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September 8, 2005

Mr. Bruce Fujimoto, Chief  
Storm Water Program  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100

**RE: Comments Regarding the State Water Resources Control Board Process to Develop Compliance Criteria for Industrial, Construction, and Municipal Stormwater Discharge Permits**

Dear Mr. Fujimoto:

On behalf of its 30 member counties, the Regional Council of Rural Counties (RCRC) appreciates this opportunity to provide the State Water Resources Control Board (SWRCB) with comments regarding the proposed use of “numeric effluent limitations” or other quantitative measurements as the basis for determining compliance with stormwater discharge requirements.

RCRC, in general, opposes the establishment of broadly applicable numeric limits for stormwater discharges because such an approach fails to adequately consider site-specific conditions that can have a profound impact of the ability (or inability) of dischargers to control the quality of stormwater discharge from a regulated site or facility. With the imposition of numeric standards, many facility owners will find that they are unable to achieve regulatory compliance despite conscientious implementation and maintenance of generally accepted “best practical control technologies”. In many situations, the required costs to try and achieve compliance with “pre-set” numerical standards would be prohibitive and, despite exorbitant compliance costs, the resulting water quality benefits would be minimal.

This issue is particularly important to rural counties because many sparsely populated rural areas simply do not have the level and type of stormwater control infrastructure that is common in more highly developed areas of the state. Instead, most stormwater run-off is conveyed in unlined drainage ditches or sheetflows overland. This presents significant discharge permit issues in our counties because of uncontrolled stormwater flow onto regulated sites and because of the lack of any centralized collection/discharge points. For many publicly-owned facilities in our rural counties, stormwater quality flowing onto a

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regulated site would exceed established numeric discharge limits. This would then require facility owners to either remove constituents from upstream stormwater (even though the presence of such constituents may have little or no relationship to on-site activities) or, alternatively, to construct expensive diversion ditches to alter natural run-off patterns.

RCRC appreciates the recent efforts of the SWRCB to assemble a select team of professionals with “academic and regulatory expertise” regarding stormwater discharge issues and to seek advice from this panel. It is our understanding that these experts have been convened to help the SWRCB determine if it is “technically feasible” to establish numeric limits for inclusion in the various types stormwater discharge permits that are required.

Although we recognize the importance of determining “technical feasibility”, RCRC is concerned that the current process is unduly limited in scope and fails to give meaningful consideration to many of the “non-academic” aspects of stormwater quality control. While a discharge requirement may, in fact, be technically feasible, it may quite likely prove to be practicably and economically unachievable in the real world within which we live.

The assembled “Blue Ribbon Panel” is comprised of representatives from academia, two private sector consultants, and a staff person from the USEPA. None of the panel members own or operate facilities that are subject to stormwater discharge regulations and, as far as we can tell, no panel members have local government experience. Similarly, the panel lacks anyone with economic expertise and knowledge of local government financing and associated fiscal constraints. As such, we are concerned that the findings of the panel will be not be considerate of the full range of factors that must be critically evaluated prior to the finalization of any new regulatory proposal for stormwater control. Technical feasibility does not necessarily imply practical viability.

In consideration of this, RCRC joins with the California Stormwater Quality Association (CASQA), the California State Association of Counties (CSAC), the League of Cities, and others to encourage the SWRCB to develop a more comprehensive and more inclusive regulatory development process following the September 14th Public Meeting with the “Blue Ribbon Panel”. This follow-up process should be fully transparent and receptive to the views and input from the regulated community. Among other things, the process must consider associated cost implications to local government and businesses and, before finalizing new permit conditions, the SWRCB must assess the degree to which these costs are commensurate with water quality improvements.

In anticipation of your positive consideration of the suggestion for further study and analysis, RCRC requests the opportunity to participate fully in all future regulatory development processes on behalf of our membership which represents over 40% of the land area in California.

Mr. Bruce Fujimoto, Chief, Storm Water Program  
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Please feel free to call me at 209-754-3104 if you have any questions regarding this letter or if you would like additional information about alternative compliance mechanisms that we feel would provide for reasonable protection of water quality without the imposition of undue regulatory burdens on local government and businesses in our rural counties.

Sincerely yours,

James A. Hemminger, P.E.  
Regulatory Affairs Consultant  
Regional Council of Rural Counties

cc: RCRC Board of Directors  
Art Baggett, Chair, State Water Resources Control Board  
Members, State Water Resources Control Board  
Celeste Cantu, Executive Director, State Water Resources Control Board  
Tom Howard, Deputy Director, State Water Resources Control Board  
Geoff Brosseau, Executive Director, CASQA  
Karen Keene, Legislative Representative, CSAC  
Yvonne Hunter, Legislative Representation, League of Cities