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To: <commentletters@waterboards.ca.gov>
Date: Thu, May 3, 2007 10:02 AM
Subject: Comment Letter - Draft Construction Permit

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

Thank you for the opportunity to comment on the Preliminary Draft General NPDES Permit for Construction Activities. The State Water Resources Control Board should be commended for proposing a risk-based approach to protecting California's waterways. The City of Anaheim is a co-permittee on Orange County's MS-4 permit with the California Regional Water Quality Control Board, Santa Ana Region. Also, as a water and electric utility, we occasionally implement construction projects of over an acre.



Per the workshop held April 17 in Rancho Cucamonga, it was clear the State is looking for feedback, perspectives and suggestions so that an improved stormwater permit scheme can be developed. Therefore, we would like to offer the following comments and suggestions on the preliminary draft:

1. General comment - It appears that the proposed changes will result in significant cost increases for most construction projects. These costs include additional planning, inspecting, monitoring and reporting. Some of the proposed additional actions may not provide any greater level of protection for receiving waters than the current utilization of BMPs. We believe it would be prudent to determine if a combination of BMPs and increased street sweeping would provide adequate protection for all medium and low risk sites and reserve discharge monitoring for those high risk sites that are found to create polluted runoff. In the spirit of the risk-based approach, the additional planning, inspecting, monitoring and reporting should only be required at sites that cause stormwater pollution.
2. General comment - The proposal is unclear as to the specific actions required by an MS-4 co-permittee when they implement construction projects. It should be clarified that municipalities may approve their own SWPPPs for municipal projects.
3. General comment - While the proposal offers a good starting point for discussing the various issues, there are a number of areas that need consensus building among the various stakeholders. It is recommended that the SWRCB form a committee that includes members from government, business, and scientific disciplines to revise the proposed permit and issue another draft for public review and comment.
4. General comment - The provision for allowing public review for individual construction projects should not result in undue delays for project implementation. As the process has not been proposed, it is difficult to be more specific, however, it is recommended that construction should be allowed to proceed once a certified SWPPP has been submitted.
5. Page 9, e.: We agree with the exemption for LUPs. These projects disturb a very limited area, are cleaned up quickly and are normally not conducted during rainy weather.
6. Page 13, #4. and #5.: SWPPPs approved under the current permit

should not need to be updated to meet requirements of the new permit. The approved plans should be 'grandfathered' and continue throughout the specific project.

7. Page 18, E.: It's not clear who needs to install sedimentation basins. Sedimentation basins should only be required in cases where polluted runoff has occurred and cannot be controlled by other BMPs.
8. Page 23, #4.b.: The prohibition against applying landscaping materials within 48 hours prior to a predicted storm should only apply to pesticides and fertilizers. The application of mulch may actually reduce soil erosion and should be allowed.
9. Page 24, K.: It may not be appropriate to include post construction runoff requirements within this construction permit. Existing municipal requirements for stormwater mitigation at new development/redevelopment sites and CEQA evaluations may adequately cover this issue.
10. Page 28, XI., #1. and Page 60 D. #4: The process for determining when to take actions based upon predictions of storm events needs to be simplified. One could imagine all sorts of scenarios where storms are predicted, but don't occur. Per the proposal, one could have to take several repetitive actions to remain in compliance. In accordance with comments made by State Board staff in the public workshop, we recommend the REAP requirements be clarified to require REAP revisions only when construction activities/site changes warrant revisions.
11. Page 60, D.: It appears that in order to comply with this section, an on-site rain monitoring station is required. The regulation should specify exactly how one determines the precipitation amount, and if rain monitoring is mandated, then specific types of equipment and monitoring requirements should be provided. If an NOAA precipitation station is adequate, the regulation should describe how to obtain the data.
12. Page 61, E. #1. and Page 64, F. #1.: The determination of "drainage area" is unclear. It also may be impossible to obtain a water sample if the discharge volume is too small. If sampling is required, it should be limited to areas with a higher volume of runoff. Also, under no circumstances should sampling be required more often than once per week.
13. Pages 61 and 62, E. #2., #3., and #4.: For urban areas, receiving-water monitoring is not practical. The stormwater exiting the outflow to the receiving water will not be representative of the water leaving a site that could be several miles from the receiving water. In addition, the act of obtaining a sample could be extremely dangerous to the sampler. The requirement in the proposal does not appear to be worth the effort and should be eliminated for urban areas.
14. Page 63, c.: The requirement for toxicity monitoring should be limited to sites where stormwater discharges directly into important fishery habitat.
15. Page 71, #4. The terms used in the equation, R, K, LS and T should be better defined and if lookup tables are needed, then they should be provided in the permit.

The above list of comments should not be considered an exhaustive review of the proposed permit. For this regulation, and others, we encourage the Board to develop the most cost-effective means to protect our water resources.

I am available to discuss any of the above issues.

Sincerely,

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