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VIA FACSIMILE (7 13) 267-3 100 c/o Turner Collie & Braden

May 21, 2001

NPDES Storm Water Management Joint Task Force  
P. O. Box 131066  
Houston, Texas 772 19

Reference: Review of Certain Draft Documents Concerning the Regulation, Administration, and Enforcement of Storm Water Controls on New Development and Significant Redevelopment in the City of Houston and Harris County

Ladies and Gentlemen:

On behalf of the Greater Houston Builders Association and the Houston Real Estate Council, we appreciate the opportunity to review and provide the following comments on the above referenced and following documents:

- Draft City Ordinance and County Rule, including enforcement provisions, governing the New Development/significant Redevelopment and Construction programs
- Draft City and County Administrative procedures for the New Development/Significant Redevelopment Program.
- Draft City and County Administrative procedures for construction site planning, construction inspection administrative procedures and criteria, and violation corrective action follow-up procedures.
- Minimum Design Criteria for Certain Best Management Practices for Storm Water Runoff Treatment Options – Draft, April 200 1.

We have organized our comments into the following groups:

General comments affecting proposed policies and approaches by the JTF agencies, the impact of which could result in changes throughout the set of draft documents (as opposed to a single word or sentence).

Specific comments affecting a sentence or paragraph of one of the specific draft documents. These specific comments will be grouped by document and attached to this letter.

## GENERAL COMMENTS

### Maintenance by the Appropriate Public Entity

Except within larger private commercial or industrial site developments, most single family and commercial developments occur within subdivisions served by public streets and public storm sewer system owned and maintained by the City of Houston or Harris County. Developers do not have long-term maintenance roles because they dedicate the public street-of-ways by subdivision plat to the City or County and they sell the developed property to multiple individual owners.

Once storm water enters these public drainage systems, it co-mingles with storm water from the public right-of-way, the storm water is a public responsibility. Routing this public storm water through a storm water quality treatment basin does not alter its public status. Therefore, it is these storm water quality facilities. Funding for this maintenance should come from a City and/or/County-wide tax.

The only alternatives to public government agency maintenance is either through a Municipal Utility District (MUD) or homeowners' or property owners' associations (HOA). The HOAs have proven to be quite variable in long-term management, and the people elected to the governing Boards of these organizations will likely not have the understanding of the function and legal requirements for storm water facilities. It is believed the maintenance provided by such organizations will be inconsistent and very difficult to manage and enforce by the City of Houston and Harris County. Proposed legislation in the current session of the Texas Legislature, which will pass, seriously impair the ability of such organizations to predictably collect revenues for any activities. MUDS are an interim solution at best and public governmental agency maintenance would be required upon annexation and/or dissolution of the districts.

### Permit Recordation

Recordation of the obligation to comply SWQMP requirements for the affected properties will unduly create significant land title problems for typical single-family residential and commercial developments with public facilities. Accordingly, this requirement must be revised to allow for amendments, revisions and removal and should not apply to single-family residential development. Additionally, we are working with Stewart Title Company to ascertain the implications and consequences of having these obligations as an exception to title, the resultant information will be provided to the JTF so that transfer of title can readily occur. If not, then the whole concept of recordation and all attendant proposed regulations, should be deleted.

### Economic Impact on Affordable New Home Construction

Providing affordable housing is important to us all and we understand that continuing to provide affordable housing cannot be at the expense of water quality. The costs associated with this program occurs at every construction site irrespective of the price of the home. The FHA loan cap is approximately \$104,000. Homebuyers can expect to see an additional cost of 3 to 5 thousand dollars added to the price of a new home to offset the NPDES compliance costs. These costs will be passed on to the consumer and will eliminate some potential homebuyer's from the marketplace. The following is a list of costs incurred by a homebuilder to meet these requirements on a typical

sixty foot lot. This does not include increased lot costs caused by additional requirements for developers.

Current Builder Cost Resulting from Environmental Requirements

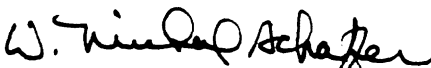
60 ft. silt fence @ \$ 1.50 plf	\$ 90.00
120 ft. orange trash fence @ \$1.25 plf	150.00
One wire inlet cover with sand bags	50.00
20 ft x 20 ft gravel access pad	1,000.00
Maintenance of silt fine after deliveries	180.00
Cost of waste paint and thinners (15 gal per house - \$350 to dispose of 55 Gal)	95.00
Cost of street clean per day x 45 days (cost includes renting a Bobcat with an operator)	<u>500.00</u>
TOTAL	\$1,885.00
30%	<u>\$565.00</u>
GRAND TOTAL	\$2,450.00


Small Project Impact Fee in Lieu of Structural Controls

If a development project will include an onsite stormwater quantity detention basin, then modification of this basin to include structural storm water quality treatment functions should not, in most cases, cause physical and/or economic hardships. However, many small development and redevelopment projects which will require structural control will not have onsite stormwater detention facilities, either due to existing drainage impact exemptions or due to payment to HCFCD of a regional stormwater detention impact fee (for new impact totaling  $\leq$  acres). If these small projects are required to construct sedimentation basins, the relative impact will be greater than one large project. Therefore, we recommend that the City of Houston, Harris County, and Harris County Flood Control District develop a program of stormwater quality mitigation projects in which small project developer should pay a per acre impact fee for capacity. This would be analogous to the existing HCFCD stormwater detention impact fee program. It would also be analogous to offsite mitigation and mitigation banks used in complying with the Federal wetlands permitting program.

Again, we appreciate the opportunity to review and comment upon these draft documents.

Respectfully submitted,

  
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Houston Real Estate Council

  
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Developers Council  
Greater Houston Builders Association

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cc: Honorable Mayor and City Council, City of Houston  
Honorable County Judge and County Commissioners, **Harris** County, Texas  
Mr. Art Storey, **Harris** County, Texas  
Mr. Tom Rolen, City of Houston  
Mr. Wayne **McLane**, President , Houston Real Estate Council  
Mr. Roger Hord, West Houston Association  
Mr. Jeff E. Ross, American Society of Civil Engineers  
Senator Jon Lindsay, North Houston Association