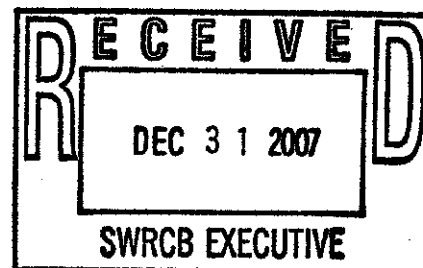


Melissa A. Thorne
mithorne@downeybrand.com

1/15/08 BdMtg.
A-1754 City of Arcata
Deadline: 1/3/08 by 12 p.m.

December 27, 2007



VIA EMAIL AND U.S. MAIL

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor [95814]
P.O. Box 100
Sacramento, CA 95812-0100

commentletters@waterboards.ca.gov

Re: **Comments to A-1754 - January 15, 2008 Board Meeting**
Client-Matter No. 37594.00000

Dear Ms. Townsend:

Please provide the following comments to the State Water Board members on the Draft Order related to the City of Arcata's Petition for Review of the Mandatory Minimum Penalties (MMPs) adopted by the North Coast Regional Water Quality Control Board.

The City of Arcata (City) would like to sincerely thank the State Water Board for its correction of several mistakes made in the Regional Board's Order assessing MMPs to the City. For a small city, these corrections and the attendant savings are important.

The City is concerned however, that the State Water Board plans to dismiss the other issues¹ raised by the City in its Petition as the City believes that these issues are substantial issues of law and fact that warrant closer review. For example, the primary issue raised in the City's petition was that this enforcement action was taken against a rescinded permit. The Water Boards have provided no justification for enforcement of a rescinded and no longer valid permit where language has not been placed in the new, replacement permit reserving the authority to do so, which was not the case here. The City would like the State Board to address this, and its other issues.

¹ The City would like to note that on page 2 of the Draft Order, it states, "... the petitions are hereby dismissed in their entirety." This appears to be a typographical error since the City does not believe the State Board intends to dismiss this and the City's other pending petition by way of this draft order (SWRCB/OCC File A-1840). Perhaps, this was intended to read "... these other issues are hereby dismissed in their entirety."

Ms. Jeanine Townsend
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In addition, many of the other issues raised by the City concern the propriety of the permit's requirements and enforcement of the same. These issues are similar to the issues raised by the City in its other pending petition – A-1840. For this reason, the City respectfully requests that, instead of dismissing the other issues raised in the City's MMP Petition, the State Water Board defer those issues and consolidate them with their review of the City's other petition relating to the failure of the Regional Board to modify the City's permit to better reflect the wetland treatment system being utilized by the City.

The City hopes that the State Board members will carefully consider the City's requests. Representatives from the City will be available at the hearing on January 15, 2008 to answer any questions related to these requests.

Very truly yours,

DOWNEY BRAND LLP



Melissa A. Thorme

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cc: Mr. Robert Klamt, Interim Executive Officer, North Coast RWQCB
Ms. Kim Niemeyer and Ms. Samantha Olson, SWRCB OCC
Ms. Nancy Diamond, City Attorney, City of Arcata
Mr. Mark Andre, Director, Environmental Services, City of Arcata
Ms. Karen Diemer, Deputy Director, Environmental Services, City of Arcata