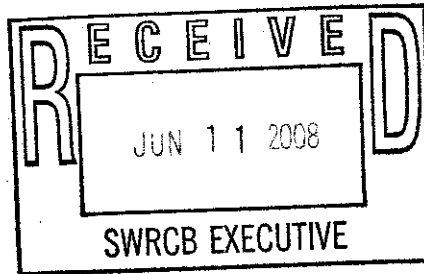




Public Comment
Draft Construction Permit
Deadline: 6/11/08 by 12 p.m.

June 11, 2008



Tam Doduc, Chair and Members
State Water Resources Control Board
1001 I Street
Sacramento, California 95814

VIA EMAIL: commentletters@waterboards.ca.gov

Re: Comments on the March 18, 2008 Draft of NPDES General Permit for Discharges of Storm Water Associated with Construction and Land Disturbing Activities

Dear Chair Doduc and State Board Members:

Santa Monica Baykeeper is pleased to submit these comments in response to the State Water Resources Control Board's ("State Board") request for documents, comments, and other information regarding the draft of NPDES General Permit for Discharges of Storm Water Associated with Construction and Land Disturbing Activities ("Draft Permit") circulated by the State Board and dated March 18, 2008. We thank the State Board for taking on the important and necessary task of reissuing an NPDES permit for construction activities in the State. We look forward to working with the State Board to develop a final permit that will ensure that the State Board will meet its mandate to protect water quality in the State of California.

While we believe the Draft Permit to be an improvement over the current General Permit for Discharges Associated with Construction Activities ("1999 Permit"), the State Board can and should do better. We strongly support the letter and issues raised by the California Coastkeeper Alliance and would like to add the following items for your consideration.

This Permit Coverage Should Be Expanded to Include Construction Activities Disturbing More Than .25 Acres of Land and Grading More Than 1000 ft³

Santa Monica Baykeeper believes the exemption from permit requirements which is currently provided to discharges from construction activity disturbing less than one acre of land surface, unless part of a larger common plan of development or sale is too generous and more importantly does not sufficiently protect water quality and aquatic habitat for sensitive species. See Draft Permit, Section I at 7. Based on our experience properties with a disturbed area as small as .25 acres and grading as little as 1,000 ft³ that are located on highly erodible soils (i.e. the Santa Monica Mountains) and that connect to a waterbody either via the storm drain network or directly, pose a significant risk of sedimentation to those waters. We recommend that construction activities on parcels which connect either through the storm drain system or directly to waters used by species sensitive to sedimentation like steelhead trout or to 303(d) listed waterbodies impaired for sediment must obtain coverage under this General Permit and should be subject to the permit requirements. The permit coverage should thus be limited to construction activities disturbing an area of at least .25 acres or greater and grading greater than 1,000 ft³.

The Permit Should Prohibit Hillside Grading on Slopes 25% or Greater During the Winter Period





In addition, to maximize protection and limit water quality impairments, the Santa Monica Baykeeper recommends that hillside grading between November 1st and March 31st be prohibited on hillsides with slopes of 25% or greater. Slopes steeper than 25% pose a significantly higher risk of contributing pollutants from a grading/construction site. We have seen numerous failures of construction BMPs on hillside projects that have led to sedimentation of streams. Prohibiting winter time grading on hillsides greatly diminishes and may even eliminate the risk.

All Construction Activities, Including Routine Maintenance Activities, Should Be Covered by This Permit

The Draft Permit excludes from its coverage discharges from Routine maintenance activities to maintain original line and grade, hydraulic capacity or original purpose. The Santa Monica Baykeeper strongly disagrees with this policy. Numerous public works and flood control agencies, under the guise of routine maintenance, initiate large construction projects that cause or contribute significant pollutant loading to waterbodies. We recommend that any construction activity occurring within 500 ft of a waterbody, or any open channel drainage course that connects to a waterbody be subject to the construction permit.

The 1000 NTU Numeric Effluent Limit for Turbidity Is Unjustifiably High and Will Not Protect Water Quality

Finally, the Santa Monica Baykeeper has serious concerns about the 1000 NTU numeric effluent limit and the impact of construction activities discharges on receiving waters if such a high numeric effluent limit is allowed.

Santa Monica Baykeeper and Heal the Bay have conducted turbidity monitoring at impacted and minimally impacted sites throughout Los Angeles County for more than 8 years. The bulk of this monitoring has occurred in the Santa Monica Mountains known for its active geology, steep topography, and highly erodible soils. Normal background levels of turbidity, even in one of the most erodible areas in California, are almost always below 1 NTU. The only site we monitor that has a higher than 1 NTU average is at the outlet of a lake that is dredged on a daily basis and that site averages just above 5 NTUs. It is inconceivable to us that the SWRCB would permit discharges **2 orders of magnitude greater than what is normally found in receiving waters.** We recommend the turbidity numeric effluent limit be established at no higher than 5 NTUs for a short term discharge (less than 1 month) and no higher than 1 NTU for discharges greater than 1 month. This is the only limit that would be protective of receiving water quality. Discharges in excess of background would degrade existing water quality of a receiving water and hence violates the anti-degradation requirements of the Clean Water Act.

Sincerely,

Mark Abramson
Director of Watershed Programs
Santa Monica Baykeeper

