



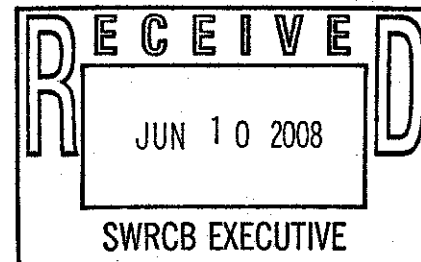
BUSINESS DEPARTMENT - Business Services
Facilities Development & Planning Branch
 Donald K. Allen Building Services Facility
 2425 Webster Ave., Long Beach, CA 90810
 (562) 997-7550 Fax (562) 595-8644

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

June 10, 2008

Via Fax and Overnight Mail

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



Re: LBUSD Comments on the Draft General Permit for Storm Water Discharges Associated With Construction Activity (General Permit); Water Quality Order 2008-XX-DWQ

Dear Ms Townsend;

The Long Beach Unified School District (District) serves approximately 88,000 students in over 100 public school facilities in the cities of Long Beach, Lakewood, Signal Hill, and Avalon on Catalina Island. The District appreciates the opportunity to comment on the Draft General Permit for Storm Water Discharges Associated with Construction Activity (Construction Permit) issued March 19, 2008 by the State Water Resources Control Board (SWRCB). Our General and Specific comments on the draft Construction Permit follow.

GENERAL COMMENTS

The District has pending construction projects situated on one or more acres that require demolition, clearing, grading, or excavation, or that will result in other land disturbance activities. The funding, design and approval processes for these projects are under way. According to the Los Angeles County Office of Education (LACOE), the State of California Office of Public School Construction has stated that expenses related to site monitoring, water sampling, action exceedance reporting, annual reporting, and redesign and reconstruction to meet new post-construction requirements are not eligible for funding under the current School Facility Program. The cost of compliance would come from diverting education funds from the classroom. The Construction Permit would have significant adverse financial and operational impacts on not only these pending projects for which the funding and approval processes have begun, but also on *any* new

construction projects by the District. If school districts are forced to redesign current projects to comply with the Draft Permit, project delays will result in the additional cost of millions of dollars statewide. Our most immediate concerns with the Construction Permit are the requirements to 1) revise and supplement any existing or previous permit(s) and 2) to redesign site and building design(s) to conform to the new Construction Permit. These efforts would be a significant hardship for any District projects.

The March 19th 2008 draft permit is the latest in a series of actions taken by the SWRCB to implement revised storm water requirements that will have an adverse impact on school and community college districts with both pending and projected construction projects. The Construction Permit contains many regulations that were included in the Preliminary Draft Storm Water Permit issued on March 2, 2007. It is disappointing to note that the revised draft of March 19th 2008 does not contain any of the remedial suggestions offered by a number of other educational agencies that provided comments regarding the preliminary draft, including those of the Los Angeles County Office of Education.

SPECIFIC COMMENTS

School Design and Funding

The District has been experiencing a declining enrollment for the last 3 years, and the decline is projected to continue. Fewer students translates into less funding from the state. Moreover, the Governor has proposed a revised 2008-09 budget for education that is ultimately less than the current budget, with additional cuts in future budgets. Every dollar spent on storm water programs means less available funding for our core programs. To continue to provide a quality education to our students, we would require some type of financial relief for this added mandate.

The proposed Construction Permit requires that all storm water dischargers maintain their preconstruction storm water runoff flow level in order to minimize the deposit of sediment pollution into receiving bodies of water. This means that whatever level of storm water runoff took place on the site before development must be maintained at the same level after development. New school construction on undeveloped land generally increases storm water runoff. The District supports the goal and intent of regulations to minimize and mitigate impacts from storm water runoff; however, for our purposes these goals need to be balanced with the required design needs for schools.

The proposed implementation for the Construction Permit will take effect 100 days after its adoption by the SWRCB. A significant problem with this schedule is that the Construction Permit does not address construction projects that have already been approved by the Division of the State Architect or that have received "full and final" funding allocations by the State Allocation Board. There is no "grandfathering" language that phases in the new requirements or that protects existing projects from having to be redesigned.

Therefore, the District recommends that the SWRCB work with the State Allocation Board to provide financial relief for the implementation of the proposed storm water permit, and the additional costs for any redesign and subsequent agency approvals.

School Construction Permits and Review Process

School and community college districts receiving permits under this Construction Permit would be required to implement Storm Water Pollution Prevention Plans (SWPPP) containing an increased number of actions to control site pollution, including the adoption of pollution treatment controls, more specific maintenance standards for implementation prior to, during, and after a rain event, and site specific control measures for spillage or leaks, sludge or waste disposal, and the storage, mixing and utilization of toxic substances on the construction site. Other requirements on the Construction Permit include: 1) perform visual monitoring (including photographs); 2) perform water sampling; 3) submit supplemental reports to their Regional Water Quality Control Board (RWQCB); 4) obtain specific certification training for staff in order to obtain approval for their Construction Permit.

In addition, some school and community college districts that are designated as Risk Level 2 or Risk Level 3 may be required to monitor their construction site, as well as adjacent water areas (lakes, rivers, other large body of water) that receive their storm water runoff. Risk Level 2 or Risk Level 3 projects also require development of a Rain Event Action Plan that would be implemented whenever a 50 percent or greater chance of rain is predicted by the National Weather Service Forecast Office.

Finally, the RWQCBs must review school district Permit Registration Documents (PRD) for those schools within their region and may solicit public comments on the PRD. Based on these comments, the RWQCB may take actions that include rescinding permit coverage, requiring public hearings, or requesting districts to revise their SWPPP. There is no specified time period within which these actions must take place and be concluded. Therefore, these delays would cause additional costs and could potentially deem the project unattainable for the District.

Many of the issues and problems associated with the revision of the construction Draft Permit were presented to the SWRCB during the 2003 discussion regarding the Small MS4. The SWRCB made a number of findings for education in the Small MS4 general permit, the most significant being that school and community college districts and county offices of education are "non-traditional" permittees and, as a result, should not be treated as other "traditional" permittees.

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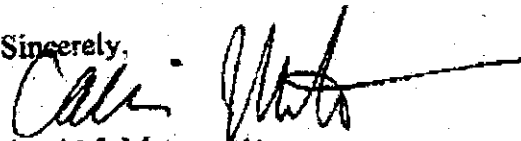
Therefore, the District is requesting an exemption for those projects that are already approved by DSA, and/or are currently in the OPSC funding approval process. In 2003, a similar exemption was granted to school and community college districts and county offices of education for the Small Municipal Separate Storm Sewer Systems (Small MS4).

CONCLUSION

The District understands that the SWRCB has a regulatory mandate regarding the control of storm water pollution. As stated previously, the District supports storm water pollution control; however, it is our opinion that the permit fails to account for the special circumstances of school district funding and design mandates and, as a result, the proposed changes to the construction permit would impose an undue hardship on the District.

The District appreciates the opportunity to participate in the Construction Permit development process. We look forward to working with the SWRCB and the RWQCB in the continuing review and assessment of measures that ultimately will minimize the impacts of storm water pollution. If you have any questions, please feel free to contact me at (562) 997-7550.

Sincerely,



Carri M. Matsumoto
Executive Director
Facilities Development & Planning Branch
Long Beach Unified School District

CM:khr/sa

cc: Chris Steinhauser - LBUSD Superintendent of Schools
Kim Stallings - LBUSD Chief Business & Financial Officer
Karl Rodenbaugh - The Planning Center