the State Board instruct the Regional Boards to defer issuance and enforcement of individual permits with numeric limits for storm water discharges until after this program is adopted. Once the State Board program is in place, the Regional Boards should follow the State's guidance in applying the requirements to the dischargers in their regions. In the meantime, Regional Boards should not be engaging in ad hoc regulation of storm water discharges by placing "end-of-pipe" type limits in individual permits. Such an approach is not based on sound science and places the dischargers in an untenable position.

Second, any regulations or policies that are considered by the State Board should, at a minimum, follow established notice and comment rulemaking procedures so that all interested parties can be heard and participate in their development. All interested parties must be given an opportunity to present evidence on whether numeric limits are feasible, how appropriate limits should be set, whether proposed limits can be met, what technologies will be required to meet them, and the procedures for implementing any new standards.

Given the importance of this matter for municipalities, the construction industry and industrial sources, Boeing recommends that the State Board establish an open working group process in which all interested and affected stakeholders can exchange ideas about what can realistically be done to improve the quality of storm water discharges.

Third, if the State Board determines that numeric standards are feasible, the Board should also determine how those limits should be stated, and how compliance will be determined. For example, Boeing does not believe that never-to-be-exceeded numeric limits are appropriate for storm water discharges. Nor do we believe that numeric limits should be enforceable permit limits that subject a discharger to possible enforcement actions. However, numeric limits may be appropriate as action levels to determine BMP effectiveness. An exceedance of a numeric action level would instead indicate a potential need to maintain or upgrade BMPs.

Fourth, the State Board should consider what level of technology is reasonable to control storm water discharges. Our experience has shown that BMPs are capable of achieving significant improvements in storm water discharges but, in

all probability, they may not be capable of assuring 100 percent compliance with stringent numeric limits under all storm conditions. Therefore, if numeric standards are determined to be feasible, the State Board should determine whether it thinks that BMPs represent an appropriate level of treatment or whether it believes something more should be required. Numeric limits should be set at a level that can be achieved with the anticipated control technology.

If the Board is considering that at the point of discharge storm water should at all times meet stringent limits that are essentially equivalent to water quality objectives, this will potentially require construction of major containment and treatment systems. The costs of land acquisition, design, installation, and operation, as well as cost-effectiveness of such systems, must be considered in determining whether that level of control is reasonable and can be justified.

Fifth, any rulemaking should include an evaluation of the potential adverse environmental impacts associated with the proposed action. Such an evaluation is required of state agencies pursuant to the California Environmental Quality Act. If major storm water containment and treatment systems are to be required, this could have very significant adverse environmental impacts in open areas, within streambeds, and within developed areas.

Lastly, if new requirements are imposed on storm water discharges, it is imperative that reasonable compliance schedules be included. It is not reasonable to impose new requirements and to make those requirements immediately enforceable.

Boeing recognizes that controls on storm water discharges are necessary to improve receiving water quality during wet weather events. However, it is imperative that dischargers be able to meet whatever criteria are established and to do so in a cost-effective manner.

We look forward to working with the State Board in evaluating options for improving storm water quality. Should you have any questions concerning these comments, please contact Paul Costa, Environmental Services Manager, at (818) 466-8778.

Sincerely,

Kirk J. Thomson
Kirk J. Thomson
Director, Enterprise Environmental Affairs