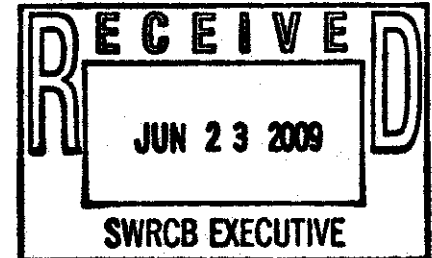


June 24, 2009

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

Submitted via email commentletters@waterboards.ca.gov



Subject: Comments on the April 2009 Draft Construction General Permit

Dear Ms. Townsend and Members of the Board,

Thank you for the opportunity to provide comments on the April 2009 draft Construction General Permit (CGP) covering waste discharge requirements for discharges of stormwater runoff associated with construction activity disturbing one acre or more. The County of Orange (County) appreciates the efforts of the State Water Resources Control Board (SWRCB) to receive written comments as well as hold the June 3rd 2009 public workshop on this latest (third) version of the draft CGP. As a large municipal agency responsible for building regional road and flood control facilities as well as improving existing infrastructure, the substantial changes to the CGP from the current Order (No. 99-08-DWQ) will have a significant impact on the County.

The County has continued to participate in a California Stormwater Quality Association (CASQA) coordinated review of the CGP and strongly supports the comments detailed in the CASQA letter dated June 24, 2009. The following comments were provided by the County on the March 2008 draft of the CGP but were not addressed within the April 2009 draft:

I. Permit Enrollment

The County is authorized to discharge stormwater runoff by its two Phase I MS4 Permits (Santa Ana and San Diego Regions) which place extensive requirements on all activities undertaken by the County that may impact the quality of stormwater runoff, including municipal construction. The County pays an annual fee to the SWRCB for Waste Discharge Requirements (Currently \$18,516 per SWRCB Invoice No. 0713065 for billing period 7/1/07-6/30/08).

The County's fourth term Phase I MS4 Permit for the Santa Ana Region, Order No. R8-2009-0030, adopted by the Santa Ana Regional Water Quality Control Board on May 22, 2009, contains the following requirements with regard to municipal construction projects subject to the CGP in Section XV, Municipal Construction Projects/Activities:

1. *This order authorizes the discharge of storm water runoff from construction projects that may result in land disturbance of one (1) acre or more (or less than one acre, if it is part of a larger common plan of development or sale which is one acre or more) that are under*

ownership and/or direct responsibility of any of the permittees. All permittee construction activities shall be in accordance with DAMP Sections 7 and 8.

- 2. All Construction activities shall be in compliance with the latest version of State's General Permit for Storm Water Discharges Associated with Construction Activities except that an NOI need not be filed with the State Board.*

- 3. Prior to commencement of construction activities, the permittees shall notify the Executive Officer of the Regional Board concerning the proposed construction project. Upon completion of the construction project, the Executive Officer shall be notified of the completion of the project.*

- 4. The permittees shall develop and implement a storm water pollution prevention plan (SWPPP) and a monitoring program that is specific for the construction project greater than one acre, prior to the commencement of any of the construction activities except for routine maintenance activities. The SWPPP shall be kept at the construction site and released to the public and/or Regional Board staff upon request.*

- 5. The SWPPP (and any other plans and programs required under the General permit) and the monitoring program for the construction projects shall be consistent with the requirements of the latest version of the State's General Construction Permit.*

- 6. The permittees shall give advance notice to the Executive Officer of the Regional Board of any planned changes in the construction activity, which may result in non-compliance with the latest version of the State's General Construction Permit.*

The enrollment procedure detailed in **Section II.B.4** of the 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 County already submits an annual fee to the SWRCB for Phase I MS4 Permits that authorize stormwater runoff from municipal construction projects/activities, and the County is required to notify the Executive Officer of the Regional Board at the start of construction, not the SWRCB.

County recommendation: Modify language in **Section II.B.4** to defer to requirements in Phase I MS4 Permits which authorize municipal construction projects/activities. The County agrees that PRDs 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.

II. Receiving Water Monitoring

The County is concerned with **Attachment E** of the Draft CGP, **Risk Level 3 Requirements**, as it relates to receiving water monitoring requirements. Receiving water monitoring is required of all Risk Level 3 projects for the duration of the project if a numeric effluent limit (NEL) is violated. Risk Level 3 projects disturbing 30 acres or more are required to conduct or participate in benthic macroinvertebrate bioassessment of receiving waters prior to commencement of construction activity.

A majority of the inland receiving waters in Orange County serve a dual role as regional flood control facilities and are owned, operated, and maintained by the County. Any monitoring

conducted within a County-owned flood control facility by a discharger would require authorization by the County through issuance of an encroachment permit.

County recommendation: The County recommends that **Attachment E** be modified to clarify that receiving water monitoring is directly subject to permission/authorization by the entity which controls access to that receiving water. Unauthorized/unpermitted entry for the purposes of receiving water monitoring as required by the CGP should be expressly prohibited.

Thank you for your attention to our concerns. Please contact Grant Sharp at (714)955-0674 if you have any questions on these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Crompton", written over a printed name.

Chris Crompton, Manager
OC Watersheds/Environmental Resources

CC: Mark Smythe, Santa Ana Regional Water Quality Control Board
James Smith, San Diego Regional Water Quality Control Board