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

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Sent electronically and by fax

Dr. Gary Wolff, P.E., PH.D.
Vice Chair
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Subject: Response to Board Member Wolff's questions

Dear Mr. Wolff,

This submission is in response to a message from Board Member Wolff regarding the Draft Construction General Permit (CGP). Board Member Wolf requested comments to focus on the following specific questions:

1. The permit attempts to balance the need for simplicity and transparency with the need to sensitively address widely different physical conditions across sites. In what parts of the draft permit do you think complexity is most and least valuable?

Complexity provides little value to the Permit's implementation. Complexity contributes to un workable, unimplementable, unenforceable, and confusing Permit.

2. Our scientific understanding of when and where a management practice is best is limited. Self monitoring for compliance will not necessarily increase our understanding due to variations between practitioners and for other reasons. Are you interested in creating a scientifically valid database on management practice performance via rigorous third party 'random' monitoring in lieu of self-monitoring and at least partially paid for by permittees?

NO!

This question focuses on the "precision" of the data. In reality, "robust" BMP implementation provides appropriate levels of compliance. This question belies the fact that an "engineered" solution is being sought for a "people problem." In most cases storm water professionals and permitees are knowledgeable on the level of BMP implementation necessary to minimize discharge pollution. Almost every city has a checklist to determine Permit compliance through BMP implementation. As no two construction sites deploy the same BMPs in the same manner, the establishment of a "Quantifiable Standard" for BMP evaluation with the scientific method would be impractical.

To invest limited resources to determine causal relationships between BMP implementation and pH and turbidity concentrations, appears extravagant. From a theoretical perspective much of this information could

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be finessed from RUSLE research. Unfortunately, correlation between the field and RUSLE is not statistically significant. Field information for turbidity is readily available on a "go-no go" basis by direct observation. If the water appears chocolate in color it is safe to say, in most cases, the water is exceeding 500 NTU and/or 500 mg/L TSS.

Usually the discharge of turbid water is symptomatic of on-site erosion. Unfortunately, builders accept the reconstitution of an eroded slope as a standard practice, when in reality the cost to reconstitute a slope greatly exceeds the deployment cost of BMPs. This point is far more pervasive than BMP effectiveness and should be documented and brought to the attention of the construction industry.

3. Ignoring the numbers and how they are calculated, do you think that the tiered compliance structure of the permit is a desirable or undesirable feature? By tiered structure we mean action levels 'backstopped' by higher numeric effluent limits that are intended to simplify enforcement against egregious violations.

Yes, it would be desirable, if applied correctly!

The policy question of, "Is it a Permit violation if a site discharges 98% clean water and 2% NEL exceeding storm water?" requires clarification. Clarification is needed to establish a sense of "fairness" in the punitive aspects of the Permit. The concern is not that builders will be looking for a 2% relief from BMP implementation, but unavoidable things happen, with unintended consequences, and full enforcement force should not be applied to a minor source.

No facility is 100% in compliance 100% of the time!

Aggressive or excessive enforcement does not necessarily result in higher compliance levels, but could have the negative effect of forcing operations to go covert.

The Permit's emphasis should be on source control (erosion) BMPs, buttressed by treatment control (sediment) BMPs, with a safe harbor for all but egregious polluters. Egregious polluters would be those with non existent or low levels of BMP implementation and should be enforced against more aggressively than complying sites. From a field perspective enforcement should be BMP driven as opposed to effluent driven. An effluent driven program encourages BMP deployment on an anticipated storm basis, as opposed to a standard construction site practice basis.

The consequences resulting from a 100 year storm/flood should also be considered in the tiered structure.

Sincerely,

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*Mr. Sachse has earned a M.S. degree in Environmental Engineering, USC, M.S. in Industrial Engineering, USC and completed his Under Graduate Engineer degree at the University of California at Berkeley.

cc: Jeanine Townsend, Clerk to the Board

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