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COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

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Public Comment
Draft Construction Permit
Deadline: 6/11/08 by 12 p.m.

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

IN REPLY PLEASE
REFER TO FILE: **WM-9**

June 11, 2008

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814-2828

Dear Ms. Townsend:

COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC WORKS COMMENTS IN RESPONSE TO THE DRAFT CONSTRUCTION GENERAL STORMWATER NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT DATED MARCH 18, 2008

On behalf of the County of Los Angeles, we have reviewed the proposed draft Construction Permit made available for public comment by the State Water Resources Control Board. Our comments are enclosed.

If you have any questions, please contact Mr. Scott Schales at (626) 458-4325 or sschales@dpw.lacounty.gov.

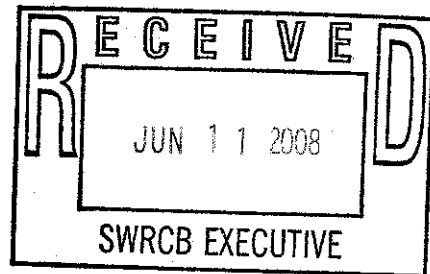
Very truly yours,

DEAN D. EFSTATHIOU
Acting Director of Public Works

MARK PESTRELLA
Assistant Deputy Director
Watershed Management Division

JR:sw
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Enc.



**County of Los Angeles Department of Public Works
Comments in Response to the
Draft Construction General Stormwater National Pollutant
Discharge Elimination System Permit
Dated March 18, 2008**

The County of Los Angeles and Los Angeles County Flood Control District, herein jointly referred to as the County, submits the following comments in response to the draft Construction General Stormwater National Pollutant Discharge Elimination System Permit (draft Construction Permit).

General Comments

The State Water Resources Control Board (State Board) has not fully considered the regional and local economic impacts of the permit versus the implied benefits. While the County recognizes the State's desire to increase accountability with respect to Statewide construction activities, the draft permit lacks a simple set of requirements, outcome expectations, or funding sources to comply with the regulations.

Risk Assessment

The proposed method of determining risk places most projects in a medium- to high-risk category and does not consider or provide credit for Best Management Practices installed, size of site, duration of construction, or the season in which construction occurs. Under the proposed method, options to reduce a project's assessed risk are very limited, ignoring many key factors in project design that are controllable and could potentially improve water quality. Placing sites in a higher risk category unnecessarily will impose water quality testing and additional reporting requirements for many sites where they are not needed.

Furthermore, the language used in the proposed receiving water risk assessment calculation requires a determination as to whether a site discharges directly or indirectly into a 303(d) Impaired Water Body that is impaired by sediment. The word "indirectly" merits further definition.

Finally, additional guidance is needed on how to apply risk assessment analysis to address different phases of construction for purposes of meeting compliance requirements.

Public Participation and Permit Waiting Period

The language pertaining to the public participation and review process is unclear and should be clarified. It was indicated at the May 7, 2008, workshop in Los Angeles that when a Notice of Intent and related documents are submitted, the public will be able to review and comment on the submittal and all required documents as they are submitted. While we commend the State Board for no longer intending to delay a project for public review, it is unclear what will be done with the comments received.

In addition, the public review process appears to have no time limit, leaving the door open for public challenges long after land use planning, the California Environmental Quality Act/National Environmental Policy Act clearance, and other environmental review and approvals, all of which also require public scrutiny, have been completed and obtained. Such open-ended public participation and review processes as currently written in the draft Construction Permit will result in unacceptable delays for County construction projects.

Maintenance Definition

Under "Construction Activities Covered by this General Permit," the description of maintenance activity, as it appears on the fact sheet and supplied here, raises some questions. The following is offered as replacement language:

"Construction activity subject to this General Permit includes any construction or demolition activity, clearing, grading, grubbing, or excavation or any other activity that results in a land disturbance of more than one acre. Construction does not include emergency construction activities required to immediately protect public health and safety or routine maintenance activities required to maintain the integrity of structures by performing minor repair and restoration work, maintain original line and grade, hydraulic capacity, or original purpose of the facility. As used above, routine maintenance only applies to includes as-needed restoration work to preserve the original design grade, integrity, and hydraulic capacity of flood control facilities. It may also include road shoulder work, regrading dirt or gravel road roadways and shoulders, and performing re-grading, or ditch clean-outs. For municipal operators, repaving of asphalt roads is routine maintenance except where the underlying and/or surrounding soil is cleared, graded, or excavated as part of the repaving operation. Where clearing, grading, or excavating of underlying soil takes place during a repaving operation, permit coverage is required if more than one acre is disturbed or part of a larger plan or if the activity is part of more activities part of a municipality's Capital Improvement Project Plan."

Under "Construction Activities Not Covered by this General Permit," where the draft reads "This General Permit does not apply to the following storm water discharges," we offer the following language to be added:

"all maintenance activities that include a dredge and/or fill discharge to any flood control facilities within jurisdictional surface water (e.g., channels, debris basins, etc.), already covered by CWA Section 404 permit from the U.S. Army Corps of Engineers and CWA Section 401 Water Quality Certification from the Regional Water Board or State Water Board."

Linear Construction

The State Board should reevaluate the general small Linear Underground/Overhead Project for applicability to other construction projects such as Highway Reconstruction projects.

California Stormwater Quality Association (CASQA) Comments

As a member of CASQA, the County has reviewed and is in full support of CASQA's comment letter in response to the draft Construction Permit. We strongly encourage the State Board to accept CASQA's recommendations (see attachment).

JR:ad

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Attach.