

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

Jacque' McCormick
Director-Environment Management

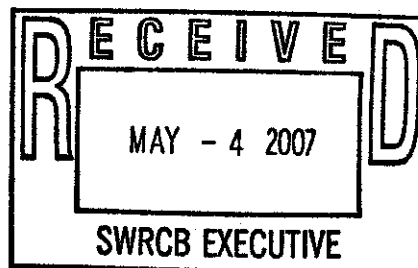


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SENT VIA E-MAIL

May 3, 2007

Song Her, Clerk to the Board
Executive Office
California State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100



Subject: Water Quality Order No. 2007-XX-DWQ – National Pollutant Discharge Elimination System (NPDES) Permit for Storm Water Discharges Associated with Construction Activity (General Permit)

Dear Song:

Verizon California, Inc. ("Verizon") is submitting this comment upon notice of the renewal of the above referenced NPDES Permit for Storm Water Discharges Associated with Construction Activity (draft Construction Activity General Permit). In its comments below, Verizon presents both general and specific issues regarding the permit renewal.

Verizon is a leading provider of voice, broadband and video telecommunications services through more than 3,970,000 residential and business subscriber lines within the State of California. Verizon is currently engaged in the deployment of a precedent-setting fiber optic network upgrade (FiOS) which provides very high quality voice, broadband and video services to the citizens of California. Verizon is concerned that application of the draft Construction Activity General Permit to fiber-optic cable installation associated with the FiOS deployment could significantly impede not only its ability to provide basic telephone service, but also our ability to provide this unprecedented level of telecommunication service to the citizens of California, without providing any additional environmental benefit.

Telecommunications systems, including Verizon's FiOS systems, commonly involve miles of aerial or underground cable. The construction of such systems is typically referred to as a linear utility project (LUP). LUPs are very narrow footprint construction projects which can extend for several miles and do not result in significant soil disruption, long-term stationary excavating activities, or significant amounts of stormwater runoff; all of which are common to typical perimeter-bound commercial and residential construction projects.

Verizon believes the draft Construction Activity General Permit is primarily focused upon typical perimeter-bound commercial and residential construction projects and does not appropriately address the unique conditions associated with LUPs. The focus on typical perimeter-bound construction projects may inadvertently make the permit unreasonably burdensome for LUPs. Therefore, while Verizon supports environmental protection programs, it believes an alternative approach to the draft Construction Activity General Permit should be considered for LUPs to ensure that stormwater discharges from these unique projects are administered in a fashion that achieves an appropriate level of environmental protection without creating burdensome requirements that could negatively impact our ability to provide high quality telecommunications services to the citizens of California.

Verizon's specific concerns related to current draft Construction Activity General Permit components which appear to be unreasonably burdensome to LUPs, without providing additional environmental benefit, are discussed below.

Sediment Transport Risk Worksheet:

Application of the Sediment Risk Transport Worksheet (risk worksheet) included as Attachment F of the draft Construction Activity General Permit would inappropriately result in the classification of most LUPs as "medium risk" or "high risk" construction projects. Such medium and high risk classifications would result from the variable nature of conditions present throughout the length of typical LUPs. The most conservative values for proximity to receiving water, soil type, watershed slope, wet/dry season determinations, and discharge points would need to be utilized in the worksheet to ensure compliance with the draft Construction Activity General Permit along the entire LUP route, thus resulting in high or medium risk designations. High and medium risk designations require conformance with effluent monitoring, numeric action levels, receiving water monitoring, storm water pollution prevention plan (SWPPP), and numeric effluent limit requirements contained within Section I. 26. Table 1 of the draft Construction Activity General Permit. Verizon believes application of these additional requirements to LUPs is unreasonably burdensome given that the high and medium risk designations would likely be the result of utilizing conservative values to complete the risk worksheet. Such conservative values, which would need to be used to ensure compliance at each specific point along the LUP route, are not likely representative of conditions throughout a majority of the LUP route. While there would be a potential regulatory compliance problem, there would not be an associated environmental exposure from ground water runoff because the ground is quickly restored as the work is performed and there should be no openings for significant periods of time.

Numeric Effluent Limits and Action Levels – Active Treatment Systems:

Section C of the draft Construction Activity General Permit Fact Sheet indicates that the 2005/2006 Blue Ribbon Panel concluded that compliance with numeric effluent limits (NELs) and action levels (ALs) are made technically feasible through chemical addition associated with the operation of active treatment systems (ATs). Verizon does not believe ATs represent a feasible option to treat stormwater discharges from LUPs. Use of ATs for LUPs would require construction of portable ATs that would need to be mobilized along the utility installation route as the LUP progressed. Such ATs construction and operation would involve substantial costs, greatly complicate the LUP construction process, and expand the width of the construction project's area of soil disturbance. The costs and practical difficulties associated with operating a

mobile ATS are unnecessarily burdensome, and may result in additional environmental disturbance and associated detrimental effects as the footprint of the ATS would involve additional soil disruption. Given the inherent infeasibility of operating ATSs for LUPs, alternative source controls listed in Section IX. H of the draft Construction Activity General Permit would be applied to most, if not all, LUPs. Since it is unlikely that the alternative source controls would be effective in meeting NELs or ALs (as indicated by the Blue Ribbon Panel), Verizon believes that NELs, ALs, and their associated sampling and analytical requirements, should not apply to LUPs.

Rain Event Action Plans:

Verizon is also concerned that the requirement for a unique Rain Event Action Plan (REAP) to be prepared by a qualified SWPPP preparer every time a storm with a 30% chance of rain is forecast (Section XI of the draft Construction Activity General Permit) is unnecessarily costly and burdensome. This requirement appears to represent an inefficient use of resources from a statistical standpoint as 7 of 10 REAPS would theoretically not be implemented. Since the configuration and nature of LUPs do not materially change throughout the course of such projects, preparation of one generic REAP would result in an equivalent level of environmental protection, while also reducing costs and potential lost construction time. A more efficient alternative would involve preparation of a generic REAP for each LUP which would specify actions planned to address stormwater runoff from completed and active construction areas before and during rain events. Verizon believes LUPs should be allowed to implement project specific generic REAPs that would cover all rainfall events encountered during each specific LUP.

Recommendations:

Linear utility projects (LUPs) of less than 5 acres have been regulated under the existing "Waste Discharge Requirements (WDRs) for Discharges of Storm Water Runoff Associated With Small Linear Underground/Overhead Construction Projects" – SWRCB Order # 2003-0007-DWQ since 2003. In issuing Order # 2003-0007-DWQ, the SWRCB indicated its understanding that the characteristics of LUPs vary greatly from those of conventional perimeter-bound commercial and residential construction projects. Order # 2003-0007-DWQ has served as an effective method of regulating storm water discharges from LUPs since its inception.

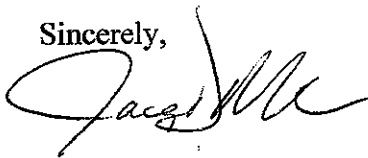
Given that LUPs are essentially small construction projects which progress in a linear manner as work is completed, Verizon believes there is little fundamental difference between LUPs which are less than, or exceed, the 5-acre designation. Dependent upon whether cable is installed aboveground or underground, telecommunications LUPs typically progress at maximum rates of approximately 3,000 feet per day for aerial placement and 1,000 feet per day for underground placement. Considering a typical equipment width of eight feet, the respective maximum active daily construction areas for typical aerial and underground telecommunications LUPs approximate 0.55 and 0.18 acres [length (ft) x width (ft) / 43,560 (ft²/acre)]. At these rates, underground and aerial LUPs could respectively progress for approximately 27 and 9 days without exceeding the 5 acre threshold. If soil stabilization efforts are applied to completed construction areas at appropriate intervals, the effect would be to prevent active construction areas for all LUPs from exceeding the 5 acre threshold.

Since soil stabilization methods can be readily applied to completed construction areas for all LUPs, regardless of the total length, it appears reasonable that consideration be given to regulating LUPs exceeding 5 acres in a similar manner as LUPs of 5 acres or less. Thus, Verizon believes it would be reasonable for the State Water Resources Control Board (SWRCB) to exclude LUPs from the draft Construction Activity General Permit and consider amending Order # 2003-0007-DWQ to cover all LUPs, regardless of length. Verizon believes that this approach represents an appropriate alternative to regulating LUPs under the draft Construction Activity General Permit, or providing significant exemptions for LUPs within the draft permit.

If LUPs are ultimately regulated under the draft Construction Activity General Permit, Verizon believes the SWRCB should consider providing exemptions from requirements originally drafted to address perimeter-bound commercial and residential construction projects and crafting specific LUP requirements which would appropriately address LUPs unique circumstances. Such requirements could include stabilization of completed construction areas within a prescribed time frame, when a certain linear distance has been completed, or prior to forecast rainfall events. Appropriate LUP provisions could also be crafted to address control of the typically small amount of stormwater runoff from active construction areas when LUP construction must be conducted during a rainfall event. If the SWRCB chooses to take this approach, Verizon would appreciate an additional opportunity to review and provide comment upon any LUP-specific programs and/or requirements.

Thank you for the opportunity to provide comments on the subject draft Construction Activity General Permit. Verizon strongly supports environmental protection; however, we believe the draft permit does not fully consider the unique characteristics of LUPs. Verizon believes that an equivalent level of environmental protection can be ensured by regulating storm water discharges from all LUPs under an amendment to Order# 2003-0007-DWQ or providing appropriate LUP-specific exemptions and/or requirements within the draft Construction Activity General Permit. If you have any questions or concerns, please do not hesitate to contact me at (972) 718-6032 or Scott Sloan at 425-261-5481.

Sincerely,



Jacques McCormick
Director-Environment Management

JDM/ss