

State Water Resources Control Board

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SAN DIEGO APPEALS COURT UPHOLDS MUNICIPAL STORM WATER PERMIT

San Diego - In a closely-watched case, the Court of Appeal in San Diego upheld the storm water permit issued by the San Diego Regional Water Board to the cities and county of San Diego. The challenge was brought by the Building Industry Association, which tried to prevent the Regional Board and the State Water Board from requiring cities to clean up storm water in order to protect San Diego Bay.

The Building Industry filed the suit, first in the Superior Court and then in the Court of Appeal, claiming that the storm water permit was illegal because it required cities to act to protect regional water quality. Instead, the Association claimed, the agencies could only require cleanup "to the maximum extent practicable." Both courts rejected the Association's claim. Citing the "numerous harmful pollutants" that are discharged in storm water runoff to the Bay and other water bodies without receiving any treatment, the Court of Appeal issued a lengthy opinion concluding that the permit's requirements to protect water quality are proper. The court also concluded that Building Industry's legal challenges were unsupported and unpersuasive. The case is important statewide because other construction groups and cities have challenged similar permit requirements throughout the state.

In response to the Appeal Court's decision, Arthur Baggett, Chair of the State Water Board, stated: "We are very grateful that the court has upheld a major component of our strategy for cleaning up waters damaged by urban runoff." Jack Minan, Chair of the San Diego Regional Board and a professor of law at University of San Diego, stated: "The court correctly concluded that the Water Board had the authority to include within the storm water permit, a provision requiring compliance with State water quality standards. The result will be greater protection of water quality in our region." Several environmental groups, including Natural Resources Defense Council, also participated in the lawsuit, urging the courts to uphold the permit.

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