



**Ventura Countywide  
Stormwater Quality  
Management Program**

**Construction General  
Permit – Stormwater  
Deadline: 5/4/07 5pm**

May 4, 2007

Participating Agencies

Camarillo

County of Ventura

Fillmore

Moorpark

Ojai

Oxnard

Port Hueneme

San Buenaventura

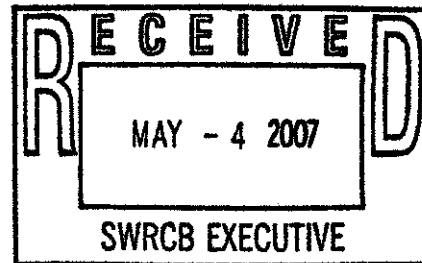
Santa Paula

Simi Valley

Thousand Oaks

Ventura County  
Watershed Protection  
District

Ms. Song Her, Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814



**SUBJECT: COMMENT LETTER – DRAFT STATE WATER RESOURCES CONTROL BOARD (SWRCB) DRAFT GENERAL CONSTRUCTION PERMIT, MARCH 2, 2007 (ORDER NO. 99-08-DWQ)**

Dear Ms. Her:

On behalf of the Ventura Countywide Storm Water Program, we thank you for the delivery of the much-anticipated draft National Pollutant Discharge Elimination System (NPDES) General Construction Activities Permit. We appreciate the opportunity to contribute comments regarding the proposed storm water regulations.

We have reviewed the draft document and our concerns are conveyed in the following pages with the hope of working together toward the common goal of creating a final draft that promotes a balanced framework between storm water regulations and attainable field measures. The presented comments are intended to maximize the effectiveness of the program and to ultimately improve storm water runoff quality at construction sites.

While we applaud the State Board's goal of raising the bar of compliance at construction sites, we find some of the proposed regulations to be too inclusive and lacking recognition of the prevailing different conditions of each receiving water body. Substantial provisions are being added to the General Construction Permit that do not incorporate the Clean Water Act's (CWA) maximum extent practicable (MEP) standard to effectively address Ventura County's water quality objectives. The rapid phase-in approach of the General Construction Permit also does not follow the 1994 Basin Plan's natural progression for Ventura County. Moreover, Ventura County is being compared to highly urbanized areas as Contra Costa County in Northern California, and other states (e.g., Oregon, New Jersey, Maryland, and Washington).



This comparison to highly urbanized areas is evident in the State Board's "one-size fits all approach" toward the development and implementation of statewide construction storm water runoff management guidelines that do not recognize the unique topographical and hydrographical characteristics of Ventura County watersheds. These vast dissimilarities between other areas of the country and adjacent Los Angeles and other highly urbanized counties have been previously emphasized to Regional Board staff. Without localized pilot and case studies that explicitly define regional concerns, there cannot be compliance through an approach based on balance, flexibility, and consistency. We suggest that a more regional approach be implemented to phase-in requirements and better define the water quality concerns in various California watersheds including Ventura County.

**Action Levels (ALs) and Numeric Effluent Limits (NELs)**

Setting Numerical Effluent Limits (NELs) for construction storm water runoff is premature for Ventura County at this time. The NPDES storm water program needs to remain consistent with its traditional triad approach in mitigating the impacts of storm water runoff associated with construction sites before the establishment of NELs. The Draft Permit should follow the 1994 Basin Plan's Strategic Planning and Implementation section which states that the "Regional Board's urban runoff management program (through both storm water and non-point source programs) continues to assess specific urban runoff problems and control strategies to remediate those problems." Ventura County has accomplished these objectives through our Storm Water Management Plan and implementation of our Monitoring Program.

The 1994 Basin Plan further defines the storm water program elements under the Comprehensive Control Program, emphasizing the development of urban runoff control programs consistent with NPDES regulations. Accordingly, the NPDES storm water program has specific limitations for certain industries (e.g., Subchapter N industries), but it does not impose numerical effluent limitations for municipal storm water discharges. This concern in progression is noted on page 17 of the Panel's white paper dated June 19, 2006, where it states "The Board should consider the phased implementation of Numeric Limits and Action Levels, commensurate with the capacity of the dischargers and support industry to respond...." Such program elements as the NELs should be reserved for highly urbanized areas of the country where this natural progression has taken place, not for Ventura County.

We suggest that instead of using NELs, the State use the existing 303(d) and related TMDL programs to identify discharge pollutants that are impacting receiving water bodies and only consider additional criteria limitations for pollutants not already regulated by these programs.

In addition, the parameters required for ALs (pH, turbidity, and Total Petroleum Hydrocarbons) are sufficient to determine water quality compliance, and we suggest that NELs for these constituents be eliminated at this time. An Action Level Exceedance Evaluation Report (ALEER) will be filed accordingly to report Action Level violations and corrective measures put in place. This approach is more reasonable and will require the discharger to modify the Storm Water Pollution Prevention Plan (SWPPP) and substantially reduce pollutants in runoff.

### **Active Treatment Systems (ATS)**

The glossary (Attachment A) states that an ATS employs chemical coagulation, chemical flocculation, or electro-coagulation. As a result of chemical addition, water quality tests for acute toxicity and chronic toxicity are conducted.

Part IX, Section G (Active Treatment System) indicates that settling/filtration may be used, in which case toxicity testing should not be required. Historically, construction sites in Ventura County have rarely used ATSs with chemical treatment. Additionally, the ATS NELs are not consistent with the pollutants of concern for Ventura County. The formation of a statewide storm water policy should consider the predominant targeted pollutants to prevent the impairment of the receiving water quality. Therefore, this requirement cannot be established before a better understanding of ATS quality data is explored, benchmarks determined, and guidelines developed.

### **Sampling and Analysis**

The discharger is required to collect storm water samples from each drainage area within one business day after the first ½ inch of measured precipitation, and every inch thereafter. The discharger shall also collect samples of stored/contained storm water that is discharged subsequent to a storm event producing ½ inch or more at the time of discharge.

This requirement is burdensome with too many samples needed. We suggest that only one representative sample be collected per storm event from each drainage area specified in the SWPPP. In addition, the visual inspection requirement will require dischargers to monitor their sites and make changes/repairs as needed to further improve water quality.

### **Post Construction BMPs/Hydromodification**

Post construction BMPs are discussed with the Notice of Termination requirements in the fact sheet. We feel that specific language should be added to the General Construction Permit that addresses post construction BMPs in the planning phase. This will prevent confusion during the termination phase and ensure that adequate post construction BMPs are installed.

For those construction sites that fall within the jurisdiction of an existing Municipal Storm Water NPDES Permit, hydromodification should be regulated by those permits and not by the General Construction Permit as a one-size fits all solution due to the differences in hydrology and soils throughout California.

### **Construction Activities Covered By This General Construction Permit**

The draft Fact Sheet conflicts with Attachment C of the General Construction Permit regarding projects subject to the permit. We recommend the draft Fact Sheet be rewritten to include the following language from the current Order 99-08 DWQ, "Construction activity does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility, nor does it include emergency construction activities required to protect public health and safety."

This General Construction Permit has an apparent shift of focus towards sediment treatment, rather than source control. This is underscored in the requirement to implement ATS and the

whole spectrum of prescribed BMPs within this General Construction Permit for those construction sites containing more than 10% (by weight) particle sizes smaller than 0.02 mm (medium silt). This requirement and the monitoring requirements for construction sites that are classified as medium and high-risk facilities are too inclusive. Many of the sites will be placed under this classification and prompt unnecessary monitoring and/or active treatment systems.

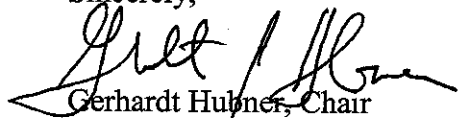
If conventional non-structural and structural BMPs have been sufficient in the past to safeguard water quality within receiving water bodies, there should not be any need to deploy them in conjunction with advanced treatment devices and grassy swales to remove any coagulants and polymer residuals that do not settle out. Prescriptive requirements of this nature should be reserved for those facilities that discharge directly into a 303(d) listed water body.

We suggest that a more front line source control approach should be considered to mitigate the sediment and erosion problems present in active construction sites, rather than imposing downstream ATS that have not shown their effectiveness at a regional level. Properly designed, installed, and maintained conventional BMPs in combination with sound source control practices as general housekeeping, street sweeping, storm drain inlet protection, and sediment trapping at the perimeters have functioned well in Ventura County. After all, it is far easier to prevent soil from mobilizing than it is to treat it.

There appears to be a disconnect between the construction component of the draft Municipal Separate Storm Sewer System (MS4 draft) Permit and the General Construction Permit. The MS4 draft requires a grading prohibition during the wet season when the General Construction Permit preliminary draft makes no mention of this prohibition. The MS4 draft further allows for a grading prohibition variance if the permittee demonstrates that specific water quality parameters are met. These water quality standards do not match up with the NELs or ALs required in the draft General Construction Permit. We suggest that all construction related components (including TMDLs) of the MS4 draft be considered in the preparation of the General Construction Permit to avoid confusion and streamline the objectives being presented to maintain or improve water quality in Ventura County.

Thank you for the opportunity to comment on the preliminary draft General Construction Permit and as always we are interested in working with State and Regional Board staff to ensure that the Ventura Countywide Storm Water Program continues to effectively control construction related discharges in a fair and efficient manner. Our ultimate goal is to have the best storm water quality program possible, and this valuable comment process should help direct us to that final goal. We look forward to your response to all of our comments. If you have any questions, please contact me at (805) 654-5051 or [Gerhardt.Hubner@ventura.org](mailto:Gerhardt.Hubner@ventura.org).

Sincerely,



Gerhardt Hubner, Chair

Ventura Countywide Storm Water Program

cc: Ventura Countywide Storm Water Program Co-Permittees