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Public Comment  
Dft. Construction Gen. Permit  
Deadline: 6/24/09 by 5:00 p.m.

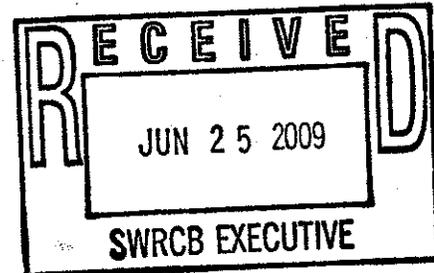
## LATE COMMENT

Michaeleen Mason  
Director, Statewide Regulatory Issues

June 24, 2009

VIA E-MAIL ([commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov))

Mr. Charles R. Hoppin, Chair  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814



Re: WSPA Comments on the June 2009 Draft NPDES General Permit for Storm Water Discharges Associated with Construction Activities

The Western States Petroleum Association ("WSPA") appreciates the opportunity to submit comments on the June 2009 Draft NPDES General Permit for Storm Water Discharges Associated with Construction Activities.

WSPA is a non-profit trade organization representing twenty-eight companies that explore for, produce, refine, transport and market petroleum, petroleum products, natural gas and other energy products in California and five other western states.

WSPA member companies own and operate a large number and variety of facilities throughout California that will be impacted by the Construction Storm Water General Permit.

WSPA supports and endorses the comments submitted by the California Stormwater Quality Association. Our specific comments follow.

### NELs

WSPA continues to strongly urge that the NELs provisions in the draft permit be deleted. We believe that there is insufficient data (both receiving water and construction site discharges) to establish a state-wide NEL for turbidity/suspended solids or pH.

Furthermore, we believe that the NELs in the draft permit are inconsistent with the Blue Ribbon Panel (BRP) recommendations that tied NELs to Active Treatment Systems (ATS) and that their proposed implementation scheme will lead to inappropriate minimum mandatory penalties.

### NALs

WSPA supports NALs as a means to improve the iterative stormwater pollution prevention plans (SWPPPs) and best management practices (BMPs) system in the current permit.

However, just like CASQA, we support NALs specifically where they are scientifically defensible and where adequate data is available to appropriately establish them. Consistent with the BRP Report, WSPA supports the use of NALs that are designed and selected to identify upset conditions, that require dischargers to address the upset conditions and that give additional attention to "bad actors."

WSPA urges that the NAL scheme in the permit be modified to be consistent with the BRP recommendations, and that NALs be developed on a scientific basis and using adequate data.

#### "Design Storm"

WSPA commends the State Water Resources Control Board for adopting our recommendation that the draft permit establish a design storm or more aptly, a compliance assessment storm during which the NELs would be in effect, and beyond which the NELs would not apply. We urge that the design storm also be applicable for the NAL provisions in the draft permit.

#### Linear Projects

WSPA strongly supports the inclusion of the "linear project" provisions in the draft permit. We urge that the permit be amended to clarify that the provisions of Attachment A are those that apply to linear projects and that the other provisions of the draft permit do not apply to linear projects.

WSPA strongly supports the Council on Environmental and Economic Balance comment letter that details these issues – especially the proposal to clarify that the permit allows linear projects to be broken into appropriate segments or areas, limits the application of the Numeric Action Levels, and eliminates the Numeric Effluent Limits and the inappropriate post construction requirements.

Thank you for the opportunity to submit these comments. Please feel free to contact me at (916) 498-7753 should you have any questions.

Sincerely,



cc: Frances Spivy-Weber, SWRCB Board Vice-Chair  
Arthur G. Baggett, Jr., SWRCB Board Member  
Tam M. Doduc, SWRCB Board Member  
Dorothy Rice, SWRCB Executive Director  
Jonathon Bishop, SWRCB Chief Deputy Director  
Darrin Polhemus, SWRCB Deputy Director, Division of Water Quality  
Bruce Fujimoto, SWRCB Section Chief, Stormwater, DWQ  
Greg Gearhart, SWRCB Unit Chief, Industrial/Construction Stormwater, DWQ  
Ms. Jeanine Townsend, SWRCB Clerk to the Board  
Catherine Reheis-Boyd, WSPA Executive Vice President and Chief Operating Officer