



SPECIAL HEARING
2/3/05
cc: BD, DI, DWQ
e-cys: BD, CC, HMS, TH, CMW

January 31, 2005

Debbie Irwin, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor [95814]
P.O. Box 100
Sacramento, California 95812-0100

Re: Storm Water Policy

Dear members of the Board,

KBI proposes the draft revisions to the December 15, 2004 SWRCB storm water permit include methods to accurately evaluate water quality and set more reasonable standards that will help California industry ensure minimal impact to the environment in the most feasible and cost effective manner possible. The specific use of benchmarks in their current form, to evaluate compliance, automatically places California industry in a position to *fail* as the benchmarks themselves are flawed, inadequate and nearly impossible to measure with instrumentation available. The Board should reconsider their use in favor of more effective guidelines and develop, through the public review process, alternative, quantitative methods of evaluation and as well as the implementation of definitive BMPs.

The current benchmarks the Board is considering adopting for this program are flawed and inadequate for several reasons. First, according to the EPA benchmarks were designed as guidelines not standards ***. Second, they have no correlation to receiving water quality, because it does not take into account runoff from other sources. Sedimentation in watersheds has been occurring for eons and waters, even from non-industrial sources, may fail current benchmark numbers merely by coming into contact with structures or paved roadways. As an example, even existing industrial complexes constructed from iron and sheet metal may have iron present in run off above the current benchmark of 1 mg/l. By adopting the draft permit in it's current form, the state essentially allows for the interpretation that the benchmarks are a measurement of compliance and thus forces such facilities to retrofit, re-construct or redevelop these properties in an effort to meet the perceived limitations. Typically, this cost would make it difficult to justify continuing to conduct business in California



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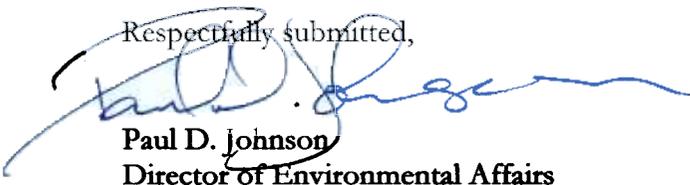
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Third, while the Board may believe that benchmarks are, “representative of what is minimally achievable through a properly developed and implemented SWPPP” there is no mechanism for industry to independently determine if a SWPPP and its BMPs’ constitute compliance if benchmark numbers are not attainable. Since as previously discussed, there is no means to achieve the levels required by the benchmarks due to constituents already present in the environment, to develop a sound program we must take into consideration industry standards, scientific methods, as well as economic feasibility or face the inevitable consequences.

Finally, as noted above the benchmarks are unrealistic and unattainable; consequently, by requiring certification to BMPs that are judged arbitrarily, the Board is further creating an environment that places California industry at an absolutely unattainable compliance position. Accordingly, these companies will also be placed in a position of increased and unreasonable liability. Clear and precise policy regulation is necessary to prevent California industry from becoming prey to the overzealous watchdog groups that take advantage of unclear regulatory schemes for profit. To achieve this, it is clear additional research is needed to establish appropriate industry-specific numeric limits, which also protect the interests of our communities. To force industry to achieve EPA benchmarks without first including provisions in the permit that considers background constituents, offsite pollution sources and existing structures, as well as whether the technology is economically feasible or even available, will undoubtedly cause industry and jobs to leave the state. At a minimum, we strongly urge the Board to continue developing this revision only with the involvement of the public review process.

Taking into account that the proposed revisions of this Draft Permit are without proof of improvement to the State’s water quality, KBI sincerely hopes that the SWRCB will examine the likely impact to California industry, jobs and productivity and will seriously consider devoting further research and scrutiny to a more scientifically justifiable approach which would ensure environmental integrity while preserving California businesses.

Respectfully submitted,



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Director of Environmental Affairs

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