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

August 17, 2006

California State Water Resources Control Board  
Attn: Ms. Song Her  
P.O. Box 100  
Sacramento, CA 95812-0100



Re: Comment Letter—Storm Water Panel Report

Dear Ms. Her:

We at Toll Brothers, Inc. appreciate this opportunity to comment on the State Water Resource Control Board's ("SWRCB") use of the *Storm Water Panel Recommendations to the California State Water Resources Control Board: The Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities* (June 19, 2006) ("the Report"). From the SWRCB's notice, we understand that the SWRCB is limiting comments at this time to recommendations on how the SWRCB should utilize the Report.<sup>1</sup> Based upon the two workshops on the Report that the SWRCB held in July, we also understand that the SWRCB is open to receiving information regarding the fundamental integrity of the storm water programs in California, which is key to determining how the Storm Water Panel Report's recommendations should be handled.

Based upon certain statements in the Report<sup>2</sup> and some comments made at the SWRCB's July 2006 workshops, it would appear that some people, including the Report panelists themselves, believe that the statewide General Construction Permit ("General Permit") program is fundamentally flawed and should be scrapped in favor of a permit program that does not rely upon implementation of Best Management Practices ("BMPs") and monitoring, but instead relies upon meeting a series of numeric effluent limits. We, however, believe that the General Permit is sound and that the Report may be utilized to fine-tune elements of the program. We do not think that the Report should become a basis for giving up on the current General Permit program, which has made significant progress in improving water quality, and which can continue to do so with additional enhancements.

The General Permit's BMP-based program is both necessary and effective. It is imperative that the General Permit program continues to be based upon implementation of BMPs meeting the permit's technology standards. The construction activities taking place throughout

<sup>1</sup> Because the SWRCB is requesting only limited comments on the processing of the Report, we reserve the right to comment further on the Report in the future.

<sup>2</sup> Such as when the Report states that most General Permit site operators have "focused on TSS and turbidity, but have not addressed other, potentially significant pollutants such as phosphorus and an assortment of chemicals used at construction sites." (page 15).

California are very diverse, construction sites are very diverse, construction processes are dynamic with no one site looking the same from day to day, and weather patterns are variable throughout the state. All these factors make it critical that construction site operators have the flexibility to implement a changing slate of BMPs best suited to the construction activities, site conditions, and weather conditions for a given site at a given time. Inflexible numeric limits would not allow for the necessary flexibility critical to proper construction storm water management. Implementation of an appropriate slate of well-maintained BMPs is protective of water quality and provides the requisite flexibility to deal with a dynamic industry in changing weather conditions.

The BMPs and monitoring we employ through the current General Permit are protective of water quality. The program currently required of construction site operators through the General Permit is demanding and is protective of water quality. Permittees under the General Permit are required to implement a series of BMPs so that runoff from our sites do not cause or contribute to exceedances of water quality standards. We at Toll Brothers, Inc. do this through BMPs addressing sediment and sediment-related pollutants (erosion and sediment control BMPs) as well as non-sediment pollutants related to construction materials (such as masonry, paints, solvents, etc.). We implement our BMP program throughout the year with special emphasis on rainy and windy weather conditions. At our sites, we never rely upon one single BMP to control a pollutant. We use structural and non-structural BMPs acting together to achieve the most efficient results and protect water quality. For example, our sites involve a combination of BMPs including:

- Erosion controls—source controls such as geotextiles and hydraulically applied products applied at non-active disturbed areas,
- Sediment controls—treatment controls such as gravel bag berms, silt fencing, and detention basins to control sediments and pollutants that are associated with sediments entrained in flow,
- Material management controls—source controls such as cover and containment requirements, concrete washout pits, procedures for proper application of landscaping materials to ensure that non-sediment pollutants are controlled in storm water and non-storm water situations, and
- Training BMPs—education of workers on proper clean up procedures, proper BMP maintenance, etc.

For our structural BMPs, we use a “treatment train” approach whereby BMPs are arranged in series to ensure that areas of the construction site have the necessary BMP redundancy and are not reliant upon only one type of BMP to control pollutants. Additionally, through our visual and non-visual monitoring programs required by the General Permit, we ensure that our BMPs are maintained in proper working order and that we have the appropriate controls to address our identified pollutants of concern. We also address water quality issues as a part of our regular staff meetings to ensure that our employees receive the proper training necessary to protect water quality and implement the General Permit at our sites.

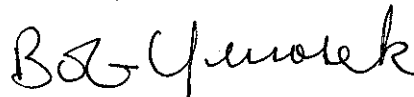
Proper oversight ensures the integrity of the General Permit program. In addition to our self-monitoring, our sites receive oversight from our master building partners, as well as from local municipal inspectors and inspectors from the Regional Water Quality Control Board. We feel that the oversight and enforcement duties of the municipal and Regional Board inspectors are critical to the success of the General Permit. If an agency inspector identifies an area of concern at our site, we work with the inspector to ensure that any deficiencies are promptly addressed. In this way, we feel that the enforcement powers of the agencies ensure that the overall General Permit continues to protect water quality, as permittees who do not adequately protect water quality at their sites are punished.

Enhancement of the General Permit is expected. As the General Permit and the other storm water programs throughout the state continue to evolve, we would anticipate that there would be tweaks to the programs. It is the proper evolution of the regulations to continue to improve upon themselves. To this end, we think that providing additional education of permittees on proper implementation of the General Permit would be helpful. We also believe that requiring additional training as part of the General Permit coverage would be reasonable, and requiring additional attention to management/staffing structures for permittee storm water programs would also be beneficial for the overall General Permit program. Providing additional enforcement staffing for the Regional Boards could also enhance the consistency of enforcement throughout the state. These types of improvements could work within the existing BMP and monitoring-based structure of the General Permit and would not require abandonment of the sound bases of the General Permit which has thus far done much to improve water quality in runoff from construction sites.

Requests for the SWRCB in its use of the Report. We urge the SWRCB to proceed with its work on the Report, recognizing that the current General Permit program is effective and that contrary opinions that may be found in the Report are unfounded and may have clouded the recommendations of the panelists. We also urge the SWRCB to work through all of the outstanding issues raised by the panelists in the Report prior to making any decisions on what tweaks to make to the General Permit. For example, the Report identifies several outstanding issues surrounding its recommendations on active, chemical treatment of storm water; we feel these issues must be fully analyzed before any mandates related to active treatment should be considered for placement in the General Permit.

We appreciate the SWRCB's consideration of these comments, and we look forward to a continued, productive relationship. Should you require any additional information or clarification regarding our comments, please do not hesitate to contact us.

Sincerely,



Bob Yurosek  
Senior Land Development Manager  
Toll Brothers, Inc.