



California Stormwater Quality Association

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

November 12, 2004

Ms. Dena McCann
Division of Water Quality
State Water Resources Control Board
Post Office Box 100
Sacramento, CA 95812-0100

Subject: Revisions to the State Policy for Implementation (SIP) of Toxic Standards for Inland Surface Waters/Enclosed Bay and Estuaries of California

Dear Ms. McCann:

On behalf of the California Stormwater Quality Association (CASQA), I am writing to provide comments on the proposed revisions to the State Policy for Implementation (SIP) of Toxic Standards for Inland Surface Waters/Enclosed Bays and Estuaries of California. CASQA is composed of stormwater quality management organizations and individuals, including cities, counties, special districts, industries, and consulting firms throughout the state, and was formed in 1989 to recommend approaches to the State Water Resources Control Board (State Board) for stormwater quality management in California. In this capacity, we have assisted and continue to assist the State Board with the development and implementation of stormwater permitting processes.

It is our understanding that the purpose for the scoping meeting on November 12, 2004 is to: 1) obtain input on the scope and content of the environmental information that should be included in the draft Functional Equivalent Document (FED), and 2) provide a forum for early public consultation on the proposed revisions to the SIP. Although CASQA does not currently have comments regarding the scope and content for the FED, we are writing to convey our thoughts regarding the proposed revisions to the SIP.

CASQA shares the State Board staff's concern noted in the *Revisions to the State Policy for Implementation of Toxic Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (October 2004)* that some provisions in the SIP are unclear and that this lack of clarity may be contributing to inconsistencies in permit requirements between regions (Issue #3). In order to address these concerns, State Board staff identified several non-regulatory language modifications. The first two recommendations are provided in order to further clarify that the SIP does not apply to stormwater or non-point sources. We concur with State Board staff that the SIP was not intended to be applied to stormwater discharges and support the Board's effort to further clarify this exemption. However, it is unclear to us how the deletion of "the issuance or waiver of waste discharge requirements (WDRs)" from the policy will further clarify that the SIP does not apply to stormwater discharges. If stormwater was defined as a non-point source discharge then this deletion would have merit but since the courts have defined stormwater as a

point source discharge, the proposed deletion has little impact on clarifying the application of the SIP to stormwater. That being said, footnote 1 provides that clarification and we support the proposed revisions.

We would also like to note that the lack of guidance for addressing non-point and stormwater discharges within the context of addressing the California Toxics Rule (CTR) has created confusion and at times, we believe, inappropriate application of the CTR to stormwater discharges. To address this problem, State Board staff are currently developing a stand-alone statewide stormwater policy. As such, revisions to any element of the water quality planning process/framework, such as the SIP, should be careful not to pre-empt this effort.

As in the past, CASQA offers its services to assist the State Board staff. If you have any questions please feel free to call me at (530) 753-6400.

Sincerely,

A handwritten signature in cursive script that reads "Karen Ashby".

Karen Ashby, Chair
California Stormwater Quality Association

cc: State Board Members
Celeste Cantu, State Board
Bruce Fujimoto, State Board
CASQA Board of Directors
CASQA Executive Program Committee
CASQA Members