



Department
Division
 311 Vernon Street
 Roseville, California 95678-2649

**Construction General
 Permit – Stormwater
 Deadline: 5/4/07 5pm**

May 4, 2007

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



Electronically Submitted and Hand Delivered

**Subject: Preliminary Draft of the National Pollutant Discharge Elimination System
 General Permit for Stormwater Discharges Associated Construction and
 Land Disturbance Activities – City of Roseville Comments**

Dear Song Her:

Thank you for the opportunity to provide comment in response to the above subject document (Permit). The City of Roseville has concerns with the increased requirements proposed within the Permit and their impact on Capital Improvement Projects (CIPs) conducted by the City of Roseville (City) and the economic impacts to private land development projects constructed within our City limits. Specific comments from the City are provided in the attached table. We also offer the following comments related to the proposed Permit.

PERFORMANCED BASED MANAGEMENT

We understand the State Water Resource Control Board’s interest in moving the State’s stormwater program towards performance-based management. In fact, the Permit has many good new elements such as the specific requirements related to source control and good housekeeping. However there are elements within the Permit which the City believes should not be included and others that should be used solely as enforcement mechanisms for non compliant sites. Our experience with our CIP’s and the private development projects is that contractors are sensitive to construction site stormwater runoff. We believe that the original permit, as currently written, provides sufficient safeguards and requirements to effectively monitor construction site stormwater runoff.

NEW DEVELOPMENT AND RE-DEVELOPMENT

The City strongly opposes the inclusion of the New Development and Re-development (ND/RD) requirements within this Permit. We understand the need to enforce ND/RD within the overall State stormwater program. However, the construction permit is not the appropriate regulatory framework for these requirements. We recommend that long term storm water quality impacts of ND/RD urbanization be addressed as a post construction element through the State Municipal Stormwater Permits during the design stage of any given project. The construction stage of a project involves interim and short term activities that facilitate the development of post construction BMP’s to provide long term solutions to stormwater quality. As such, this permit should only address construction activities for short term runoff protection.

REGIONAL WATER QUALITY CONTROL BOARD AUTHORIZATIONS

The City is greatly concerned with the potential burden placed upon the Regional Water Quality Control Board Staff and local jurisdictions to implement this new Permit. Where a construction site is in compliance with an approved and functioning SWPPP, we see little benefit in adding additional burdens to further regulate construction activities.

The following is a list of those items that would require involvement, review, approval, and follow up by Regional Board staff, and/or others:

- Review Permit Registration Documents (PDRs) (Includes all existing discharges who must file within 90 days of adoption of the Permit. Currently there are over 20,000 active construction sites in the State which will have to resubmit new documents for Regional Board staff review)
- Posting of PDRs for public review
- Response to public review comments (this may included the need for formal Board Hearings)
- Review turbidity demonstrations when exceedance of Action Level (AL) occurs
- Review of Action Level Exceedances Evaluation Reports (ALEERs), SWPPP and/or Monitoring programs if 2 consecutive AL exceedances
- Review and approve supplemental Active Treatment System (ATS) reports (required 30-days prior to ATS deployment)
- Review and approve the use of any structural control measures to comply with ND/RD standards (An appropriate review would include the review of design calculations, also the State of California Consumer Affairs Department requires plan review/approval must be done under the license of a Professional Engineer)

The increased burden on the Board and/or local jurisdictions to provide additional plan review and enforcement will be significant. Staffing at the Regional Boards and/or other local jurisdictions are already limited, and the implementation of these requirements will require significant staffing resources. If the Regional Boards and/or other local jurisdictions are unable to provide sufficient staffing to accommodate the number of construction projects within the State, significant economic impacts will occur to both public and private entities as a result of unnecessary project delays and unmanageable expectations.

The Permit, as written, requires a 90-day public review process prior to permit approval. Although we feel that public review will not provide significant value and could result in considerable delays, we understand that there has been recent court decisions that identified the need to accommodate public hearings. For this reason, we request consideration that the public review process be limited to 10-days to minimize any delay to public or private projects.

SAMPLING AND ANALYSIS

The City is opposed to the volume and type of sampling and analysis being required under this Permit for TPH and toxicity testing. The reasons for our opposition are multi-fold and follow:

First, SWPPP's routinely identify containment areas for mechanical equipment storage and repairs along with areas designated for the storage and transfer of petroleum products. They also designate remedial procedures for the cleanup of minor petroleum releases. Contractors routinely monitor on-site petroleum handling and, barring catastrophic releases, additional routine testing will not add to the effectiveness of the SWPPP and will create unnecessary expenses.

Second, if testing is required all samples would need to be tested in off-site laboratory facilities. Standard laboratory turn around times are typically quoted as "10-days", however, it is not unusual for water quality results to be released or delivered upwards of 30 business days. Because conditions at a construction site are constantly changing, if the results indicate that TPH levels have been exceeded those results would not be provided in a time frame to effectuate change. As such, we believe this test is an inefficient use of funds that could be used towards overall onsite stormwater compliance.

Our third concern is the fiscal impact of these analyses. In developing these comments several laboratories were contacted. A single TPH test (standard turn around) is around \$140. Quotes obtained for toxicity testing range from \$445 to \$775 for a single acute toxicity test. The cost of chronic toxicity tests range from \$1,000 to \$1,200 for each single species test. The Permit requests chronic test with Fathead minnow, Daphnid and an algal species. As such a single chronic toxicity test will cost over \$3,000 per sample. Additionally, there are several complicating factors. First, prior to running a test, the fish must be ordered 24 hours in advance. This will make it very difficult for labs to schedule since ATS systems are cycled on or off depending on the timing of rainfall events. Second, large sample volumes are required. To conduct a single sample acute toxicity test, a minimum sample size is 2.5 gallons. For a chronic toxicity test, the sample size increases to 6 or 7 gallons. Samples must be kept cold in an ice chest so shipment of these samples will be problematic and costly.

Additionally, we are concerned with project delays or non-compliance citations due to the limited number and availability of DHS ELAP certified laboratories. According to the State DHS ELAP website, there are 332 certified commercial laboratories, several of which are located out of state. Of these 332 commercial labs only 22 are certified to conduct the required toxicity testing, however, only a portion of these 22 conducts the required algae species test. Based on current soils criteria statewide, we are concerned that the Board is significantly underestimating the number of toxicity tests that will be required under the proposed Permit.

ACTION LEVELS, NUMERIC EFFLUENT LIMITS and ACTIVE TREATMENT SYSTEMS

The City supports the comments provided by the California Stormwater Quality Association (via separate comment letter) related to the inclusion of Action Levels, Numeric Effluent Limits and Active Treatment Systems for this Permit.

RECOMMENDATIONS

In closing we offer the following suggestions:

- The new Permit should be developed with a triage philosophy. Construction sites should be required to implement source control and good housekeeping practices and to develop a Rain/Storm Event Action Plan (REAP). The REAP should only be required prior to major changes in construction phases that adjust or modify existing BMPs. If sites are non-compliant as determined by Regional Water Quality Board staff, the Permit could require sampling and analysis for comparison against Action Levels and Numeric Effluent Limits (ph and turbidity only). Annual reports should only be required for non-compliant sites. This approach would encourage sites to comply as opposed to requiring all sites to conduct a costly sampling and analysis program.
- Should the Board determine the current permit is appropriate as proposed, we strongly encourage the Board to pilot test this Permit on several State construction projects. This would provide an opportunity to determine processes and procedures necessary to effectively implement this Permit along with associated costs.

- Lastly, we suggest that any future changes to the Permit be provided in a redline/strike out version to clearly identify any proposed changes.

Thank you for your consideration of our comments. Should you have any questions regarding this letter, please contact Kelye McKinney at (916) 774-5552 or Chris Kraft at (916) 774-5373. Please include the City of Roseville on any notification distribution list created for this project.

Send all future notices to:

Joan Weber, Associate Engineer
City of Roseville
Public Works Department
311 Vernon Street
Roseville, CA 95678

Kelye McKinney, Engineering Manager
City of Roseville
Environmental Utilities Department
2005 Hilltop Circle.
Roseville, CA 95747

Sincerely,



Rob Jensen
Public Works Director

Attachment: City Comments

cc: Derrick Whitehead, City of Roseville Environmental Utilities
Kelye McKinney, City of Roseville Environmental Utilities
Chris Kraft, City of Roseville Public Works

DRAFT
CITY OF ROSEVILLE
Comments Associated with the General NPDES Permit for Construction Activities
5/3/2007

	Permit Element/Issue/Concern	Location in Permit/ Fact Sheet	Comment
1.	Overall increase in documentation	General Comment	<p>GENERAL</p> <p>The increase in documentation that would be required from every medium and high risk will be greatly increased, which would be most sites in our City. We do not believe that the Board is staffed, or will be staffed in the future, to review even a fraction of these required documents. It does not make sense to unnecessarily strain an already economically strained Development industry with documentation requirements which may never be reviewed in a timely manner.</p>
2.	Required training or certification program	Pg. 11 of Fact Sheet, D, last bullet	<p>Requiring certification/training for SWPPP preparers may be a good idea but should be ranked according to site risk level. The board should consider that only "high" risk sites or sites requiring ATS have SWPPPs that are prepared by a certified person. Also, mandating this requirement is going to put a strain on the development industry in regards to finding the resources available to prepare the documents. We recommend that this proposed mandate be phased in over time for high risk and ATS sites only, if approved.</p> <p>Requiring certification of inspectors will be very difficult to accomplish within agencies. Currently, very few Phase II organizations can afford to staff full time SWPPP inspectors. Many cities and counties have their building inspectors and public works inspectors cover SWPPP inspections. The time and cost involved in certifying an agencies entire inspection staff is not reasonable when effective training can be and is currently being accomplished within each organization.</p>

3.	Verify Reference	Pg. 5 of GP, Finding 19	The GP states “must implement an ATS or alternatively, the source control measures specified in section G”. Shouldn’t this be listed as Section H?
4.	Wording	Pg. 6 of General Permit (GP), Finding 24	How does a sale disturb more than one acre?
5.	SWPPP Not Required	Pg. 7 of GP, Table 1	Low risk projects are not required to develop or submit a SWPPP according to Table 1. This should also be recognized in other areas of the permit including instructions for submitting the PRDs and Attachment C. We suggest the first sentence of Attachment C, How to Apply be revised to read: “All Permit Registration Documents (PRDs), which include a NOI, SWPPP (if applicable), and SWPPP Compliance Checklist (if applicable) must be....”
6.	18 months for compliance with pH NEL	Pg. 11 of GP, IV.3.a	This section of the permit indicates the NEL of pH is not effective until 18 months after the adoption of this General permit. This should be indicated in Table 2 on page 16.
7.	Receiving Water Limitations - pH	Pg. 12 of GP, VI. 6 and 7	Why is only the NEL for pH provided an 18 month phase in time for compliance as opposed to turbidity and TPH? Numbers 6 and 7 seem redundant. Won’t projects with ATS automatically be medium or high risk sites? Is it even possible to have a low risk site that uses ATS?
8.	Wording	Pg. 12 of GP, VII.1.a. and 4.	Is there a difference between “0.2 standard units” (number 6) vs. “0.2 pH units” (number 7). This section states permit coverage shall not commence until the permit fee is received and the PRDs are accepted by the State Water Board. What are the provisions of acceptance? How is the discharger notified? Is submittal of PRDs considered acceptance? Item 4 discusses commencement as the date the PRDs are “administratively accepted.” Is that the actual filing date of the PRDs or some other date? Again, how will dischargers know?

9.	Existing Dischargers Must Comply	Pg. 13 of GP, VII.1.b and 3.	The GP requires existing dischargers to comply with the new permit provisions but file PRDs. Many aspects of the new permit may be difficult if not impossible to apply to projects already underway. This requirement should be re-evaluated.
10.	Soils Analysis	Pg. 15 of GP, VIII.B.2	Is one test sufficient for fill material regardless of fill volume or source? Soil sampling of fill material should not be required for sites required to use ATS based on site soil conditions.
11.	Receiving Water Monitoring	Pg. 16 of GP, IX.B	The permit requires high risk sites to “immediately” conduct receiving water monitoring whenever effluent monitoring indicates that an AL is exceeded. Standard turn-around times for TPH analysis for a certified laboratory is anywhere from 10 to 30 business days. Given the length of time between actual sampling and notification from the lab, what is the point of receiving water monitoring? The City recommends TPH monitoring is eliminated from this permit to allow focus on field monitoring and analysis.
12.	Erosion Control. Clarification requested.	Pg. 18 of GP, IX.C. 1, 2 and 4	Item 1 implies that active areas may not have to be stabilized as long as there is activity once every 14 days. Item 2 states that dischargers shall stabilize all active disturbed areas regardless of the time of year, while item 4 states dischargers shall stabilize finished slopes, open space, utility backfill and lots as soon as they are completed. This seems contradictory. Please differentiate between “appropriate soil cover” (used in item 1) and “stabilize” (used in item 2)?
13.	Sediment Controls/Attachment H	Pg. 18 of GP, IX.E.2	Requires the discharger design sediment basins according to Attachment H. An example of a design including calculations included in Attachment H, would be helpful.
14.	Sediment Tracking Onto Roadways	Pg. 19 of GP, IX.F. 1, 2	Remove “heavy equipment” and replace with “all vehicle traffic” shall use stabilized entrances/exits. It is our experience that the majority of tracking comes from light vehicles, employee vehicles, etc.
15.	Typo	Pg. 19 of GP, IX.G.1	Reference to source control procedures is not correct. Change to section IX.H.

16.	ATS supplemental report timeline	Pg. 19 of GP, IX.G.2	<p>The permit requires the discharger to submit a supplemental report to the RWQCB for approval prior to discharge. However the permit does not indicate how it is to be submitted, and/or approved?</p> <p>The permit must limit the amount of time the Regional Boards will have to review and approve ATS supplemental reports. If a supplemental report is not approved but required to be amended will the Regional Board fast track review and approval of the revised report? There must be a limit established for review times by the Regional Boards otherwise projects will likely be substantially delayed (considering the number of sites in CA that will require ATS systems) causing unknown cost increases to public and private projects. This requirement is already documented in the typical SWPPP. We recommend staff remove this proposed requirement.</p>
17.	ATS Resources	Pg. 20 of GP, IX.G	<p>Given the new requirements for ATS operations the demand for these systems would be dramatically increased overnight. This one requirement could bring the building industry to a complete stop. There just are not the vendors or the equipment available to meet the new demand. Also, there are not the trained personnel available to run these systems. The Board needs to consider a ramp-up period, relating to ATS, to allow the industry time to adjust to the new need, if staff is going to pursue this condition.</p>
18.	Wording	Pg. 21 of GP, IX.H.c	<p>What is meant by "100 percent soil cover"? It is not clear what is expected.</p>
19.	Wording	Pg. 24 of GP, IX.J.2	<p>How is one to wash streets in a designated area?</p>

20.	Good Housekeeping	Pg. 22 of GP, IX.I. 2a	The GP states that the discharger shall prevent disposal of rinse/wash waters or materials into the storm drain system. Clarification for the treatment of concrete, mortar, joint compounds, paint, etc. to be spilled, leaked, poured, washed out etc. is needed. Suggest adding “not on the bare ground or on pervious surfaces”. Enforcing this issue has been difficult because the language in the current General Permit as well as this Draft Permit is weak which results in this issue being challenged frequently.
21.	Good Housekeeping – Clarification requested	Pg 23 of GP, IX.I. 4a & 4b.	City staff is not sure what landscape materials the GP is referring to. It is our experience that landscape materials more times than not, provide stabilization. More importantly, we are concerned as to the rationale behind restricting the application of any landscape materials 2 days before a forecasted rain event or during periods of rain. Much can be accomplished within the two days before a rain event.
22.	Wording	Pg.24 of GP, IX.J.3	This section should be written to exempt those non-stormwater discharges allowed in section VII.8 (pg. 14)
23.	Training and Qualifications – Clarifications requested	Pg. 26 of GP, IX.M. 1	More information is needed as to what level?

24.	Rain Event Action Plan	Pg. 28 of GP, XI.	<p>The terms “rain event” and storm event” are used throughout the permit. Are these one in the same? The definition section recognizes “Rain Event Action Plan” and “Storm Event” but does not define “Rain Event.” Consider replacing “Rain Event Action Plan” with “Storm Event Action Plan” and “rain event with “storm event” for clarification if terms are interchangeable. Otherwise provide a definition of “Rain Event.”</p> <p>It is unreasonable to expect a Rain Event Action Plan to be written for each qualifying rain/storm event. One REAP should be written for the site, and modified as needed. The permit should allow for documenting the general actions to be taken prior to, during and after storm events.</p> <p>The 30% threshold is unrealistically low, and would trigger many false alarms since 30% chance predictions occur frequently but by definition do not materialize as actual rain events most of the time. This should be revised to a higher threshold. We recommend 70% chance of precipitation.</p> <p>It would be helpful for the State to develop a sample REAP (or SEAP) and include a copy with the GP.</p>
25.	Long-term maintenance of stormwater management measures	Pg.29 of GP, XII.1.e Pg. 58 of GP, Attachment D, 11a & 11.b	<p>This provision of the permit requires a “satisfactory long-term maintenance plan” be established prior to NOT. Who will make the determination and what is the process for establishing the determination that a satisfactory plan is in place?</p> <p>This entire section is inappropriate. It’s recommended to be removed. It may not be possible to document the long term funding source and responsible party for privately owned control practices given developers very often sell projects after construction and that sites change hands over time. What is the point of knowing this anyway?</p>

26.	Public Comment Period	Pg. 30 of GP, XIII.2	<p>This section states the Regional Boards will review comments provided from the public on new permit applications within the 90-day public review period. What happens after the public comment period closes? How long does the Regional Board have to take action on the public comment? If no public comment is received can discharges automatically assume a permit is issued and begin construction? Without assured time lines for permit approvals significant project delays and resultant cost increases will be incurred on public and private projects.</p> <p>It seems inappropriate for SWPPP preparers, such as Registered Engineers, to have their professional documents reviewed, commented, and potentially revised by the general public with little or no experience with Stormwater. Roseville doesn't recommend the review period format. Public comment is recommended to be completely removed or revised to 10 business days.</p>
27.	Incorrect Reference	Pg. 57 and 58 of GP, Attachment D, 11.a. and 11.c	<p>These sections should be removed (see comments pertaining to New Development and Re-development below). However, Section 11.a indicates need to demonstrate compliance with Section VII.J of the General Permit. No such section exists. Correct reference (IX.K) should it remain?</p>
28.	Definition of "drainage area"	Pg. 59 of GP, Attachment E, C	<p>The term "drainage area" is used throughout Attachment E to indicate where samples should be taken. Please define "drainage area". It should be noted that on an active construction site, the drainage patterns/drainage sheds are very likely to change during the normal course of construction.</p>
29.	Visual Observations, clarification requested	Pg. 59 of GP, Attachment E, D	<p>In section D.1, are visual observations required after every 1-inch of rain or only after a storm event that produces 1-inch of rain?</p>

30.	Photographs required – clarification requested	Pg. 61 of GP, Attachment E, D.6	This section requires photographs of “each drainage area discharge location and structural BMP.” Please clarify if structural BMP photos are of the entire construction site or those only associated with the discharge location.
31.	Sampling and Analysis of Contained Stormwater	Pg. 61 of GP, Attachment E, E.1	The second sentence of this section is not clear: 1) Where are these samples to be collected? From the containment area or from the discharge site? 2) When are the samples to be collected? Within one business day after ½-inch rain event that produces run-off?
32.	Receiving Water Monitoring – TPH trigger clarification	Pg. 61 of GP, Attachment E, E.3	This section indicates receiving water monitoring is required only when AL is exceeded for pH or turbidity or when the NEL is exceeded for pH. This seems to conflict with Section IX.B.(pages 16 and 17) that indicates receiving water monitoring is required if an AL is exceeded for pH, turbidity or TPH. Please clarify which parameters trigger the receiving water monitoring requirement. Suggest included a table that clarifies this.
33.	Receiving water monitoring	Pg. 62 of GP, Attachment E, E.5	1) Section 5.b requires the pH of the receiving water be monitored each 24 hour period of ATS operation. Where is the sampling to take place? Upstream and downstream? Regardless, this requirement could be problematic. How should monitoring be conducted if the discharge location is not evident (e.g. overgrown vegetation precludes locating discharge pint) or is not known (e.g. infrastructure mapping is insufficient to determine discharge location)? Additional complications include private property access to receiving water, which may preclude the ability to monitor.

34.	Toxicity Monitoring – Insufficient Labs to run test and excessive costs	Pg. 63 of GP, Attachment E, E.5.c	<p>Toxicity testing is unreasonable. First, the cost of toxicity testing is very expensive. An acute test runs approximately \$800 per sample and chronic toxicity testing runs \$3000 plus per sample. Additionally the volume of sample required to ship to labs is large. For acute testing 2.5 gallons of sample water is required for the test. For chronic testing either 6 to 7 gallons of sample is required or re-supply sample every 2 to 3 days is required.</p> <p>According to data on the DHS ELAP website, there are only 22 commercial laboratories certified by ELAP for the E113 toxicity testing methods. Additionally of those 22 labs not all of them run chronic tests and even fewer are able to run the algal species portion of the chronic test. It is highly likely the commercial labs will not be able to handle the number of toxicity samples that will be generated as a result of the proposed permit.</p>
35.	Sampling locations	Pg. 64 of GP, Attachment E, F.1	<p>In regards to sampling within the work area, the focus should be on sampling effluent leaving the site. We recommend that all sampling location be designated at the borders of the construction site. Just as it would not make sense to sample effluent within the process area of a wastewater treatment plant, it does not make sense to sampling water that has not become effluent yet.</p>
36.	Record Keeping, clarification requested.	Pg. 67 and 69 of GP Attachment E, K.1 and 1.e	<p>The first part of this section indicates copies of all reports required by the GP must be kept for at least three years. However, section 1.e requires a summary of analytical results be kept from the last five years. This seems to be a conflict. Please clarify.</p>
37.	Annual Reporting, Clarification required	Pg. 68 and 69 of GP, Attachment E, L.1, L.2 and M.2	<p>Section L.1 requests the annual report be submitted no later than January 1. We suggest this be changed to February 15th. This allows time to prepare the annual report and a January 1 deadline is extremely difficult considering the end of year holidays.</p> <p>Section L.2 and M.2: There are no “Standard Provisions for Construction Activity” in Attachment B. Please verify reference.</p>

NEW DEVELOPMENT AND RE-DEVELOPMENT PERFORMANCE STANDARDS

38. General comment on all elements regarding hydromodification within the Fact Sheet and Permit.

The City strongly opposes the inclusion of New Development and Re-development Standards within the General NPDES Permit for Construction Activities. All references to post construction controls and hydromodification should be removed from the Fact Sheet and the General Permit. The City supports and incorporates by reference the CASQA comments provided to the State via separate comment letter with regard to new development and re-development related items and reiterates/adds the following:

The Fact Sheet (pg. 13) states hydromodification impacts are due to urbanization and the introduction of impervious surfaces and alteration of stream channels. The decisions associated with urbanization are made far in advance of actual construction activities. Urbanization decisions are made by local agencies during project planning stages and to a lesser extent during the project design stage. Thus the proper project stage to evaluate hydromodification and determine strategies for avoidance, minimization or mitigation is during project planning not during construction.

All MS4s under an NPDES permit have new-development and re-development requirements within their permits. It does not make sense to include these provisions within the Construction General Permit. This is a duplication of effort. As such Section K should be removed in its entirety.

The majority of MS4s in California are small MS4s under the Phase II General NPDES permit requirements and do not have hydromodification provisions within their NPDES permits. In some cases, many small MS4s are not even under permit as of yet. It is unclear how these small MS4s would deal with the design review of hydromodification controls measures that would be constructed under the proposed provisions. Will the State take on the burden of reviewing and approving construction site development plans to address hydromodification and address potential

local agency conflicts that may occur on a project by project basis? Will the State be responsible for ensuring the long term maintenance of the privately owned control measures?

The last bullet on page 20 of the Fact Sheet clearly indicates the State intends to phase in measures over time is planned with a “yet to be determined triage process to determine which projects require them.” It further goes on to state a coherent and defensible state wide approach may be to implement via Phase I MS4 permits at the regional level. Given the current lack of a current “coherent” and “defensible” statewide approach to the hydromodification issues, all hydromodification provisions should be eliminated from this general permit.

Section IX.K.1 (pg. 24) requires dischargers to obtain approval from Regional Water Boards for use of any structural control measures required to ensure that post-development runoff volumes approximate pre-project runoff volumes. It is hard to imagine the Regional Boards having sufficient staffing to conduct plan review on all construction projects within the State to meet this requirement and to address possible conflicts with local agency standards. What amount of time will be required to obtain Regional Board Approval? Further this item should be addressed during the planning stages for a project not during construction. If this not changed, public and private projects will be significantly delayed resulting in increased project costs.

Section IX.K.4 (pg. 25) required a discharger to demonstrate compliance with the requirements by submitting a map at NOT and appropriate worksheets. This is opposed to what is indicated in IX.K.1 (see comment above). Further what is the point of submitting after construction has been complete or is nearing completion? What if the site is determined to be non-compliant? At that late stage it is too late to make any reasonable changes to comply.

ALs/ NELs/SAMPLING AND ANALYSIS

39. General comment on all elements regarding ALs/NELs/Sampling and Analysis within the Fact Sheet and Permit.

The City is concerned with the type and amount of sampling required under this new permit. The City supports and incorporates by reference the CASQA comments provided to the State via separate comment letter with regard to Action Levels, Numeric Effluent Limits and Sampling and Analysis and reiterates/adds the following:

Sampling for comparison of ALs & NELs should be used in a triage approach and only required for sites determined to be non-compliant by RWQCB staff.

Has the State evaluated the current number of DHS certified laboratories within the State as compared to the estimated number of analytical tests that will be required by this permit based upon the present number of WQID's? Sampling and testing of site effluent, and the monitoring requirements relating to the operation of ATS's, will dramatically increase the demand for laboratory work overnight. Currently, there are over 16,700 NOI's active in the States database. This requirement could put 80% of the construction sites active in the State of California into non-compliance after our first big round of storms, because they can't get their lab work done. There just are not the labs available to meet the new demand. If considered, the Board will need to consider a phase-in period, relating to general effluent testing requirements and ATS testing requirements, to allow the industry time to adjust to the new demand, if deemed necessary. What should a discharger do if laboratories are not able to handle the volume of samples submitted or can not meet standard turn around time frames? It's doubtful; the developer would stop construction progress.

Seems like this amendment is setting up the majority of active permitted projects to fail, should this be included in the amendment. We recommend staff reconsider this proposed change.

Alternatives to receiving water monitoring should be allowed. Such alternatives could include monitoring at the property boundary, (if different than effluent location).

Even for high risk sites one over AL should not trigger receiving water monitoring. Especially for turbidity, field measurements (and laboratory measurement for that matter) are not precise and exhibit wide variability even under excellent conditions with trained sampling staff.

Pg 64, GP, F. 1 - It appears that much data will be generated under this Permit. By the example that is stated "Similarly, if muddy water is flowing through some parts of a silt fence, samples shall be taken of the muddy water even if most water flowing through the fence is clear"; The data accumulated over time will show a much more severe impact than what actually exists. What really is the intent of this portion of the amendment?

Pg. 65 of 79G.1.a - From the standpoint of enforcement, many construction contractor's could provide us (the City) with the excuse (exception) that there was a "dangerous weather condition present" and this justification of not collecting samples or doing visual observations was acceptable based upon the amendment language. What basis must a contractor use this exception? A specific weather report, local broadcast or personal opinion. The amendment needs to create better language for this exception.