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June 6, 2008

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

Dear Ms. Townsend:

Subject: Comment Letter – Draft Construction Permit (DCP)

The Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to comment on the State Water Resources Control Board's (State Board) proposed Draft General Permit for Discharges of Storm Water Associated with Construction Activities (DCP), and commends the efforts of the State Board in protecting the beneficial uses of the State's receiving waters during rain events from construction project impacts.

LADWP is encouraged by the State Board's process and efforts in the development of the DCP.

LADWP provides water and power to the citizens of the City of Los Angeles and has an aging infrastructure that will undergo considerable repairs and upgrades in the immediate future. In addition, LADWP has future plans to expand services to include water reclamation, desalination and green power projects such as wind power and fuel cell technology. Therefore, the renewal of the state wide storm water construction permit will have direct impacts to LADWP's construction projects. LADWP staff looks forward to working with the State Board in the development of the renewal of the statewide storm water permit associated with construction activities.

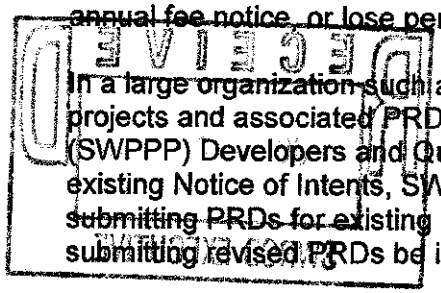
LADWP supports the State Board and agrees with the introduction of Risk Assessments, the use of NALs as a tool for the discharger to evaluate Best Management Practices (BMP) performance, and storm water monitoring as a way to develop a comprehensive database to guide future regulatory decisions.

In general, many of the problems with the DCP are related to the inclusion of linear projects. LADWP encourages the State Board to consider excluding linear projects from the DCP and allow for linear projects to be covered under the General Permit for Small Linear Underground/Overhead Projects (Small LUP General Permit) or until specific permit

language can be adopted for linear projects of 5 acres or greater. Other issues and suggested recommendations associated with the DCP are as follows:

Comment 1 – Permit Coverage

Existing dischargers must submit Permit Registration Documents (PRD) within 100 days after adoption of the DCP, and revised annual fees within 7 days of receipt of the revised annual fee notice, or lose permit coverage.



In a large organization such as LADWP, due to the large number of existing construction projects and associated PRDs a lack of Qualified Storm Water Pollution Prevention Plan (SWPPP) Developers and Qualified SWPPP Practitioners will cause delays in revising all existing Notice of Intents, SWPPPs, etc. A solution would be to extend the deadline for submitting PRDs for existing permittees. Therefore, LADWP recommends that the time for submitting revised PRDs be increased at minimum from 100 days to 180 days.

Similarly, submittal of a revised annual fee within 7 days of receipt of the annual fee notification is problematic due to the fact that in a large organization, such as LADWP, the process to generate the check for the fee takes more than 7 days. Therefore, LADWP recommends that the payment deadline be extended to at least 30 days.

Comment 2 – Risk Assessments

LADWP agrees that risk assessments are a useful tool to determine sediment impact from a project and as written, do so quite well for localized, or "box-type" projects, however the method has its shortcomings when applied to linear projects. Risk Levels are determined by calculating the project's risk of sediment transport and the risk of sediment impacting impaired receiving waters, as shown in the Risk Determination Worksheet (Attachment A of the DCP). The procedure to assess sediment risk relies on the use of three factors, a rainfall factor, a soil erodibility factor, and a hillside slope length/gradient factor. While this may be applied to a box-type project with acceptable accuracy, it will not be representative of a linear project where each of these factors can vary considerably over the entire distance (end to end) of a linear project. Similarly, the method used to determine impacts to receiving waters is more appropriate for a project with one or more discharges to the same receiving water within a short distance of each other. Linear projects can span many miles, a number of receiving waters, and multiple watersheds, which the proposed assessment methodology does not take into account.

As stated earlier in our comments, there are many problems with covering linear projects in the DCP. LADWP strongly recommends that linear permits be exempt from this requirement or removed from the DCP.

Comment 3 – Soil Particle Size Analysis

The requirement for a soil particle size analysis to determine percentages of sand, very fine sand, silt, and clay, including the percentage of particles less than 0.02 mm in diameter is not practical for a linear project, nor will it be representative of a project that spans multiple drainages and soil types.

As mentioned early, these types of requirements are not practical when applied to linear projects and therefore, LADWP suggests that linear projects either be exempt from this requirement or removed from the DCP.

Comment 4 – Numeric Action Levels (NALs)

The DCP proposes site-specific numeric action levels (NALs) for pH and turbidity, which are to aid the discharger in assessing the quality of water leaving the site, and also the effectiveness of the BMPs used on-site. As the term implies, they should trigger the re-evaluation of existing BMPs, and the deployment of additional BMPs to correct the problems, e.g. not performing certain activities that use pH-leaching materials immediately prior to and during predicted rain events, or additional erosion and sediment controls. LADWP believes that NALs applied to construction BMPs are more meaningful than issuing effluent limits in order to determine the reduction of turbidity and/or pH in the runoff, and NALs should not be used as violations but only as a vehicle to determine whether or not the BMP is in fact effective in reducing or minimizing the pollutant.

Should an NAL be exceeded, LADWP recommends reevaluating the BMP(s), and a runon characterization be performed. If elevated pH values are not due to runon, or from background pH levels of the rain, then construction activities should be evaluated by isolating each construction activity so that the problem can be identified and the appropriate BMP applied.

With regards to the turbidity NAL, LADWP recommends that the State Board evaluate statewide variations in natural, background turbidity and compare them with receiving water turbidities during rain events. The variations can then be averaged so that an NAL can be assigned.

With regards to linear projects, NALs are problematic, as mentioned earlier these types of projects cover a variety of terrains with varying background conditions affecting both pH and turbidity. Therefore, assigning a specific NAL does not take into consideration the varying condition that is encountered with the end to end distance of linear projects.

Comment 5 – Numeric Effluent Limits (NELs)

Numeric effluent limits (NELs) for pH apply only at projects that exhibit a "high risk of high pH discharge". The DCP states that high risk can occur during the complete utilities phase, the complete vertical build phase, and any portion of any phase where materials are placed directly on the land in a manner that can result in alterations of the background pH of discharges.

LADWP understands the State Board intent with the application of NELs; however, NALs are more appropriate for storm water permits where the use and application of BMPs provide the same protection to the receiving waters. Storm water runoff associated with construction sites is unique in that there is a lot of variation in the amount of rainfall runoff and associated characteristics. NELs do not account for these variations. Therefore, NELs should not be applied due to the constant variation, and instead NALs and BMPs are the best and practical solution.

LADWP suggests removing NELs from the construction permit and allow for NALs to be utilized. LADWP also suggests that data be collected for this permit cycle to evaluate the usefulness of NALs and their relationship to BMP effectiveness.

Comment 6 – Visual Inspections & Effluent Monitoring

The DCP, as written, requires that Risk Level 3 projects be continuously monitored if the turbidity of the discharge exceeds the NEL. As mentioned earlier, LADWP suggests that the State Board allow for the use of NALs before applying NELs in the permit. NELs do not take into consideration variations of site conditions as do NALs. Lastly, the other effluent monitoring required for all Risk Levels, which includes the potential pollutants assessment is located in Section VIII.F.5 not VIII.G.5 as stated in the DCP.

Comment 7 – Receiving Water Monitoring

Risk Level 3 projects include bioassessment as a parameter under the receiving water monitoring requirements. For urbanized areas this requirement may not be warranted for many receiving waters because the majority of receiving waters are not in their native condition, having been channelized and rerouted, unlike water courses in rural areas that are primarily natural and unmodified. There may be short, intermittent sections that are natural bottom, but these are the exception. Also, the level of classification of the bioassessment, which can be costly, needs to be defined by the State Board.

LADWP suggests that the State Board require this assessment if there is a potential for impacts from the construction site, e.g. newly proposed development in rural areas.

Comment 8 – Runon Evaluations

Construction site runon evaluations must be conducted to determine whether construction activity has caused/contributed to discharges with pH or turbidity outside of their respective limits, and corrective actions must be implemented. As mentioned previously, LADWP does not believe limits should be applicable in this permit. LADWP does believe that an evaluation of site runon for pH and turbidity is useful in areas where construction has previously occurred or where other construction projects are in the proximity, but for outlying undisturbed rural areas this evaluation is of little value. However, NALs should be applied not limits. Also, LADWP believes that this type of requirement should not be applicable to linear projects due to the variation of pH and turbidity over the terrain covered by the linear line project.

LADWP suggests NALs be used for runon evaluations and application of BMPs. In addition, LADWP recommends linear projects should be covered under the Small LUP Permit or a future construction permit covering larger linear line projects.

Comment 9 – Perimeter Controls

Dischargers must establish and maintain effective perimeter controls and stabilize all construction entrances and exits to control erosion and sediment discharges. Stabilization of entrances and exits is practical for box type construction projects; however, this requirement does not lend itself to the linear pipeline projects, for example, that are laid in

the center of active urban streets crossing many intersections, where access must be maintained.

Therefore, LADWP suggests that linear projects be handled under a separate permit.

Comment 10 – Air Deposition

Dischargers shall implement appropriate controls throughout all stages of construction to address air deposition issues. LADWP agrees that construction projects contribute to the air deposition of sediments and other pollutants and controls are necessary. However, not knowing what the State Board defines as "appropriate" leaves the requirement open ended.

LADWP suggests that the State Board define what activities they believe are causing air deposition, and to what extent control measures must be implemented to curb air deposition.

Comment 11 – New Development and Re-development

This requirement as written applies to the box type construction project; however, underground linear projects do not normally affect the surface cover whether this occurs in rural or developed areas. Pipelines are buried and the original surface and grade restored to preconstruction conditions. This is true for overhead projects as well. The impervious structures that are installed for underground and overhead projects are an insignificant percentage of the overall land area involved in the project and impervious surface cover is usually restored to its pre-construction condition.

Therefore, LADWP suggests that linear projects be exempt from this requirement or handled under a separate permit, such as the Small LUP Permit, or a future construction permit covering larger projects.

Comment 12 – Rain Event Action Plan (REAP)

The discharger shall develop a REAP 48 hours prior to any likely (≥50%) precipitation event for projects assessed as Risk Levels 2 or 3. Preparing a REAP for every storm event with a predicted likelihood of 50% or greater is labor intensive. Many storm events occur that lack the intensity to result in a discharge.

LADWP suggests that the State Board link the probability of discharge to a minimum expected rainfall. Also, for linear projects, the State Board might consider allowing for a generic plan since the type of work is repetitive along the length of the project. A generic plan may be prepared in advance and issued at the appropriate time, with minor updates, where warranted.

Comment 13 – Regional Board Authorities

The State Board has not stated time frames for review of PRDs, Board actions resulting from review of public comments, issuance of individual permits, and additions to the monitoring and reporting programs. Without firmly stated time frames, construction schedules have the potential to be delayed for an unlimited amount of time. This could be

detrimental for necessary construction projects such as critical upgrades to the infrastructure.

LADWP recommends that the State Board allow for a two week review period or a definite time period that allows for construction schedules to be adhered to accordingly.

Again, LADWP appreciates the opportunity to comment and looks forward to working with the State Board on the development of this permit. If you have any questions, please contact Mr. Bob Krivak of the Wastewater Quality and Compliance Group at (213) 367-1339.

Sincerely,

Katherine Rubi

Ms. Katherine Rubin
Manager of Wastewater Quality
and Compliance Group

BK:rp
c: Bob Krivak