

State Water Resources Control Board

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CALIFORNIA SUPREME COURT REFUSES TO REVIEW LOWER COURT OPINIONS UPHOLDING SAN DIEGO STORM WATER PERMIT

SAN DIEGO-In a case setting the standard for municipal storm water permits throughout the state; the California Supreme Court rejected a request by the Building Industry to review a lower court decision upholding a storm water permit in San Diego. The case is important statewide because other construction groups and cities have challenged similar permit requirements.

The contested permit required cities to apply storm water controls that will protect California's waters. The Building Industry claimed that cities should not be required to ensure that runoff, including that from new construction, meets water quality standards. Both the Superior Court and the Court of Appeal in San Diego had upheld the storm water permit issued by the San Diego Regional Water Board to the cities and county of San Diego.

The Building Industry filed the suit, first in the Superior Court and then in the Court of Appeal, claiming that the storm water permit went too far by requiring compliance with water quality standards. Instead, the Association claimed, the agencies could only require cleanup "to the maximum extent practicable." Both lower courts rejected the Association's claim, and the Supreme Court let the rulings stand.

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 said that Building Industry's legal challenges were unsupported and unpersuasive.

In response to the Supreme Court's decision, Arthur Baggett, Chair of the State Water Board said: "We are very grateful that every court that has considered these issues have upheld our permits, and has agreed that storm water permits are appropriate tools 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, said: "The court ruled correctly and the result will be a cleaner San Diego Bay."

Several environmental groups, including Natural Resources Defense Council, also participated in the lawsuit, urging the courts to uphold the permit.

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