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Public Comment
Industrial General Permit
Deadline: 10/22/12 by 12 noon

October 19, 2012

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



Re: Comment Letter – Draft Industrial General Permit

Dear Ms. Townsend:

Granite Construction operates construction materials facility, include asphalt plants, sand and gravel plants and rock quarries, throughout the state of California. Since these facilities are subject to the general industrial storm water permit, we are a significant stakeholder in the new draft that has been release for comment. We appreciate the work that has done to date and the changes made since prior drafts.

Under separate letterhead the California Construction and Industrial Materials Association (CalcIMA) has submitted comments, which we concur with. Rather than repeat those comments, we have provided below areas we believe require particular attention.

Implementation Timeline and Actions:

We understand that it is the intent of the State Water Board (Board) staff to have the permit approved with an effective date of July 1, 2013. Based on our experience with prior regulatory changes included the revised general construction stormwater permit, this timeframe is too short.

1 Operates should have at least 12 months from the date of approval of the permit to bring their operations into compliance with the new permit.

NAL Applicability First Year

The Text of the Draft Permit needs to be clarified to match the language of Staff's presentations as well as the Exceedance Response Schematic in regards to NAL applicability in year 1. We are appreciative that the Board has recognized the implementation timeline challenges of this process in both their Exceedance Response Actions Schematic contained in the Fact Sheet and the Presentation that has been given at outreach events. These two documents respectively indicate that "NALs do not take effect until 1 year after the effective date of permit and "NAL exceedances do not apply until July 1, 2014."

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The language of the Draft Permit itself does not seem to fully explain the intent of not applying the NALs in year one and fails to note that Operations will remain at baseline status in the first year. To clarify this, the Board should change XII A. 2 as follows;

“2. Dischargers are not required to initiate Level 1 ERAs for storm water samples collected prior to July 1, 2014 and will stay at Baseline Status for storm water samples collected prior to July 1, 2014.”

QISP Training / Eligibility:

As part of the 3 implementation of the general construction stormwater permit we trained dozens of employees to be QSDs and QSPs. These professionals should also be eligible to serve as QISPs. Stormwater management principles on construction sites are very similar to our construction materials facilities. One set of certifications should be adequate for both permits.

As such we believe IX. A 1 should be modified as follows:

“1. A Qualified Industrial Storm Water Practitioner (QISP) is a person that is either the Discharger or is designated by the Discharger to perform compliance activities specified in this General Permit and has completed a State Water Board sponsored or approved QISP training course. A California Board for Professional Engineers, Land Surveyors and Geologists licensed professional civil engineer, registered geologist, and a certified engineering geologist (Licensee) is a QISP (level I,II, or III) and does not need to complete a State Water Board-sponsored or approved QISP training course. Likewise, QSPs certified in accordance with the Construction Stormwater Permit shall be eligible to act as a QISP (Level 1 or 2) and QSDs shall be eligible to act as QISP (Level1,2, or 3) and do not need to complete an additional State Water Board-sponsored or approved QISP training course.”

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In addition we believe there is merit to professionals holding CPESC and CPSWQ designations being eligible to serve as QISPs. Substantive controls are already included within the permit in terms of what level of analytical work may be conducted by various professionals. Limiting the most challenging functions to QISP 3s and if required by state law engineers.

Intermittently Operating Facilities:

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It is unclear on how intermittently operating facilities with irregular operating hours should be handled. In the case of the construction and industrial materials industry we have two types of facilities which fall into this category. Some remote facilities have scheduled non-operating periods often due to winter weather and elevation. These facilities seem to be considered under the minimum BMP's for temporary suspension of industrial activities.

Other facilities operate intermittently in response to market conditions. The operating hours during these periods are often dependent on the contract being serviced. Suspension of operations at these facilities may occur more than once in a year and also may stretch over months to even whole quarters. The definition of “scheduled facility operating hours” of these facilities should be clarified as follows:

Scheduled Facility Operating Hours

The time periods when the facility is staffed to conduct any function related to industrial activity, but excluding time periods where only routine maintenance, emergency response, security, and/or janitorial services are performed. Scheduled Facility Operating Hours do not include period when there is a Temporary Suspension of Industrial Activities.

Inactive Mine Site SWPPP and Annual Monitoring Report Development

We appreciate that the draft includes a similar exclusion from the monitoring and sampling requirements of the draft general permit as well as annual inspection frequency consistent with the federal MSGP. This is appropriate and warranted.

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However, we disagree with the requirement within the draft permit that a California Licensed Civil Engineer can be the only person authorized to develop a SWPPP for these facilities. With the careful steps Board staff has taken within this draft permit to require training of QISPs as well as clarification within the permit (fact sheet and footnotes) that this draft has taken several steps to clarify California law in regards to certain necessary actions be conducted by California licensed civil engineers, and while we recognize that components of a SWPPP may require such services the entire SWPPP will not.

As such we would request that two sections be modified. Requested modifications of , Section II.G. 9 will be addressed first.

9. SWPPPs and Annual Monitoring Report for Inactive mining operations as described in Section XIII shall be prepared by a ~~California licensed professional civil engineer~~ QISP II or III. **Any portions of the SWPPP that require hydrologic calculations shall be certified by a California licensed professional engineer in accordance with the Professional Engineers Act (Bus. & Prof. Code § 6700 et seq).** The Discharger shall designate an LRP to certify and submit via SMARTS.

In addition, Table 1 and Table 2 Role Specific requirements should be modified to reflect this requested change.

Inactive Mining Operation Certification

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Our review of the Inactive Mine Operation Certification has led us to conclude that the incorrect party is currently identified as the party to certify the facility as an inactive mine. An engineer or QISP cannot certify that a site is inactive. The definition of inactive is:

“Inactive mining operations are mined sites where **operations have discontinued and which have an identifiable owner**. Inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined material; or sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim.”

Section II.G.9 which we requested be modified above specifies who may develop the SWPPP and Annual Monitoring report. Only the discharger would seem eligible to submit that a site is an inactive mining operation. We will note the specific reports created by the QISP are referenced as part of this action.

We therefore request that Section XIII. A, be modified as follows:

“Inactive mining operations are defined in part 3 of Attachment A of this General Permit. Where implementing the monitoring requirements in this General Permit is impracticable, Dischargers who are responsible for inactive mining operations may, in lieu of complying with the General Permit requirements described in Section XIII.B, obtain an Inactive Mining Operation Certification prepared by the discharger ~~a California licensed professional civil engineer~~ that:

1. A site-specific SWPPP has been prepared and is being implemented in accordance with the requirements of this General Permit; and
2. The facility is in compliance with this General Permit, except as provided in Section B.”

In addition we request that section XIII C. 3. Be modified as follows;

“The Inactive Mining Operation Certification shall be re-certified annually by a ~~California licensed professional civil engineer~~ the discharger and submitted with the Annual Report.”

Pre-Storm Visual Observation:

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The **requirement for daily tracking of National Weather Service predictions is overly burdensome and complex** for some facilities. We would suggest adding some additional flexibility to this section XI.A.2.d for operators as follows;

“d. Prior to an anticipated precipitation event, visual observations of all storm water drainage and containment areas shall be conducted to identify any spills, leaks, or improperly controlled pollutant sources, and appropriate BMPs must be implemented prior to rainfall. The visual observations are required during scheduled facility operating hours and are not required more than once within in any ~~14~~ **30** day period. An anticipated precipitation event is any weather pattern that is forecasted by the National Weather Service Forecast Office to have a 50% or greater probability of producing precipitation in the facility’s weather zone. Dischargers shall ensure that a QISP or a specified member(s) of the pollution prevention team reviews precipitation forecast information from the National Weather Service Forecast Office (e.g., by entering the zip code of the project’s location at <http://www.srh.noaa.gov/forecast>). **The MIP will specify a timeframe within which the forecast will be checked and recordkeeping for**

the time and prediction. Alternatively, dischargers may instead specify within their MIP that they will conduct monthly visual observations to satisfy the pre storm visual observation requirement of this permit.”

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Weather predictions change with time and it is more than theoretically possible that a discharger could check the prediction and record a sub 50% prediction that is later adjusted to a more than 50% prediction. This makes compliance by the discharger extremely difficult and subject to debate. Facilities may find it far more effective and less labor intensive to conduct and document these observations on a monthly basis. This flexibility should be allowed.

Sample Frequency Reduction

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We appreciate that Sample Frequency Reduction is available within the permit, however we believe the 8 consecutive quarters standard in XI.C.6.a.i is too lengthy of a time period. We request the standard be changed to 4 consecutive quarters with a QSE during at least 2 consecutive reporting years. This would ensure demonstration of multi-year attainment of the benchmarks.

Suggested language revision:

- a. Dischargers are eligible to reduce the number of QSEs sampled each reporting year in accordance with the following requirements:
 - i. The Discharger has taken samples in ~~eight (8)~~ **four (4)** consecutive quarters where QSEs occurred that produced a discharge over at least two (2) consecutive reporting years;
 - ii. Sampling results from the eight (~~8~~ **4**) QSEs did not exceed any NALs as defined in Section XII.A; and,
 - iii. The Discharger is in full compliance with the requirements of this General Permit and has updated, certified and submitted via SMARTS all documents, data, and reports required by this General Permit during the same ~~eight~~ **four (4)** consecutive quarters in which samples were collected from QSEs. Dischargers subject to enforcement actions by the Regional Water Boards may be excluded from eligibility.

Respectfully,



Geoff Boraston, P.E.
Director of Environmental Affairs
Granite Construction Inc.