



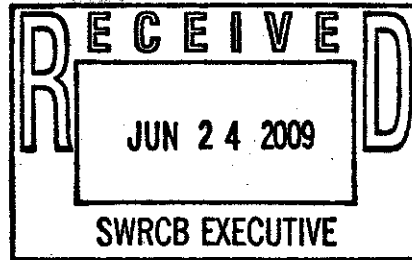
Department of Public Works  
(805) 388-5338  
Fax (805) 389-9524

June 24, 2009

Public Comment  
Dft. Construction Gen. Permit  
Deadline: 6/24/09 by 5:00 p.m.

# City of Camarillo

601 Carmen Drive • P.O. Box 248 • Camarillo, CA 93011-0248



Via Electronic Mail  
[commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

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

Dear Ms. Townsend:

Subject: Comments on April 22, 2009 Draft General Construction Permit

Thank you for the opportunity to contribute comments regarding the above-referenced draft General Construction Permit (GCP). Staff appreciates the State Water Board and your staff for incorporating some of the concerns stated in our June 10, 2008 comment letter into the April 2009 Draft GCP. However, we still remain concerned about several items in the April 22, 2009 Draft GCP which we have identified below.

- **Numeric Action Levels (NALs)** – We support the use of scientifically defensible NALs as an appropriate next step in the assessment and regulation of construction stormwater discharges from the current GCP. Action levels provide a quantitative measure of performance and hard trigger for improving site practices for construction site operators. However, compliance with the NALs should be assessed based on daily average, not single samples.
- **Numeric Effluent Limits (NELs)** – We remain opposed to the incorporation of numeric effluent limits (NELs) in the GCP. NELs represent a change in the regulatory approach for stormwater discharges from the iterative BMP-based approach to a numeric effluent limit-based approach. Before NELs can be appropriately derived and incorporated into stormwater permits, the processes to derive numeric limits for stormwater discharges must be fully developed and must incorporate a scientifically sound and defensible methodology that is in accordance with U.S. Environmental Protection Agency (EPA) protocols. Absent the application of U.S. EPA protocols, the reissued GCP must continue to clearly emphasize an iterative BMP-based approach. NELs are more appropriately action levels and should be called such, and not create the confusion and potential monetary liability under the Water Code provisions for mandatory minimum penalties.

- **Receiving Water Monitoring/Bioassessment Monitoring** – We do not support receiving water monitoring by all construction dischargers and recommend the deletion of this requirement. The utility of this monitoring for sites significantly removed from the receiving water is questionable. Most of the runoff from construction sites in Camarillo discharges into public or private storm drains which are commingled with runoff from large portions of the Calleguas Creek Watershed, which may include discharges from open space, urban runoff, industrial sites, other construction sites, and agricultural lands. This type of monitoring would be better conducted by a defined state directed project, such as the Surface Water Ambient Monitoring Program (SWAMP) or TMDL based monitoring program. Likewise, we recommend the deletion of the bioassessment monitoring requirement. Again, this effort would be better suited to the SWAMP or Total Maximum Daily Load (TMDL) programs rather than a condition of the GCP.
- **Risk Assessment** – We support a tiered risk approach to construction site regulation. The June 2009 Draft GCP appropriately connects water quality risk posed by a construction site to the practices necessary to assure protection of water quality. Further, we appreciate the inclusion of the exemption from the risk determination requirements for existing projects under Water Quality Order No. 99-08-DWQ and the allowance of coverage at Risk Level 1. However, we recommend that this exemption be extended from 2 years to “five years after permit adoption”.
- **Rainfall Erosivity Waiver** – We support the inclusion of the R-Factor waiver to the permit to allow sites, as determined by the U.S. EPA to have minimal risk, to stay out of the permitting program. This will help encourage small sites to voluntarily conduct construction during the dry season.
- **Maintenance Definition** – We recommend that the State Water Board restore the original language from Order 99-08-DWQ regarding routine maintenance exemptions that was based on the federal regulations. The maintenance exemption should not be limited to a set of pre-defined types of projects and the GCP should not limit the type of operator that can use the exemption as has been done for road repaving.
- **New Development & Redevelopment Runoff Controls** – Although we still believe that the GCP is not the proper avenue to incorporate long-term water pollution controls into new development and redevelopment projects, we appreciate the improvement to the language in the Draft GCP limiting the application of these requirements to those areas not subject to Municipal Separate Storm Sewer System (MS4) permit requirements. This will significantly reduce the application of duplicative or inconsistent standards.
- **Effective Date of New Requirements** – We recommend that the State Water Board delay the effective implementation date of the new permit for on-going projects until after the rainy season. We suggest that July 1 be established as the deadline for on-going projects to submit their permit registration documents. On-going projects that

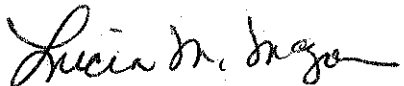
are completed before July 1 should be allowed to terminate permit coverage under the current requirements of Order 99-08-DWQ. In addition, we request a grandfathering in of training requirements for Stormwater Pollution Prevention Plans (SWPPPs) that were prepared for projects under Order 99-08-DWQ and that any revisions necessary to meet the new GCP requirements be allowed to be made by the original SWPPP preparer and practitioner. Please also see the "Risk Assessment" comments for further recommendations on implementation requirements for existing projects.

- **Permit Registration Documents (PRDs)** – We are pleased to see the clarifications related to permit registration that were included in the June 10 errata sheet, such as improved consistency for the Legally Responsible Person, landowner and discharger; and for improved consistency for both the start and electronic verification of permit coverage. We offer the following suggestions to further improve the e-filing process:
  1. We encourage the State water Board to allow paper submittals of PRDs and associated reports for two years in order to ensure accuracy and reliability of the new database system – Stormwater Multi-Application and Report Tracking System (SMARTS).
  2. We recommend that the time periods for submittal of permit fees be changed from the current required 7 and 14 days to 30 days from receipt of the notice. The specified time periods are inadequate for our city to request, process, and cut checks.
  3. It is recommended that the proposed SMART system send an e-mail of all submitted PRDs and Notice of Terminations (NOTs) to the local municipality.
- **SWPPPs** – We support the change to eliminate the regulatory and public review/comment/hearing of the SWPPPs before the start of construction. However, we recommend that the SWPPP not be required with the Permit Registration Documents (PRDs) but instead be required to be submitted prior to start of construction. See also our recommendations for paper submittals outlined in the PRDs comments above.
- **Qualified SWPPP Developers (QSD) and Practitioners (QSP)** – We support the addition of approved qualifications for QSDs and QSPs to include individuals with a minimum of five years experience in developing SWPPPs for construction sites. However, we recommend that the verbiage be amended to read, "A minimum five years demonstrated experience and training in developing, writing, and/or implementing construction SWPPPs." Further, it is important that this language be included in both the Fact Sheet and the Order for both the QSD and QSP qualifications. The April 22, 2009 GCP Fact Sheet includes this qualification for both QSD and QSPs; however, p. 33 of the order failed to include the 5 years experience qualification for the QSP.

- **Rainfall Event Action Plans (REAPs)** – The language describing the development and implementation of the REAP remains unclear. We suggest clarifying that the REAP be developed concurrent with the start of each phase of construction and implemented 48 hours in advance of a forecasted likely rain event. Also, Finding 47 (p. 8) needs to be clarified to identify that REAPs are not required for traditional Risk Level 1 projects or Linear Underground/Overhead Projects (LUPs).

Thank you for your consideration of our requests. We look forward to working together to devise a permit that is a better tool for our own construction projects but also other construction site operators to meet the challenge of protecting water quality during construction. Please contact Anita Kuhlman, Stormwater Program Manager, at 805-383-5659, if you have any questions regarding these comments.

Sincerely,



Lucia McGovern  
Deputy Public Works Director

/ak

cc: Tom Fox, Public Works Director  
Tali Tucker, City Engineer  
Jerry Bankston, City Manager  
Camarillo City Council Members