



## California Stormwater Quality Association®

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

September 15, 2011

Mr. Charles Hoppin, Chair  
State Water Resources Control Board



Subject: Support for Stormwater Fee Rebalance

Dear Mr. Hoppin:

On behalf of the NPDES stormwater permittee members of the California Stormwater Quality Association (CASQA<sup>1</sup>), thank you for the opportunity to comment on your consideration of a proposed Resolution adopting emergency regulations revising the Core Regulatory Fee Schedules for FY 11-12. CASQA strongly supports the use of the Stormwater Fee Rebalance option in the adopted Resolution.

We have spoken with State Water Board staff and understand the primary reason staff did not recommend use of the Stormwater Fee Rebalance option is a concern that a significant amount of the ‘benefit’ of the Rebalance option might accrue to permittees other than those that were originally part of the over-collection of fees – which were primarily construction permittees. We understand this potential concern, but our strong opinion is that such an analysis parses out the details of stormwater revenue and expenditures more finely than is necessary or prudent. For the purposes of the Core Regulatory Fee Schedules, the State Water Board has treated Stormwater as one Waste Discharge Permit Fund (WDPF) program. CASQA does not believe that over-collected fees must be directly returned to the permittee since the Stormwater program fund shares a common goal, and all fees supporting the program are interdependent.

By design and practice, there is a significant amount of interplay, even duplication, between the three stormwater permit types – Construction, Industrial, and Municipal – at both the State/Regional Water Board and local levels. Municipalities own and operate construction sites and industrial facilities. Municipalities regulate businesses, developers, and construction sites. Municipalities enforce local and State requirements at construction and industrial sites. Stormwater revenues and expenditures are flowing between all three stormwater program types through various cost recovery (fee) programs on an ongoing basis. As a result, any benefit from use of a Stormwater Fee Rebalance option will accrue to all three stormwater program types, including to construction, to a degree much higher than would first appear.

Additionally, CASQA feels very strongly, and we believe the other Waste Discharge Permit Fund programs acknowledge, that the systemic imbalance in the WDPF is inherently unfair and inequitable, and therefore must be addressed. Our reasoning follows:

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<sup>1</sup> CASQA is composed of stormwater quality management organizations and individuals, including cities, counties, special districts, industries, and consulting firms throughout California. Our membership provides stormwater quality management services to more than 22 million people in California. CASQA was formed in 1989 to recommend approaches for stormwater quality management to the State Water Resources Control Board.

- When Stormwater faced its Program Fund Shift in FY 02-03, stormwater fees went up dramatically – by amounts significantly higher than those faced this year by other Waste Discharge Permit Fund programs (e.g., Wastewater, 401 Certs, Landfills, Irrigated Lands);
- Stormwater permittees have overpaid for 9 years in a row– since FY 02-03;
- The over-collected fees were not allocated to their intended purpose – stormwater;
- Stormwater permittees have not had access to those over-collected monies to expend on stormwater needs;
- The other WDPF programs have accrued significant benefit during the 9-year period – literally at Stormwater permittees’ and tax payers’ expense;
- Stormwater permittees have been understanding and very patient, and should be paid back as expeditiously as possible.

For all the reasons above, CASQA and stormwater permittees throughout the state strongly support the use of a Stormwater Fee Rebalance option in the adopted Resolution. Additionally:

- Although we do not believe holding the Stormwater Program fee increase to 0% would result in an increase to the other WDPF programs approaching that imposed on Stormwater in FY 02-03, we recognize it could be unreasonable and we understand the difficulty in addressing any significant increase. Therefore, we reluctantly support the 20% fee hike for Stormwater as the “lesser of two evils” (20% versus 34.9%) presented to the Board.
- A Stormwater Fee Rebalance factor should be a standard part of a Core Regulatory Fee Schedules calculation in all future years until stormwater is “paid back”, and this should be done as expeditiously as possible. We respectfully request the State Water Board make a commitment in the FY 11-12 Resolution to the use of a Stormwater Fee Rebalance factor.
- The Water Boards should produce an annual report detailing each previous year’s stormwater expenditures and the projected stormwater expenditures for the following fiscal year.

Please contact me at (760) 603-6242 or Geoff Brosseau, our Executive Director at (650) 365-8620 if you have any questions or would like to discuss our comments further.

Sincerely,



Scott Taylor, P.E. D. WRE  
Chair, California Stormwater Quality Association

cc: Fran Spivy-Weber, Vice-Chair, State Water Board  
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