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Court Restores Clean Water Protections in Southern California

Order blocking government enforcement of water quality standards reversed

LOS ANGELES (August 29, 2008) – Ruling on a post-trial motion by environmental groups, an Orange County Superior Court yesterday reversed the part of a July 2, 2008 judgment that blocked the Los Angeles Regional Water Quality Control Board from enforcing many water quality standards that control Southern California's worst source of water pollution, storm water runoff.

The Natural Resources Defense Council (NRDC), on behalf of itself, Heal the Bay, and Santa Monica Baykeeper, intervened in the case earlier this year after Judge Thierry Patrick Colaw ruled the water board did not follow the proper procedure when it applied water quality standards for Los Angeles and Ventura County waterways to control polluted runoff. The July 2 ruling suspended the water board's ability to enforce many water quality standards to control storm water runoff pending further review of standards by the board. Water quality standards play a pivotal role in pollution control because they serve as legal limits on the amount of dangerous pollutants, such as bacteria and toxic chemicals, that can be discharged to local waterways.

In post-trial motions and objections filed this summer, NRDC, Heal the Bay, and Baykeeper argued that preventing the water board from enforcing the standards, even temporarily, would be harmful to the environment and public health. In yesterday's decision, Judge Colaw agreed that halting enforcement or application of the water quality standards pending review by the water boards could have "unintended consequences which cannot be predicted."

The environmental groups are reviewing aspects of the July 2 judgment left in place by the Court finding that the water board failed to abide by proper procedure when it applied water quality standards to storm water.

Following is a statement by David Beckman, lead counsel and co-director of NRDC's Water Program:

"Today's decision means that California can get back to enforcing indispensable clean water standards that protect people from getting sick at local beaches and wildlife from toxicity in local waterways. These standards protect drinking water supplies, people at the beach, and fish in our rivers, so this is great news for everyone in Southern California."

Following is a statement by Mark Gold, president of Heal the Bay:

"Although we respectfully disagree with the court's ruling that the water board violated the law, Heal the Bay is ecstatic with the decision yesterday which restores the water quality standards that we need to protect public health and aquatic life from storm water pollution."

Following is a statement by Tom Ford, executive director of Santa Monica Baykeeper:

We welcome this Decision and call on the building groups and anti-environmental coalition of cities who filed this case to stop spending public money to make local waters dirtier. This case is an attempt to hold the interests of the public at large hostage to the anti-regulatory politics of the few, and it's a shameful perversion of sound public policy."

Background/Timeline:

On December 9, 2005, a coalition of 21 cities in Los Angeles County, as well as the Building Industry Legal Defense Foundation, brought a lawsuit against the State Water Resources Control Board and Los Angeles Regional Quality Control Board (*Cities of Arcadia et al. v. State Water Resources Control Board et al.*), alleging that water quality standards in the Los Angeles Basin Plan were not developed and applied to storm water in accordance with California law. The cities and the Building Industry sought to prevent the water boards from applying the water quality standards to storm water, an outcome that would be extremely detrimental to the water boards' efforts to regulate polluted runoff that fouls Los Angeles waterways.

On March 13, 2008, Orange County Superior Court Judge Thierry Patrick Colaw issued a preliminary decision after a one-day trial, finding in favor of the cities and the Building Industry.

On April 2, 2008, the NRDC, on behalf of itself, Heal the Bay, and Santa Monica Baykeeper, filed an emergency motion in court to intervene in the case. On May 1, 2008, the court granted the motion to intervene.

On May 27, 2008, NRDC filed extensive objections to the court's proposed writ and judgment, on grounds including that the decision to prevent the Regional Water Board from implementing water quality standards, even temporarily, would be detrimental to the environment and public health.

On July 2, 2008, over NRDC's objections, the judge issued a writ and judgment blocking the Los Angeles water board from applying water quality standards in the Los Angeles Basin Plan to polluted runoff.

On July 18 and July 28, 2008, NRDC filed a motion to vacate the court's judgment and a motion for a new trial. In the two motions and in court hearings on August 8 and 15, NRDC argued that the decision improperly constrained the state from following the federal Clean Water Act; was based on a misinterpretation of the California Water Code; and failed to follow a controlling California Supreme Court decision.

A recent NRDC report on the status of California's beaches confirmed storm water as the largest pollution source for the state, particularly in Southern California. Closing and advisory days in 2007 in Los Angeles (94%), Orange (92%), and Ventura Counties (100%) were primarily caused by elevated bacteria levels.

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The Natural Resources Defense Council is a national, nonprofit organization of scientists, lawyers and environmental specialists dedicated to protecting public health and the environment. Founded in 1970, NRDC has 1.2 million members and online activists, served from offices in New York, Washington, Chicago, Los Angeles, San Francisco and Beijing. From each of the organization's U.S. offices, NRDC's Water Program works to assure safe and sufficient water for people and the environment.