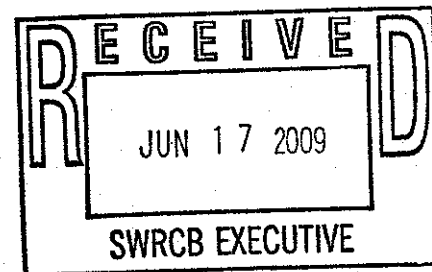


# **ROGER TURNER & ASSOCIATES, Inc.**

June 17, 2009

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



**SUBJECT: STATE WATER RESOURCES CONTROL BOARD  
ORDER NO. 2009 - XX - DWQ, NATIONAL POLLUTANT DISCHARGE  
ELIMINATION SYSTEM GENERAL PERMIT NO. CAR000002  
WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES OF STORM WATER  
RUNOFF ASSOCIATED WITH CONSTRUCTION ACTIVITY**

Dear Ms Townsend,

I appreciate the opportunity to comment on the draft permit to regulate discharges associated with storm water runoff associated with construction activity.

The proposed General Permit regulates discharges of pollutants in storm water associated with construction activity (storm water discharges) to waters of the United States from construction projects that disturb one or more acres of land surface, or that are part of a common plan of development or sale that disturbs more than one acre of land surface.

The draft permit notes the primary storm water pollutant at construction sites is excess sediment. Excess sediment can cloud water, which reduces the amount of sunlight reaching aquatic plants, clogs fish gills, smothers aquatic habitat and spawning areas, and impedes navigation in our waterways. Sediment also transports other pollutants including nutrients, metals, and oils and greases.

The draft permit notes that construction activities can impact a construction site's runoff sediment supply and transport characteristics. These modifications, which can occur both during and after the construction phase, are a significant cause of degradation of the beneficial uses established for water bodies in California. Dischargers can avoid these effects through better construction site design and activity practices.

The General Permit recognizes four distinct phases of construction and incorporates discharge prohibitions contained in water quality control plans, as implemented by the State Water Board and the nine Regional Water Boards.

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The General Permit requires dischargers to assess the risk level of a project based on both sediment transport and receiving water risk. This General Permit contains requirements for Risk Levels 1, 2 and 3, and LUP Risk Type 1, 2, and 3. Risk levels are established by determining two factors: first, calculating the project's sediment risk; and second, receiving water risk during periods of soil exposure (i.e. grading and site stabilization). Both factors are used to determine the site specific Risk Level(s).

Dischargers located in a drainage area where a Total Maximum Daily Load (TMDL) has been adopted or approved by the Regional Water Board or USEPA may be required by a separate Regional Water Board action to implement additional BMPs, conduct additional monitoring activities, and/or comply with an applicable waste load allocation and implementation schedule. Such dischargers may also be required to obtain an individual Regional Water Board permit specific to the area.

The General Permit sets a pH NAL of 6.5 to 8.5, and a turbidity NAL of 250 NTU. The purpose of the NAL and its associated monitoring requirement is to provide operational information regarding the performance of the measures used at the site to minimize the discharge of pollutants and to protect beneficial uses and receiving waters from the adverse effects of construction-related storm water discharges. The NALs in this General Permit for pH and turbidity are not directly enforceable and do not constitute NELs. Exceedance of the NELs are a violation of the General Permit. This General Permit requires dischargers with NEL exceedance to implement additional monitoring, BMPs, and revise their SWPPPs accordingly.

Dischargers are required to notify the State and Regional Water Boards of the violation through the State Water Boards SMARTs system, and provide an NEL Violation Report sharing additional information concerning the NEL exceedance.

The draft permit is written for wet stream conditions where water quality standards have been established in Basin Plans to protect designated beneficial uses. The draft permit does not consider ephemeral stream bed conditions. When streams are dry there is no impact to water quality protection for established beneficial uses for REC1, REC2, WARM, COLD, etc. as these conditions do not occur except only during wet weather discharges.

I recommend that the draft permit consider ephemeral stream bed conditions as they occur in California. I have to ask why this condition has not been considered? The permit requirements need to allow for dry stream bed conditions because a large number of existing streams in California are ephemeral. This does not preclude a permittee from properly managing their construction site, implementing appropriate BMPs and monitoring the site, but monitoring should not require the testing for sediments, pH and other constituents noted in the general Permit for discharges to dry stream beds. Requiring this testing in the permit will cost a permittee without any real

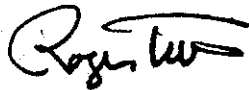
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benefit for the water quality data and determining any noted impacts to a water body that is dry.

Discharges to dry stream beds must be considered when determining any water quality impacts that may contribute to a violation of any water quality standard, especially when a water quality standard has been established for wet stream conditions and the actual condition at time of discharge is a dry stream bed. I recommend that the draft permit consider this condition and include appropriate language that would allow for ephemeral stream bed conditions as they exist in California.

Thank you for the opportunity to comment on the Draft Permit to establish Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity.

Sincerely,



Roger Turner  
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Riverside, CA 92507