



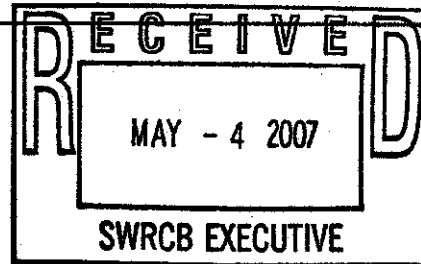
San Diego & Imperial Counties Chapter

AMERICAN PUBLIC WORKS ASSOCIATION

May 3, 2007

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

Ms. Song Her
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, California 95814



SUBJECT: COMMENT LETTER - DRAFT CONSTRUCTION PERMIT

Dear Ms. Her:

The American Public Works Association (APWA) San Diego and Imperial Counties Chapter offers comments on the following topics in the Draft Construction Permit: Sections IX.G and IX.H Active Treatment System (ATS) or Source Control Option, and Section IX.K New Development and Re-development Storm Water Performance Standards.

Section IX Active Treatment System (ATS) or Source Control Option

The Draft Construction Permit Sections IX.G and IX.H require implementation of either an Active Treatment System (ATS) or Source Control Option, respectively, where the soils to be exposed on a construction site contain more than 10% (by weight) particle sizes smaller than 0.02 mm (medium silt).

Active treatment has several potential drawbacks, particularly (1) the potential for toxicity impacts to downstream systems, and (2) it is technically very difficult to mobilize and operate. At best, it could result in water quality protection at a prohibitive cost, but at worst it could result in unintended consequences that outweigh any water quality benefits. Due to these drawbacks, active treatment should be a last resort used only in situations where source control is ineffective, or only after it has been determined that the Source Control Option cannot be achieved.

Unfortunately, the Source Control Option provided in Section IX.H is so restrictive that it will not be achievable for most construction sites greater than five acres. Section IX.H.b limits the area of active construction to five acres at a time. A five-acre grading restriction is unprecedented in the construction industry in general. Grading is but one element of many interrelated elements on a project. Soil balance, handling, and stockpiling needs, equipment staging, ingress and egress, haul roads, utility construction, on-site rock crushing and aggregate preparation, interim drainage and other operations must also be considered. Limiting the amount of grading area could force compromises in the proper design and operation of the other elements of a project, potentially compromising the health and safety of the citizens in the community. Therefore, as it is currently written with Section IX.H.b, the Draft Construction Permit would effectively require active treatment for nearly all construction sites greater than five acres.

2007 OFFICERS

PRESIDENT

Howard Arnold (858) 673-5505
Tetra Tech, Inc.

PRESIDENT-ELECT

Patti Bockamp (619) 236-6274
City of San Diego

VICE PRESIDENT

Ed Walton (619) 522-7385
City of Coronado

SECRETARY

Tom Frank (760) 529-0795
Infrastructure Engineering

TREASURER

Sunnie House (619) 243-2891
URS Corporation

DIRECTORS

Tom Adler (619) 409-5483
City of Chula Vista

Clark Fernon (858) 268-8080
Boyle Engineering

Tim Gabrielson (619) 291-0707
Rick Engineering Company

James Haughey (858) 614-5038
RBF Consulting

Tony Heinrichs (619) 686-6200
Port of San Diego

Angela Morrow (760) 839-4038
City of Escondido

Jonathan Smith (858) 668-4621
City of Poway

PAST PRESIDENT

Hossein Rubi (858) 627-3201
City of San Diego

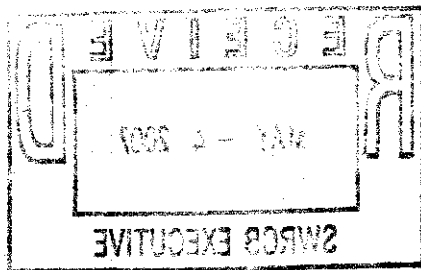
**HOUSE OF DELEGATES AND
CALIFORNIA PUBLIC WORKS
COUNCIL REPRESENTATIVE**

Angie Chang (858) 576-9200
Peomas

Julio Fuentes (619) 533-3092
City of San Diego
Alternate

REGION VIII DIRECTOR

Ann Burnen
(619) 640-4444





San Diego & Imperial Counties Chapter

AMERICAN PUBLIC WORKS ASSOCIATION

We are requesting that Section IX.H, Source Control Option be rewritten to remove item IX.H.b. The Source Control Option could be enhanced with a greater focus on detailed erosion control planning and phasing, more detailed Rain Event Action Plan (REAP), grading controls to keep stormwater on site, additional inspections by independent third party auditors, or more frequent inspection by field engineers. With revisions that make the Source Control Option achievable, the Draft Construction Permit would be more protective of water quality. It is more effective to remove the source of a pollutant than to treat the pollutant.

We are also requesting that the sizing requirements for ATS presented in Section IX.G be reduced. The sizing is extremely conservative and will require potentially oversized systems and stockpiling of equipment and chemicals that may never be needed during the life of the construction project. The Draft Construction Permit is currently written that the ATS system shall be capable of capturing and treating, within 48 hours, at least the runoff generated by the range of storms up to 1.5 times the volume of water generated by the local 10-year, 24-hour design storm event. For San Diego County this is approximately a 100-year storm event. We are requesting that this section be rewritten to address the following criteria: In the event that ATS must be implemented at a construction site, the ATS sizing requirement should be based on the average annual storm with the 50% factor of safety, or the 10-year storm with no additional factor of safety.

Section IX.K New Development and Re-development Storm Water Performance Standards

Section IX.K of The Draft Construction Permit presents measures to be implemented to control hydromodification effects from development. While we acknowledge the need to control hydromodification in areas not currently covered by Phase I or Phase II MS4 Permits with hydromodification management requirements, our concern is that the Construction General Permit is not the appropriate mechanism for regulating post-construction hydromodification impacts.

First, the Construction General Permit is not the mechanism to regulate planning-level design requirements. Hydromodification management is primarily achieved through site design and structural controls that must be incorporated as project features from the start of the design process. The appropriate mechanism would be a local agency design manual or standard such as a Hydromodification Management Plan (HMP) that is used during the design and plan review process. Second, hydromodification impacts result from climatic and geologic factors which are variable throughout the state of California. Since geologic, topographic, and climatic factors influence the natural systems that the HMP management strategies are intended to mimic and protect, unique factors in different geographic locations can be expected to result in unique design issues for HMP implementation. Therefore, a statewide approach to hydromodification management is too broad to account for local needs. Management measures that are practicable to implement must consider local engineering issues that will directly affect the health and safety of the community, such as slope stability, vector control, street design standards, and maintenance procedures. Third, the requirements of Section IX.K will overlap existing requirements for hydromodification management in jurisdictions with Phase I or Phase II MS4 permits that address hydromodification management.

We are requesting that Section IX.K, New Development and Re-development Storm Water Performance Standards be rewritten to address the following:

- (1) Where a local Hydromodification Management Plan (HMP) is adopted or in development under an existing MS4 Permit, the local HMP requirements should supersede the requirements of Section IX.K.



(2) Add a timeline for implementation of Section IX.K requirements. The timeline should account for areas that have an adopted HMP, areas where a HMP is being developed, and areas that currently have no existing HMP requirements. For areas with an adopted HMP or HMP in progress, the timeline should be based on the timeline of the local HMP. For areas with no existing HMP requirements, the timeline should allow sufficient time (e.g., 36 months) for municipalities that wish to adopt a local HMP to develop the HMP, and for municipalities that do not develop a local HMP allow phase-in time for projects that are already designed or under construction to either finish construction prior to the requirements taking effect or make adjustments to project design to meet the requirements.

We thank you for considering these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. C. Bowling'.

Dennis C. Bowling, M.S.
R.C.E. #32838, Exp. 06/08
Chair, Water Resources Committee