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CC: Ev Ashworth <EAshworth@algorp.com>, Jayme Dryden <JDryden@algorp.com>
Date: 4/29/2011 8:43 AM
Subject: Comment Letter - Draft Industrial General Permit

Jeanine Townsend, Clerk to the Board

Ms Townsend:

I write to provide comments regarding the State Water Resources Control Board's amended Industrial Storm Water Permit. Specifically, Section VII.B.1 of the proposed permit would require two new certifications: a Qualified SWPPP Developer (QSD) and a Qualified SWPPP Practitioner (QSP). Under this regulatory proposal, Storm Water Pollution Prevention Plans (SWPPPs) could only be prepared, revised, or modified by a specific qualified professionals. The certification requirements for a QSD include meeting two criteria:

- i. The QSD must be either a California professional civil engineer; a California registered professional geologist or engineering geologist; a California registered landscape architect; or a professional hydrologist registered through the American Institute of Hydrology.
- ii. The QSD must successfully complete the State Water Board sponsored training course.

Comment: We agree that the SWRCB should provide training to those that implement storm water programs. This will ensure a consistent implementation of the general permit, which by design is self-enforcing. However, no technical basis has been provided to support the minimum requirement for restriction to California registration, nor limitations to certification as a civil engineering, professional geologist, landscape architect or hydrologist. This restriction is both arbitrary and capricious, and is inconsistent with the objectives of the Clean Water Act and the California Administrative Procedures Act. Specifically:

* The California Professional Engineering Licensing Board does not recognize Environmental Engineering as a discipline. For this reason, qualified environmental engineers must obtain licensure from other states. The licensing exam requires a working knowledge of the Clean Water Act, and specifically, storm water controls best management practices. No such requirement is included for licensing landscape architects, geologists, hydrogeologists, or civil engineers. The disciplines noted in the proposed changes are less qualified than Environmental Engineers licensed in another state to prepare SWPPPs.

* Accredited profession registration is provided for Qualified Environmental Professionals (QEPs), Registered Environmental Assessors (REAs), and Certified Professional Environmental Auditors (CPEAs). These registrations require formal examination to demonstrate proficiency in environmental science and environmental regulatory compliance, including the Clean Water Act and NPDES Stormwater Permitting. However, these qualified individuals are precluded from preparing stormwater pollution prevention plans, even where individuals have passed a State Water Board sponsored training course.

As drafted, the proposed restriction to specific California-registered professions precludes other, more qualified professionals from performing essential design and review of the self-enforcing industrial permit. This is arbitrary, capricious, and therefore a violation of the California Administrative Procedures Act. Moreover, it is bad policy, as it eliminates qualified professionals from assisting the Board in implementing this important permitting program.

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