



Public Comment
Draft Construction Permit
Deadline: 6/11/08 by 12 p.m.

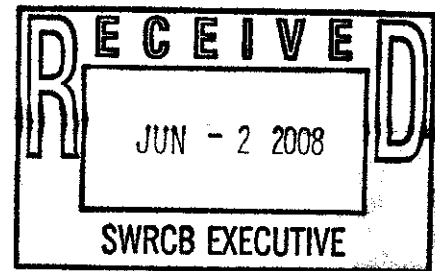
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May 28, 2008

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**VIA U.S. MAIL or FACSIMILE (916/341-5620) or
E-MAIL (commentletters@waterboards.ca.gov)**

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



Re: Comment Letter—Draft Construction Permit

Dear Ms. Townsend:

The State Water Resources Control Board ("Board") is revising the National Pollutant Discharge Elimination System ("NPDES") General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities. Comments to the draft NPDES General Permit are due by noon on June 11, 2008. The following comments submitted on behalf of Consulting Engineers and Land Surveyors of California ("CELSOC") reflect the concern that the Board may be exceeding its authority by requiring registered civil engineers to obtain additional training in order to be qualified to prepare the necessary plans under the NPDES General Permit, and may allow non-engineers to perform engineering tasks.

The current draft of the NPDES General Permit provides that only a Qualified Storm Water Pollution Prevention Plan ("SWPPP") Developer can prepare and amend the SWPPP, which is required for compliance with the NPDES General Permit for Construction and Other Land Disturbance Activities. In order to be a Qualified SWPPP Developer, the person must have one of the following registrations or certifications and must attend Board training within two years of adoption of this NPDES General Permit:

- Civil Engineer
- Geologist or Engineering Geologist
- Landscape Architect
- Hydrologist
- Erosion/Sediment Control Specialist
- Storm water quality professional

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Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
May 28, 2008
Page 2

The current draft NPDES General Permit also specifies that only a Qualified SWPPP Practitioner can conduct the necessary inspections and sampling and must prepare and certify the Rain Event Action Plan ("REAP"). In order to be a Qualified SWPPP Practitioner, the person must be either a Qualified SWPPP Developer or an Erosion, Sediment and Storm Water Inspector. Furthermore, the person must also attend Board training within two years of Board adoption of the NPDES General Permit.

The Board is in the process of developing the training program that a Qualified SWPPP Developer or Practitioner will be required to attend. The training program would likely include some level of engineering practice. As currently drafted, the NPDES General Permit poses a level of concern for CELSOC, as it could allow practitioners who are not civil engineers to perform engineering tasks, as well as provide a training program to such practitioners that includes engineering skills.

CELSOC also questions whether the Board has the authority to require civil engineers to obtain additional training in order to perform work as registered engineers. A civil engineer should not be required to take additional courses from the Board to qualify as an SWPPP Developer. Preparation of an SWPPP can include engineering tasks; however, and as a registered civil engineer, the training necessary to perform such tasks has already been developed.

The Professional Engineers Act (Bus. & Prof. Code §§ 6700 et seq.) defines the scope of civil engineering practice in section 6731. That section specifically indicates that civil engineering includes activities in connection with fixed works for irrigation, draining, grading, etc. The very activities performed in the preparation of an SWPPP are clearly included within the definition of civil engineering. That has two consequences: First, only civil engineers may perform that work unless they are registered in another recognized profession that entitles them to perform various civil engineering activities, and second, persons who are not registered civil engineers may not perform those activities, with the exceptions noted above. CELSOC is concerned that the persons registered or certified as Hydrologists, Erosion/Sediment Control Specialists and/or storm water quality professionals are not entitled to perform regulated civil engineering activities.

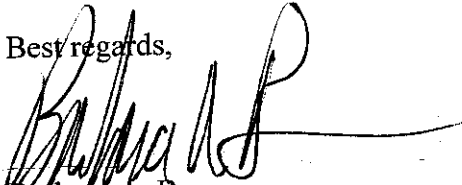
While CELSOC does not object to a regulatory requirement to obtain additional training, it may not be conditioned upon the authority or ability to practice the licensed profession of a registered professional engineer. Further, the Board may not authorize persons who are not permitted under California state law to practice civil engineering, to perform civil engineering functions by virtue of the regulatory requirements.



Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
May 28, 2008
Page 3

Please make this comment letter a part of the rulemaking file.

Best regards,



Barbara A. Brenner

BAB/mws

cc: Paul J. Meyer, Executive Director
Consulting Engineers and Land Surveyors of California
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Cindi Christenson, Executive Director
Board of Registration for Professional Engineers & Land Surveyors
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