



# CITY OF INDUSTRY

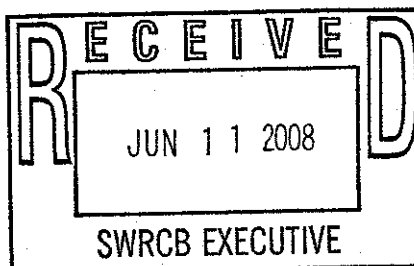
Incorporated June 18, 1957

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

June 9, 2008

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

RE: Comment Letter—NPDES Draft Construction Permit



Dear Ms. Townsend and State Water Board Members:

The City of Industry has reviewed the Draft General Permit for Storm Water Discharges for Associated Construction and Land Disturbance Activities ("CGP") and appreciates the opportunity to provide comments for the Board's consideration.

Based on our understanding, the draft permit contains language, which, if adopted, could increase costs, delay or possibly stop the construction of projects which have already undergone several years of planning and scrutiny by both private and government agencies.

The City of Industry's concerns include, but are not limited to, the following:

**1. Phase-in of Permit Provisions -- Existing Projects Have 100 days to Comply.**

CGP References: Section I #10; Section I #28; Section VI #2.b; Section VI #6

The draft permit requires all existing projects to comply with the newly adopted permit within 100 days after its approval. This could be detrimental to meeting certain deadlines for new construction. The design process usually takes several years. By the time the new CGP is adopted, many projects could be underway or close to the start date. To comply with many of the new permit's provisions would require the City to delay, redesign and possibly halt some projects which have already undergone several checks and balances to ensure strict environmental compliance. To require redesign in the middle of the construction process would place undue financial burden on the City. The City of Industry asks the board to consider the infeasibility for projects currently in construction that could be required to redesign during mid-construction to meet this standard. Similarly, for projects which are not yet in active construction but have completed the design and environmental review processes, redesign would be prohibitively costly and likely jeopardize existing regulatory approvals.

**2. Public Review:**

CGP References: Section XII #2  
Fact Sheet References: Page 45, Public Participation Strategy

The public review process for a project may be inappropriately placed at the Notice of Intent stage. Each new construction project has undergone years of planning and approval mechanisms. During these stages, the public has had a right to voice concerns and ask questions at the local level. The City of Industry would make every attempt to address new stormwater concerns during the early stages of the review process on future projects, allowing public comments to include stormwater related issues, but the public review should not be placed at the Notice of Intent stage.

### **3. Pre-Project Hydrology Requirements**

CGP References: Page 2, Attachment F

The City of Industry agrees that runoff reduction is an important consideration of project implementation. However, the Draft Permit has confusing language as to its actual intent. In Section I Item 10 it states "This General Permit requires all dischargers to maintain predevelopment hydrologic characteristics in order to minimize post-development impacts to offsite water bodies." In Section I, Item number 28, it states, "...The requirement for all construction sites to match pre-project hydrology.....". The permit defines this as the amount of rainfall that ends up as runoff. In certain cases, this may not be feasible or even desirable. It is unclear whether or not the permit is acting as a design standard. The City of Industry has many projects and companies operating within the City which cannot meet this standard, due to the nature of the development and construction activities.

### **4. Numeric Action Level's and Numeric Effluent Levels**

CGP References: Page 15, Attachment B;  
Fact Sheet References: Page 52

Although the imposition of action levels and numeric effluent limitations raises numerous issues, the City of Industry is perhaps most concerned about the potential requirement to monitor receiving waters, and whether the State Board adequately considered issues such as the feasibility of that monitoring and relevance of the data to runoff from a specific project site. This issue is particularly relevant to the City because some of its projects are relatively small infill projects located within urbanized environments.

In some instances receiving waters are miles away from a project site. Monitoring at these locations would not only be impractical, but the results would include commingled discharges from other tributary areas. Any information extracted would need to consider dilution and timing, in addition to naturally-occurring variability.

We also urge the State Board to clarify how the Draft Permit implementation of action levels and numeric effluent limitations ("NELs") is consistent with the State Board's Blue Ribbon Panel Report's conclusions that NELs are only feasible in connection with Active Treatment Systems. The City of Industry requests that the State Board explain the basis for this proposal, and specifically the statistical analysis and economic impacts it considered when formulating the proposed effluent limitations. We also are interested in better understanding how background levels were factored into the proposed limits.

### **5. Risk Based Management**

CGP References: Attachment A

The City agrees with the State Board's approach of linking site-specific risk factors to appropriate levels of project controls related to those factors. In order to fully consider this aspect of the Draft Permit, however, we request that the State Board provide additional information on how the proposed Sediment Transport Risk Worksheet was developed, and any sensitivity analyses that the State Board may have performed. The State Board should also disclose its assessment of the expected confidence in the worksheet model results. We further request that the State Board describe the evidence and rationale for weighting each factor. For example, should a site with an R value of 5, where work is to be performed outside of the rainy season, be given the same weight as a site in a stream channel? Did the State Board consider alternative risk-based systems or a system that links scores on individual risk categories to control requirements relevant to that specific category only?

Finally, we request that the State Board provide information as to how it incorporated other considerations into the process to accurately predict the risk that a construction site poses to water quality, such as receiving water characteristics and pre-development runoff characteristics.

#### **6. Sampling Requirements**

CGP References: Attachment B

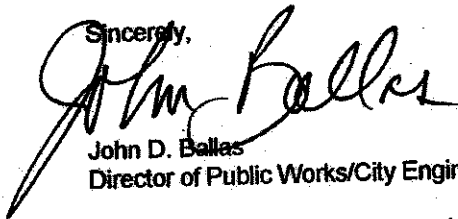
After careful review of the new draft construction permit and Attachment B, it's clear that the majority of construction projects that the City will commence, or already has commenced, fall under Risk Level 2 or higher. Therefore, the minimum sampling requirement for a 24-hour storm would be three samples per outfall and a 48-hour storm will require a minimum of 5 samples per outfall. The City recognizes the need for data points, however, since many of the projects affected by the new permit have already been funded and budgeted, the excessive sampling requirements may not be appropriate.

#### **7. Inspection Reporting**

The City of Industry believes the Rain Event Action Plan (REAP) is a duplicative process. The permit already requires a pre- and post-rain inspection. The REAP is an additional requirement. The draft permit states development of REAP is needed "...within 48 hours prior to any likely precipitation event...." The City of Industry suggests using the REAP as the pre-rain inspection form.

The City of Industry would like to reiterate its shared position with the State Water Resources Control Board in improving water quality with cost-effective strategies and BMP's. We are concerned that the Draft will be too restrictive and too costly to implement on projects that have already undergone strenuous approval processes. We hope that you will take our comments under careful consideration.

Sincerely,



John D. Ballas  
Director of Public Works/City Engineer

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