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Council Member

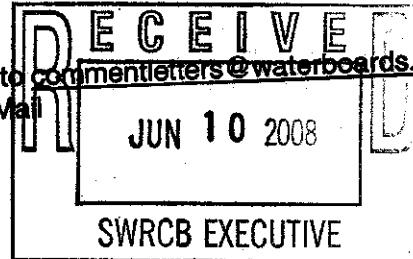


City of Mission Viejo

Public Works Department

June 10, 2008

Via Email to commentletters@waterboards.ca.gov
and U.S. Mail



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

**Subject: Comments on the March 2008 Preliminary Draft Construction
General Permit**

Dear Ms. Her and Members of the Board,

Thank you for the opportunity to provide comments on the March 2008 Preliminary Draft Construction General Permit (CGP). The City of Mission Viejo appreciates the efforts of the State Water Resources Control Board to receive written comments on this Preliminary Draft. The City is subject to the San Diego Regional Water Quality Control Board Phase I Municipal Separate Storm Sewer System (MS4) Permit which includes extensive requirements for construction activities as well as development planning.

The City supports the comments provided in both the County of Orange and the California Stormwater Quality Association's (CASQA) June 10, 2008 letters.

However, the City is particularly concerned with the following proposed language in the March 2008 Preliminary Draft CGP:

1. Capital Improvement Projects

Section II.B of the Fact Sheet (Construction Activities Covered by this General Permit) contains the following language (pg. 21):

"Where clearing, grading, or excavating of underlying soil takes place, permit coverage is required if more than one acre is disturbed or part of a larger plan or if the activity is part of more activities part of a municipality's Capital Improvement Project Plan."

Like most agencies, the City of Mission Viejo maintains a comprehensive capital improvement plan (CIP) which details flood control, street, and other public infrastructure projects needed over a long time period. A CIP prioritizes projects by need and identifies potential funding sources. Many projects within the City's CIP such as routine street maintenance overlay and resurfacing projects, as well as more complicated projects such as bridge seismic retrofits and widening, do not involve the disturbance of any soil. Also, many projects identified in the City's CIP disturb less than one acre of

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soil. Requiring projects that are part of the City's CIP but disturb less than 1 acre of soil to obtain coverage under the CGP is unnecessary and could prevent some projects from being fully funded due to the extra costs associated with compliance with the CGP.

Each CIP project that the City undertakes is handled as a separate and individual construction project. CIP projects undergo a lengthy planning, funding, and construction process that are distinctly different from other projects in a CIP. Therefore, the comparison of CIP projects to private projects that are part of a larger common plan of development is not appropriate. In fact, CIP projects are usually geographically separated from one another unlike private projects included as a larger common plan of development.

Currently, only City CIP projects that disturb one acre or more of soil are subject to Order No. 99-08-DWQ (current CGP). City CIP projects that disturb less than one acre of soil still receive rigorous implementation of best management practices (BMPs) as required by our Phase I MS4 Permit.

City of Mission Viejo recommendation: Remove or edit language from Fact Sheet that requires all public projects that are part of a CIP to obtain coverage under the CGP. Only municipal construction projects that disturb one acre or more of soil should be subject to the CGP.

2. General Construction Permit Enrollment

The City is authorized to discharge storm water runoff by its Phase I MS4 Permits which place extensive requirements on all activities undertaken by the City that may impact the quality of storm water runoff, including municipal construction. The City pays an annual fee to the SWRCB for Waste Discharge Requirements. The 2008 fees were \$15,613.00.

The enrollment procedure detailed in *Section II.A* of the Preliminary Draft CGP requires all new dischargers to electronically file their Permit Registration Documents (PRDs) and submit payment of annual fees in order to obtain coverage. The City already submits an annual fee to the SWRCB for Phase I MS4 Permits that authorize storm water runoff from municipal construction projects and activities.

City of Mission Viejo recommendation: Modify language in *Section II.A* to defer to requirements in Phase I MS4 Permits which authorize municipal construction projects/activities. The City agrees that Permit Registration Documents for municipal projects disturbing one acre or more of soil should still be filed electronically through the California Integrated Water Quality System (CIWQS) but payment of annual fees for enrollment of each project represents a double payment by municipalities and should be eliminated.

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3. Receiving Water Monitoring

The City is concerned with *Attachment B* of the CGP, *Monitoring Program and Reporting Requirements*, as it relates to receiving water monitoring requirements. Receiving water monitoring is required of all risk level 3 projects for each storm event and for risk level 2 projects during each storm if any numeric effluent limit (NEL) is exceeded.

The City owns and operates both concrete trapezoidal channels and creeks that serve as flood control channels. Allowing access to these facilities by dischargers during storm events is inherently dangerous and potentially deadly. The probability of persons swept away in rapidly flowing waters while trying to sample said waters is an unacceptable risk.

City of Mission Viejo recommendation: The City recommends that the requirement to sample receiving waters during storm events be eliminated. Sampling storm water runoff as it leaves a site, provided it is done in a safe and permitted manner, is the recommended alternative.

The City of Mission Viejo thanks State Water Resources Control Board in advance for considering our comments.

If you have any questions, please contact Joe Ames, Associate Civil Engineer, at 949/470-8419.

Sincerely,



Rich Schlesinger, P.E.
City Engineer

- C: Loren Anderson, Director of Public Works
Joe Ames, Associate Civil Engineer
Deborah Carson, Program Engineer

