

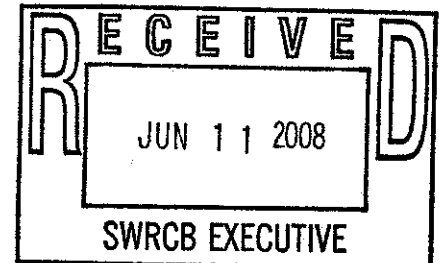


CITY OF BURBANK

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June 11, 2008

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



SUBJECT: Comment Submittal on the Draft Version of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated With Construction and Land Disturbance Activities

The City of Burbank Public Works Department (The City of Burbank) appreciates the opportunity to provide comments on the State Water Resources Control Board (SWRCB) Draft NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Draft Permit).

The City of Burbank supports the SWRCB's efforts to improve water quality within the state by improving the management of stormwater runoff from construction activities. Further, it commends the SWRCB's efforts in significantly revamping the Draft Permit from its previous form in the Preliminary Draft stage in response to comments submitted last year. Nevertheless, we still has some concerns with several key areas within the Draft Permit that we hope you will consider revising before permit adoption to better strengthen the Draft Permit. We include comments below in the areas for your consideration.

Minimum Mandatory Penalties

Section IV.B.1. mandates specific Numeric Effluent Limits (NELs) for the parameters of pH and turbidity. By establishing effluent limitations in this Draft Permit, the SWRCB has effectively made applicable minimum mandatory penalties under California Water Code Section 13385 (i)(1)(A), which requires the assessment of, at minimum, \$3,000 for each violation of a waste discharge requirement effluent limitation, under specific circumstances.

Sampling Parameters

Discussed at the May 7, 2008 workshop was that of field sampling. At that workshop Board staff strongly suggested sampling and analyzing pH and turbidity in the field. We are concerned that the field sampling and analysis results may be challenged by the Board or a third party based on sampling parameters undertaken.

Additionally, receiving water sampling should be removed from the permit due to the variability of water quality during rain events. There is also the safety issue in acquiring samples of receiving waters during rain events.

Electronic Reporting

The City of Burbank would like to know if there is a back up plan for reporting if the CIWQS electronic reporting system goes down.

Date of Permit Effectiveness (Applicability)

Section I.5 finds that "this Permit, as an NPDES permit in compliance with Clean Water Act Section 402, shall take effect 100 days following the SWRCB's adoption of the Permit." In other words, there are no exceptions in terms of compliance and enforcement for projects approved and starting construction prior to the adoption date. This is problematic because many projects are subject to finite budgets that would have difficulty absorbing the expected cost increase for complying with the new permit standards, as currently proposed. Therefore, such projects would likely remain out of compliance or may be forced to delay construction until more funds are appropriated.

Due to the dramatic shift in the approach and requirements of this Draft Permit, the City of Burbank suggests that the SWRCB include a "grandfather" clause in the Draft Permit that would apply the current General Construction Permit standards to those projects approved under it. Alternatively, the SWRCB should consider granting a longer time period to either complete a project or meet the new requirements, such as 1-year.

Rain Event Action Plan (REAP)

Section X.2-3. requires permittees to develop a REAP 48 hours prior to any *likely* precipitation event, which is defined as >50% chance of precipitation, and ensure its implementation and availability onsite no later than 24 hours prior to the precipitation event. The Draft Permit provides a REAP in its attachment G that requires information of on site conditions, the characteristics of the predicted rain event, and the subsequent actions needed; however, these are all requirements already mandated in a SWPPP.

The City of Burbank appreciates the key revision made by the SWRCB from the previous Permit version in increasing the proposed threshold percentage for the probability of precipitation which would trigger compliance with the REAP. Yet we question whether the REAP itself is redundant. We believe that the SWPPP and the Monitoring Program, when effectively implemented, are already appropriate and effective tools to achieve the goal of adequate preparation for a predicted rain event. SWPPPs require BMPs and the Monitoring Program requires site inspections prior to anticipated storm events and after actual storm events. Further, inspections are to be made during each 24-hour period with the goals of identifying areas contributing to a stormwater discharge; evaluating whether measures to reduce pollutant loadings identified in the SWPPP are adequate and properly installed/functioning; and whether additional control practices or corrective maintenance activities are needed. It further mandates that all equipment, materials, and workers must be available for "rapid response to failures and emergencies."

To require the use of a REAP in addition to what is already covered in the SWPPP is duplicative and excessive, requiring a greater cost expenditure without any greater

protection of water quality. The City of Burbank would suggest that the REAP be eliminated from the Draft Permit in favor of appropriate requirements in the SWPPPs.

Public Comments on New Permit Applications

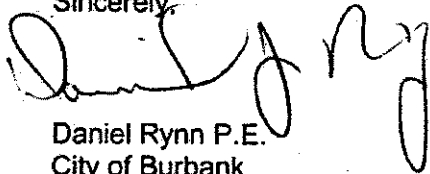
Section XIII.2. provides that the Regional Water Boards (Regional Boards) shall have the authority to receive and review public comments on new construction permit applications, while also allowing for certain actions to proceed, such as rescinding permit coverage, requiring a public hearing, or requiring a formal Regional Water Board permit approvals, based on such public comments. This section is problematic because it lacks specificity on in how the Regional Board "action-taking" is triggered. There are no details listed as to the threshold of public comments that must be met for further Regional Board action. In this situation, a controversial project unrelated to stormwater compliance issues could be subjected to much greater scrutiny and possible further Regional Board action simply due to the controversial nature of the project. As a result, projects could be severely delayed, with high monetary consequences. The City of Burbank suggests that a clear set of criteria be included in the revised permit, which if met, would only then trigger further Board Review.

This section is further problematic due to the indefinite time period proposed for the public review. Without any specific timelines or limitations, public commenting on projects could potentially continue indefinitely. As the Draft Permit is currently written, it could be inferred that comments can be received at any point in time, up until the termination of General Construction Permit coverage. The City of Burbank would like to see the public comment period limited in its duration.

At most, a 30-day time period for receiving public comment would be a reasonable addition to the Draft Permit, or an otherwise specified time period that would meet the public comment requirements of the court order, but ensure that permits are not subject to indefinite public review.

Thank you for your consideration of our comments.

Sincerely,



Daniel Rynn P.E.
City of Burbank
Public Works Department