

**Construction General
Permit – Stormwater**
Deadline: 5/4/07 5pm

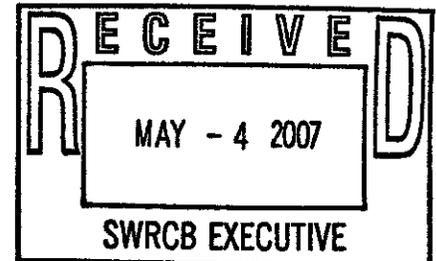
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May 4, 2007

Ms. Song Her, Clerk of the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, Ca 95814



Emailed on May 4, 2007 to: commentletters@waterboards.ca.gov

Re: Comment Letter – Preliminary Draft Construction Storm Water General Permit

Dear Members of the Board,

Sempra Energy's regulated utilities (San Diego Gas & Electric Company and Southern California Gas Company) have taken an active role in working with the State Water Resources Control Board (SWRCB) to address proposed policies and permits that would adversely affect the construction, operation and maintenance of linear facilities, such as those used by gas and electric utilities, which provide essential public services. We are writing this letter to provide SWRCB with comments on their preliminary draft Construction Storm Water General Permit (Permit)¹.

This Permit would renew and significantly revise SWRCB's existing Construction Storm Water General Permit (Order 99-08). Sempra Energy is concerned about certain new and revised provisions proposed in the Permit and, in particular, the unnecessary economic impact the Permit would have on linear projects that have five or more acres of soil disturbance.

Order 99-08 was adopted in 1998 to permit large projects with five or more acres of soil disturbance. In response to a change in EPA regulations, in December 2002 SWRCB revised Order 99-08 to include small construction projects (i.e., projects with one or more acres, but less than five acres of soil disturbance). At that time, SWRCB acknowledged that this revised permit was focused on fixed land development projects and was not suited for small linear projects. Sempra Energy's representatives were part of the successful effort with SWRCB staff in 2003 that developed Order 2003-0007, a construction storm water general permit for linear projects (Linear Permit). This resulted in a two tiered permitting framework for linear projects. Small linear projects could be permitted pursuant to the Linear Permit and large linear projects were permitted pursuant to Order 99-08. Based on the new and revised provisions included in the Permit that are more applicable to fixed land development projects than linear projects, the Permit is a not a good fit for linear projects. This letter provides comments on the provisions that are not a good fit for linear projects and also provides comments in general on the new and revised provisions in the permit.

Our comments are enclosed as follows:

- Enclosure 1 – Summary of Significant Issues; and
- Enclosure 2 – Detailed Comments on Specific Permit Sections

¹ Dated March 2, 2007.

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We appreciate this opportunity to comment on the Permit. If you have any questions or would like to discuss these comments further, please contact Fred Jacobsen at 858-637-3723.

Sincerely,

Bernie Orozco

Bernie Orozco
916-492-4244

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Linear Project Issues

The Linear Permit was developed because it was recognized that there are significant differences between linear projects and typical land development projects. These differences include, but are not limited to:

- Linear projects generally have smaller impacts and the impacts may be spread out over long distances, rather than concentrated in one area or drainage;
- Many linear projects or portions thereof may be constructed in existing paved areas such as city streets, therefore minimizing the disturbed area and the potential for sediment and erosion problems;
- Disturbed soils from trenching and excavation activities are typically replaced and covered within very short periods of time, resulting in lower exposure time of disturbed soil to rainfall and runoff; and
- Sampling stormwater in city streets is problematic due to the existing pollutants that are present in the street (e.g., from vehicles and landscaping), over which the project has no control.

These issues and others were addressed in the Linear Permit. However, this Permit is focused on addressing the issues posed by typical land development projects, as illustrated by the stages of a project that were identified Section I.25. Specific areas of the Permit which would pose significant problems for linear Projects include:

- Risk Categories – While most linear projects conducted under this permit would likely be categorized as medium or high risk under the current draft because they would have five or more acres of soil disturbance, these linear projects would actually pose very little water quality risk (see Section VIII.A);
- Soil Analysis – The discharger is required to conduct soil particle size analyses representing each mapped soil unit on the project and for imported soil for the purpose of determining if the use of an Advanced Treatment Systems (ATS) is required. First, conducting soils analysis for existing paved areas on the project does not make any sense as these areas will typically be opened and closed (e.g., repaved) within a matter of a few days. Additionally, imported soils are not normally stockpiled and when they are, they are not stockpiled for long periods of time. Therefore the risk posed by these soil disturbing activities is not significant. Second, projects that are not conducted within existing paved areas (e.g., in an undisturbed natural area) are constructed within linear rights of way that do not typically result in large areas within a single drainage area being disturbed. Furthermore, the use of sediment basins and/or ATS within these rights of way is problematic due to the limited availability of space and limited access during inclement weather.
- Treatment – The Permit requires use of ATS under specified soil conditions. Since linear projects disturb smaller amounts of area within any one drainage area, the potential risk to water bodies are low and standard erosion and sediment control best management practices (BMPs) should be protective of water quality.
- Actions Determined by Area of Soil Disturbance – The use of specific quantities of soil disturbance (e.g., 2 acres, 5 acres) to determine the potential impact to a receiving water body from a project may be useful for land development projects that impact one or two drainages, but it is not a good measure of potential impact from a linear project that may be spread out over miles and within multiple drainage areas. The area used as a trigger for specific requirements should be related to the soil disturbance within a specific drainage area not the overall amount of soil disturbance.

Exemptions – Maintenance and Emergency Projects

Section I.33 identifies those discharges that are not required to obtain coverage under this permit. However, it omits two classes of activity that were previously exempted from requiring coverage under a construction stormwater permit, namely maintenance and emergency construction. The following language should be included in the findings and the Permit:

“Construction activity does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility, nor does it include emergency construction activities required to protect public health and safety.”

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Exemption - Oil and Gas Exemption

On Page 9 of the Fact Sheet, Section II.C states that the General Permit does not apply to:

“Qualified oil and gas exploration projects. On June 12, 2006, USEPA published a rule that exempts construction activities at oil and gas sites from the requirement to obtain an NPDES permit for storm water discharges except in very limited instances. These amendments are consistent with the Energy Policy Act of 2005 signed by the President of the United States on August 8, 2005. This action also encourages voluntary application of BMPs for construction activities associated with oil and gas field activities and operations to minimize erosion and control sediment to protect surface water quality. The final rule became effective June 12, 2006. This exemption includes disturbances to the ground from oil and gas exploration, production, processing, and treatment operations or transmission facilities including gathering lines, flow-lines, feeder lines, and transmission lines.”

To be consistent with EPA's exemption language and the Fact Sheet, the first sentence of Section I.33.f on Page 9 of the Permit should be replaced with the following language from the finding:

“This exemption includes disturbances to the ground from oil and gas exploration, production, processing, and treatment operations or transmission facilities including gathering lines, flow-lines, feeder lines, and transmission lines.”

Risk Categories

The Permit proposes to use a list of project characteristics to assign a risk category (low, medium, high) to each project. Based on the calculated risk category, certain provisions of the Permit would apply to the project. We do agree that low risk projects should have fewer compliance requirements in Section X than medium and high risk category projects. However, in evaluating the risk calculations, it appears that most projects will be considered medium or high risk and that very few projects will be categorized as a low risk.

The permit should also identify under what conditions a project could/should modify its risk category. For instance, once the project has completed mass grading or completed installation of certain sediment and erosion control BMPs, it could reduce its risk calculation based the non-exposure of soil.

As mentioned above, linear projects that used this Permit would typically be those that have five or more acres of soil disturbance or otherwise not able to use the Linear Permit. The soil disturbance from these projects would occur over the length of the project, which could be miles and would likely be located in a number of drainage areas. We recommend that the permit make allowance for projects that span a number of different drainage areas to determine the risk category by drainage area rather than on a whole project basis.

Hydromodification

Hydromodification is a new and significant addition to this permit. We agree that hydromodification should be addressed in the design and construction of a site and that there needs to be consistent statewide requirements. However, we disagree with the SWRCB incorporating the concept in this permit. The proper place for consistent statewide hydromodification requirements is a statewide MS4 permit that requires that grading and building permits to be contingent on proper hydrological design and that prevents hydromodification effects.

To the extent hydromodification requirements are implemented, there should be a de minimus amount of area that can be modified before the requirements are applicable. For example, on linear projects there may be electric tower foundations that create impervious area, but these represent a very small and

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insignificant area and they are spaced out over long distances and in many cases, different drainage areas.

Toxicity Testing

The Permit establishes acute and chronic toxicity limits for discharges from ATSs (see Page 11, IV.4.a-b). Requiring toxicity testing on stormwater discharges presents a number of logistical issues, such as availability of acclimated test organisms, availability of test labs, and duration of testing. These limits would also apply to what should be only short-term discharges (i.e., only while the ATS is in place during construction) and many discharges are either into MS4s (and therefore the ultimate affects of the specific discharge on a receiving water are unknown) or may be into ephemeral or intermittent streams which only flow during rain events or seasonally. We recommend that toxicity limits be deleted from the permit. Alternatively, if there are treatment additives that have been shown through existing or future studies to not result in toxicity in the treatment effluent, projects that use these types of additives should be exempted from the requirement to conduct toxicity tests.

ATS/ Source Control

In Section IX.G.2.c it states: "...the cells are appropriately sized to capture and treat, within 48 hours, the range of expected site runoff from the smallest storms up to the runoff from 1.5 times the ten-year, 24-hour design storm event." In at least southern California, the requirement to size the treatment for 1.5 times the 10-year 24-hour storm is roughly equivalent to sizing the system for a 100-year 24-hour storm. It is unreasonable have to size the system for this large of an event. In fact, the Storm Water Panel's recommendations to the SWRCB stated that "...Numeric Limits and Action Levels not apply to storms of unusual event size and/or pattern (e.g., flood events).²" If the numeric limits are not applicable, then the treatment system should not be required to be sized for these storm events.

Assuming a 10-year, 24-hour storm of 4", drainage areas of 1, 3, 5 and 8 acres, no stormwater infiltration, and a 2 ft. depth of the sediment basin in front of the ATS, the area required for the sediment basin would be 0.25, 0.75, 1.25 and 2.0 acres, respectively. This represents 25% of the drainage area (note that this percent increases to 50% in areas where the 10-year, 24-hour storm is 8"). If baker tanks were used for storage in place of a sediment basin, it would require 9, 27, 45 and 72 tanks respectively. These storage/treatment system requirements are unreasonable. Again, as the Storm Water Panel recommended, the numeric limits and action levels should not apply to storms of unusual event size and/or pattern.

The source control option requires that the areas of active construction be limited to five acres at any one time. Linear projects typically cross many drainage areas. Also, linear projects may be broken into different sections which may be covered by separate SWPPPs and could be under construction at the same time. Therefore, this section should clarify that the 5 acre limit is applicable to the immediate drainage basin and not the entire project.

It is unclear in the Permit when the use of the ATS can be discontinued. It would seem that once the active grading activities are completed within the area from which the water drains to the ATS and sediment and erosion controls have been implemented, the ATS should be able to be discontinued.

Monitoring

The Permit makes substantial changes to the sampling requirements that were included in Order 99-08, under which, sampling was triggered by specific situations (exposed pollutant sources) and/or criteria

² Page 18, Number 11. "The Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities", Storm Water Panel Recommendations to the California State Water Resources Control Board, June 19, 2006.

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(e.g., failure of a BMP). The Permit would require all medium and high risk projects to conduct discharge sampling from all rain events with rainfall of ½” or greater. Multiple samples/analyses are required from extended (i.e., with every additional 1” of rainfall) rain events. Additionally, **sampling is required at all drainage areas** associated with construction activity. Sampling is apparently required even if those areas utilize BMPs that fully prevent exposure of potential pollutants to stormwater (see p. 64, Section F.1). This increase in sampling from certain specific instances to most all storm events and at all discharge locations places an unreasonable burden on the discharger in terms of the logistics and cost required to conduct the sampling and analysis. Visual observations should continue to be relied upon to assess whether BMPs are implemented and working correctly rather than sampling all discharge locations during each qualifying storm event. Alternately, sampling could be used to supplement the visual monitoring by requiring sampling of representative sites once per calendar quarter during the rainy season when a qualifying storm event occurs.

The Permit requires sampling to be conducted from the point of discharge representing “...the worst quality storm water discharge in each drainage area based on visual observation of the water and upstream conditions” (see P. 64, F.1). Samples should be representative of the entire discharge and not only part of the discharge. Also, it is unclear whether this permit requires each “discharge” or each “drainage” to be sampled or whether these terms are synonymous. This should be clarified in the Permit.

Analytical Methodologies

The methodologies listed for analysis of pH and TPH are non-EPA approved methods. Standard Provision III.B requires analyses to be conducted pursuant to approved methods contained in 40 CFR 136. Using approved methods ensures the accuracy and precision of the test results, for both the discharger and the SWRCB. We recommend that no testing be conducted with methods that are not 40 CFR 136 approved methods. If, however, non-40 CFR 136 methods are specified in the permit, the data resulting from these tests should not be utilized as a basis for any enforcement actions. Additionally, so that the data are not inappropriately used, they should not be uploaded into any state database.

Rain Event Action Plans (REAP)

Section XI specifies the requirement for a rain event based plan and is a new addition to the Permit. It is proposed that a separate plan would be prepared for each precipitation event that has a 30% or greater chance of producing precipitation in the project area. A 30% chance of rain in Southern California normally consists of no precipitation, and at most a few sprinkles or very light showers with no runoff. This trigger should be 50% for Southern California unless logically justified in writing otherwise. We do not believe a separate REAP is necessary for each rain event and a single project specific general REAP plan will suffice, if required, to address various predicted rainfall amounts and changes of events (such as a change in predicted rainfall amount).

Section XI.1 could be read to mean that all exposed portions of the site would need to be protected no later than 48 hours in advance of a “likely precipitation event”. This would be an unreasonable requirement, especially for projects that are conducted in existing paved areas where trenches and excavations can be protected within very short periods of time.

NELs/ ALs

The Permit has for the first time added numeric effluent limits (NELs) and action levels (ALs) for specified discharges. Inclusion of NELs and ALs raises the following issues and concerns:

- The limits/levels are set at concentrations that actually represent technologically feasible levels, not just from a concentration standpoint but also considering the range of volumes and flow rates anticipated to be treated;
- Whether the limits/levels are scientifically and legally valid; for example:

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- We do not agree with your Finding (fact) of a direct non-site specific correlation of turbidity with sediment loads. Turbidity measures the amount of light scattered by particles and can be significantly affected by particle shape, color and reflectivity, and will not necessarily correlate with mass sediment loadings over a range of soil types and characteristics. Total Suspended Solids (TSS) is a measure of the actual weight of particulate material per water volume and has nothing to do with the light scattering properties of the particulates. We therefore object to a generally applied AL or future NEL for turbidity incorporated as a Finding.
- Effluents should have the naturally occurring level of sediment that would be expected from the natural site, assuming no other construction pollutants are present and there has not been a change in natural sediment characteristics. Effluent limits below this level are not justified and in fact may be detrimental to the natural environment.
- The limits/levels incorporate the Storm Water Committee's concerns about applicability; for example:
 - Treatment would not be required for unusual sized rainfalls or events.
 - The method of determining whether there is an exceedance assumes that the NEL is an instantaneous maximum limit. Since the derivation of the NEL is not provided it is not possible to comment on the appropriateness of this compliance determination methodology. It may be more appropriate to determine compliance based on a daily, weekly or monthly average of sample results. Note that the Storm Water Panel's June 2006 report recommended that "...a Numeric Limit or Action Level should be compared to the average discharge concentration (Page 17, Item 8)

Permitting Process

The Permit makes significant revisions to the process that must be used to obtain coverage under the Permit. Under Order 99-08, the application process was fairly simple, quick and provided a high level of certainty of prompt coverage, whereas the Permit proposes a process that is more complex, uncertain and could take 90 days or more to obtain coverage.

Section VII.1.a states that the PRDs must be filed electronically "...no later than 14 days prior to the commencement of construction activities...". This implies that a construction project may commence work on the 15th day after filing the PRDs as long as the SWRCB accepts the PRDs and receives the permit fee check. However, the Permit also specifies that there is a 90 day public review period once the PRDs are submitted and the actual period could be longer if the RWQCB determines that a public hearing is required (the Permit does not, but should, specify under what conditions the RWQCB staff could require a public hearing).

This proposed process raises the following concerns:

- A project either has to wait through the 90 day time period to ensure it is covered by the Permit or risk the potential of having its work stopped, which would result in a severe financial consequence to the project.
- The PRDs must include a copy of the complete SWPPP. However, some of the information for a SWPPP (e.g., person(s) responsible for sampling) are not finalized until the contractor is hired which normally immediately before the construction starts. This information is not normally available 90 days in advance of the project start date. We are opposed to inserting a 90 day plus permitting period into the project at this point of the project, as it will delay the start of the projects.
- This process as proposed unnecessarily delays projects that are needed for electric and gas infrastructure reliability and public safety, especially in regard to linear projects. Applying a CEQA type review at this stage of a project is inappropriate. Other new incorporated aspects of this permit revision such as public accessibility to the electronically submitted NOI, SWPPP and other documents and the specified submittal timeframes are sufficient for public access and review/comment to the SWRCB/RWQCB.

The process should be revised such that a project is considered covered under the permit once the PRDs and application fee check is received by the SWRCB and they verify that the required documents are

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included. To the extent the RWQCB has questions or concerns about the documents at a later date, they can request additional information without holding up or stopping the project. Also, certain portions of the SWPPP should not have to be completed as part of the PRD submittal, but would be required to be retained on-site in the SWPPP, once they are completed.

Section VII.3 requires those dischargers covered under Order 99-08 to complete their filing for coverage under the Permit within 90 days of adoption of the Permit. Dischargers that have numerous projects covered under Order 99-08 will have difficulty meeting this requirement and the SWRCB and RWQCB may also have resource challenges in responding to all of the applications submitted within this time period. We recommend that this time period be extended to at least 120 days.

Section I.32 states that the state's web-site will be used for electronically submitting all permit-related documents. Since this will be a critical part of the permitting process, this system needs to be up and running and fully tested prior to the implementation of this Permit so that there is a smooth transition to the new Permit.

Permit Modifications

Section II.B.5 requires that when the project acreage subject to the annual fee has changed, dischargers *shall mail a revised annual fee no less than seven days after electronically submitting the Permit Registration Documents (PRDs), which include a NOI, SWPPP, and SWPPP Compliance Checklist.* Dischargers who fail to submit all PRDs will lose permit coverage. “

This section raises the following issues:

- The situation in which the project acreage subject to the annual fee decreases should be addressed in the permit language. For instance, a project that closes a section of their project will not have to submit a revised annual fee;
- Obtaining a check within seven days within most organizations will be difficult. This should be extended to 15 or 30 days.
- Does a new SWPPP and compliance check list have to be submitted; what if the submittal is for closing areas vs. including new areas?
- What level of change in a project requires the submittal of revised PRDs and will each submittal trigger a new 90 review period?

Notice of Termination Process

Section XII.1.d requires the Notice of Termination (NOT) to demonstrate compliance with the New and Re-development Standards in Section K at the end of the project. We are concerned that this is the wrong time within the permit process for the RWQCB's response to this permit condition and implies an on-going effort with no defined end-point. This condition could rather be covered by the post project BMP plan, with non-conformance having the same consequences as not adhering to the other post-construction BMPs.

Reporting

The Permit contains requirements for reporting the exceedance of numeric effluent limits and actions levels. Sections IX.A.2 and IX.G.5.e require entry of specific information into the SWARM database within 48 hours. This is too short of a time frame, especially for results received at the end of a work week, and should be changed to 5 days.

Action Level Exceedance Evaluation Reports (ALEERs) are required to be submitted electronically to the RWQCB. ALEERs should not be submitted to the same compliance electronic data base as analytical results conducted for numeric effluent limits. Action levels are not considered effluent limits and the exceedance of an AL is not considered a compliance issue. There should be a separate electronic

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database or no data base at all for ALs and ALEERs. Rather the discharger should be required to make the appropriate notes in the SWPPP and the annual report as in Section IX.B.2 and submit a hard copy of the ALEER to the RWQCB.

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Enclosure 2 – Detailed Comments on Specific Permit Sections

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Page	Reference	Permit Element/Issue/Concern	Comment
1		General	<p>"IT IS HEREBY ORDERED, that this Order supersedes Order No. 99-08-DWQ <i>except for enforcement purposes.</i></p> <ul style="list-style-type: none"> ▪ Please clarify what this means.
3	I.11	Limits-pH	<p>Includes NEL for pH, effective 18 months after permit adoption.</p> <ul style="list-style-type: none"> ▪ This paragraph contradicts itself in that it first states that it is feasible to establish a pH limit and then it states that the limit will not become effective at 18 months after the permit is adopted if the SWRCB finds that the limit is infeasible.
3	I.9	Hydromodification	<ul style="list-style-type: none"> ▪ We agree that hydromodification should be addressed in the design and construction of a site. We agree that there needs to be consistent statewide requirements. However, we disagree with the SWRCB incorporating the concept in this permit. The proper place for consistent statewide hydromodification requirements is a statewide MS4 permit that requires that grading and building permits be contingent on proper hydrological design and that prevent hydromodification effects. ▪ To the extent that Hydromodification is included in this permit, there should be a de minimus amount of area that can be modified before this applies. For example, on linear projects there may electric tower foundations that create impervious area, but these represent a very small area and they are spaced out over long distances and in many cases, are located in different drainages.
4	I.11	Limits-pH	<ul style="list-style-type: none"> ▪ We agree that alkaline construction materials are potential contaminants and have the potential to cause a high pH in storm water runoff from construction sites. However, there are serious concerns and flaws in the sampling and analytical methods (e.g., specification of use of non-40CFR136 methods) proposed in the permit for pH and other parameters that must be adequately addressed before we can even support an AL for pH, or an AL or NEL for certain other parameters.
4	I.12	Risk Category	<p>This finding states that "...small construction projects with an "R Value" less than 5 during the clearing and mass grading phase of their project may be considered "low risk" and are subject to fewer requirements in the General Permit."</p> <ul style="list-style-type: none"> ▪ Once the actual activity of clearing and mass grading have been accomplished, can a project be down graded to a low risk? ▪ This finding implies that only small projects may be considered for a category of low risk

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4	I.12	Risk Category	<ul style="list-style-type: none"> We do not agree with the SWRCB staff not waiving, or at least not minimizing requirements even further than proposed, for low risk small projects with low erosivity, especially in urban paved areas and semi-arid and arid portions of the state.
4	I.13	AL-Turbidity	<ul style="list-style-type: none"> Please provide the rationale for setting the AL for turbidity at 500 ntu.
4	I.13	AL-Turbidity	<ul style="list-style-type: none"> We do not agree with the Finding (fact) of a direct non-site specific correlation of turbidity with sediment loads. Turbidity measures the amount of light scattered by particles and can be significantly affected by particle shape, color and reflectivity, and will not necessarily correlate with mass sediment loadings over a range of soil types and characteristics. Total Suspended Solids (TSS) is a measure of the actual weight of particulate material per water volume and has nothing to do with the light scattering properties of the particulates. We therefore object to this Finding.
4	I.14	Action Levels	<ul style="list-style-type: none"> Not all NELs proposed to be established in this permit are possible due to sampling and analytical considerations (e.g., non-certified methods are specified). These methods may be possible to use for ALs if submission of two or more ALs are not utilized by the board or the public as enforcement tools or add the discharger to “the major polluter” list.
4	I.14	Limits	<p>States that ALs are not directly enforceable and do not constitute NELs.</p> <ul style="list-style-type: none"> We concur that ALs, where used, should not be an enforceable limit.
5	I.16	Analytical Methods	<ul style="list-style-type: none"> Any NEL must be based on analytical tests from 40 CFR 136 and must be performed by certified technicians through a certified lab for enforceable actions. The test methods mentioned for some of the parameters are not from 40 CFR 136, not certified, and there is no mention of technician/lab certification.
5	I.19	ATS	<ul style="list-style-type: none"> ATS systems are not warranted for semi-arid and arid regions. The alternate options in Section IX.G occasionally recognize non-rainy season minimization of requirements but in general, these alternatives do not provide for minimization of requirements for dry season work or work in semi-arid and arid regions. Further minimization of requirements is needed for these situations and areas.
5	I.20	REAP	<p>A rain event action plan (REAP) is required even during the dry season.</p> <ul style="list-style-type: none"> The REAP should only be required if the Permit allows a general REAP to be developed to cover all predicted rain events rather than having to be rain event specific.

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6	I.25.1	General	<p>Identifies 5 stages of construction activities.</p> <ul style="list-style-type: none"> ▪ These stages are oriented towards a land development project and are not very appropriate for linear projects. For example, standard access road grading and pad development on linear projects do not fit well into the category of “mass grading”. ▪ These stages do not represent a linear project that is constructed mostly or wholly in existing paved areas. The “Streets and Utilities” stage is merged with the “Vertical Construction” stage for electric utilities and vertical construction does not apply to natural gas utilities ▪ “Preliminary” includes “...and any soil disturbance prior to mass grading.” This needs to specifically exclude pre-engineering or design soil disturbances such as bore holes and other geotech work that does not exceed 1 acre of contiguous soil disturbance.
7	I.25	General	<ul style="list-style-type: none"> ▪ There is a second Finding 25 (different topic) that throws the numbering off. This should be Finding 26.
7	I.25.2	Risk Category	<p>This permit requires an assessment of the overall risk of a project based on the entire project.</p> <ul style="list-style-type: none"> ▪ This process does not work well for linear projects that will encounter different conditions (soil, proximity to water bodies, etc.) along the length of the project.
7	I.26	Risk Category	<ul style="list-style-type: none"> ▪ Too few projects would be classified as low risk and as high risk. Too small a difference exists in requirements for medium and high risk projects.
7	I.26	Risk Category	<ul style="list-style-type: none"> ▪ Low Risk projects during the dry season and/or in semi-arid and arid areas should have less implementation requirements and only be required to certify compliance (as currently required).
8	I.28	Limits	<p>This finding states...“Dischargers are responsible for determining the receiving waters potentially impacted by their discharges, and for complying with all applicable water quality standards.</p> <ul style="list-style-type: none"> ▪ This may not be possible except in the situations where there is a direct or near direct discharge to the receiving water. For projects within MS4s, determining where a stormwater inlet ultimately discharges to receiving water is problematic.
8	I.29	Limits	<ul style="list-style-type: none"> ▪ For TMDLs, what is the mechanism for determining if and how a TMDL applies to construction projects covered by this permit?

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8	I.30	Monitoring & Reporting	<ul style="list-style-type: none"> ▪ This Finding should be modified to incorporate the qualifier of predicted rain events.
8	I.32	Electronic Submittals	<p>Use of the state’s web-site for electronically submitting all permit related documents.</p> <ul style="list-style-type: none"> ▪ Before this becomes a requirement, the web-site needs to be up and running and the “bugs” worked out, including electronic signatures. Also, what is the expense of doing this when many submittals will require large maps that have to be signed and then scanned? A formal provision should be established for allowing paper submittals if the system is not operational in time or if files are too large to submit electronically.
8	I.33	Exemptions	<ul style="list-style-type: none"> ▪ General – <ul style="list-style-type: none"> ○ This list of discharges not required to obtain coverage under the permit is missing “emergency projects” and “maintenance projects”. Add back in the following existing language in Order 99-08: “Construction activity does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility, nor does it include emergency construction activities required to protect public health and safety.” ○ “f” – covers the oil/gas exemption but does not use the EPA exemption language. This needs to be corrected.
9	II.A.1	Application	<p>“All dischargers requiring coverage under this General Permit shall electronically file all PRDs and submit payment of annual fees, according to the provisions in <i>Section B. VII</i>, below. “</p> <ul style="list-style-type: none"> ▪ This should be “Section VII”
9	II.B.1	Permit Modification	<p>“The discharger may reduce or increase the total acreage covered under this General Permit <i>when a portion of the original project within a multi-phase project is complete</i> (See Section XII, Conditions for Termination of Coverage), and/or when ownership of a portion of the site is sold to a different entity, and/or new acreage, subject to this permit, is added to the project. “</p> <ul style="list-style-type: none"> ▪ This should not be limited to a phase completion. Linear projects may have sections of a project completed and stabilization achieved prior to the entire project. Language should be included that allows sections that have achieved final stabilization to be closed.
9	II.B.2	Permit Modification	<p>“The discharger shall submit to its Regional Water Board a revised Notice of Intent, including a revised site map showing the portion of the site completed, portions still under construction, portions added, and evidence it has notified any new</p>

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			landowners of their need to obtain Permit coverage.“ <ul style="list-style-type: none"> ▪ Insert “, as applicable” to the end of this section as not all of these actions may be necessary for any particular submittal. ▪ There should be a de-minimus amount of change that can occur without having to resubmit for added areas. Otherwise, every time the SWPPP is revised to add a new laydown site, the PRDs have to be resubmitted. ▪ When PRDs are resubmitted for closures or additions will there be a new public review period? What if the addition is for a new or expanded laydown area? This would unnecessarily hold up a project.
10	II.B.5	Permit Modification	“If the project acreage subject to the annual fee has changed, dischargers <i>shall mail a revised annual fee no less than seven days after electronically submitting the</i> Permit Registration Documents (PRDs), <i>which include a NOI, SWPPP, and SWPPP Compliance Checklist.</i> Dischargers who fail to submit all PRDs will lose permit coverage. “ <ul style="list-style-type: none"> ▪ Projects that close a section of their project will not have to submit a revised annual fee so this statement should include “if applicable”. ▪ Obtaining a check within 7 days within most organizations will be difficult. This should be extended to a minimum of 15 days. ▪ Does a new SWPPP and compliance check list have to be submitted; what if the submittal is for closing areas vs. including new areas?
10	III.1	Limits	“Waste discharges to Areas of Special Biological Significance (ASBS) are prohibited by the California Ocean Plan, unless granted an exception issued by the State Board. “ <ul style="list-style-type: none"> ▪ This sentence needs to be made clear that this is applicable to direct discharges to ASBSs, not to discharges to an MS4 that ultimately discharge to an ASBS.
10	III.2	General	“Discharges of any material, except for the storm water and non-storm water <i>dischargers</i> specifically...” <ul style="list-style-type: none"> ▪ This word needs to be revised to “discharges”
10	IV	Limits	<ul style="list-style-type: none"> ▪ Effluents should have the naturally occurring level of sediment that would be expected from the natural site, assuming no other construction pollutants are present and there has not been a change in natural sediment characteristics. Effluent limits below this level are not justified and in fact may be detrimental to the natural environment.
11	III.3.a	Limits	“The pH of storm water and non-storm water discharges shall at all times be within the ranges of 5.8-9.0 pH Units, 18 months after the adoption of this General Permit.”

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			<ul style="list-style-type: none"> ▪ Numeric effluent limits should not be established under this permit.
11	IV.3	Analytical Methods	<ul style="list-style-type: none"> ▪ This is an NPDES permit. Any NEL analytical methodology must be according to NPDES approved methods (40 CFR 136) and be conducted by certified personnel to be defensible from either the project or the regulatory point of view.
11	IV.4	ATS	<ul style="list-style-type: none"> ▪ The use of an ATS on linear projects that utilize the General permit is usually not possible (not feasible). This is due to multiple discharge points, terrain, access, and logistics. The alternative source control methodology must be used.
11	IV.4.c	Limits	<p>“The pH of ATS discharges shall at all times be within the ranges of 6.5-8.5 pH Units. “</p> <ul style="list-style-type: none"> ▪ The rationale for these limits needs to be specified.
11	IV.4.d	Limits	<p>“Turbidity of all ATS discharges shall be less than 10 NTU. “</p> <ul style="list-style-type: none"> ▪ The rationale for this limit needs to be specified.
11	IV.4a&b	Toxicity	<p>“a. Acute toxicity of ATS discharges shall have no significant difference, at the 95% confidence level, between the control⁶ discharge and 100 percent effluent (a t-test)⁹, applied as a monthly median of pass-fail tests.</p> <p>b. Chronic toxicity of ATS discharges shall be equal to $1.0 TU_c$ where $TU_c = 100/NOEC$. “</p> <ul style="list-style-type: none"> ▪ These sections establish acute and chronic toxicity limits for discharges from ATSS. Requiring toxicity testing on stormwater discharges presents a number of logistical issues, such as availability of acclimated test organisms, availability of test labs, duration of testing, applicability to what should be short-term discharges (i.e., only while the ATS is in place during construction), many discharges are either into MS4s and therefore the ultimate affects of the specific discharge on a receiving water are unknown or may be into ephemeral or intermittent streams which only flow during rain events or seasonally. We recommend that toxicity limits be deleted from the permit.
11	V	Action Levels	<p>It should be inserted that multiple ALs cannot be used by the public or regulatory agencies to categorize the discharger as a “major polluter” on the “major polluter list”</p>
11	V	Limits	<p>“1. The AL for pH shall be values outside the range of 6.5-8.5 pH units. 2. The AL for turbidity shall be values greater than 500 NTU.</p>

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			<p>3. The AL for TPH, as calculated for carbon range C₁₂ through C₂₈, shall be values greater than 15 mg/L. “</p> <ul style="list-style-type: none"> ▪ The rationale for these limits needs to be specified. ▪ The range of C12 thru C28 is only achievable through a modified (i.e., non 40CFR136 approved) method. This is not appropriate for a NPDES permit (see Standard Provision III.B)
11	V.2	AL-Turbidity	<ul style="list-style-type: none"> ▪ The AL for turbidity should be a value above naturally occurring values.
12	VI.4	Definitions	<p>“Storm water discharges and authorized non-storm water discharges shall not cause deleterious physical impacts to <i>directly connected</i> receiving waters (for example, excessive channel bed and/or bank erosion). “</p> <ul style="list-style-type: none"> ▪ Define “directly connected”
12	VI.6	Limits	<p>“Storm water and non-storm water discharges from medium and high risk construction projects shall not be more than 0.2 standard units higher or lower than the pH of the receiving water.”</p> <ul style="list-style-type: none"> ▪ The limit should be based on the basin plan limit for the receiving water.
12	VI.7	Limits	<p>“Storm water discharges from an ATS shall not be more than 0.2 pH units higher or lower than the pH of the receiving water.”</p> <ul style="list-style-type: none"> ▪ The limit should be based on the basin plan limit for the receiving water.
12	VII.1.a	Application	<p>“...shall electronically file all PRDs no later than 14 days prior to the commencement of construction activities or change of ownership, and mail the appropriate permit fee no later than seven days prior to the commencement of construction activities or change of ownership.”</p> <ul style="list-style-type: none"> ▪ What constitutes acceptance of the PRD by the SWRCB? Please explain why is there a difference between the date of submittal for the PRDs and the permit fee? <p>“Permit coverage shall not commence until the permit fee is received and the PRDs are accepted by the State Water Board.”</p> <ul style="list-style-type: none"> ▪ The 7 day time limit for mailing fees is unnecessarily strict. This should be a minimum of 15 days. Is the SWRCB going to electronically log in fees and automatically send an email confirmation? There needs to be a speedy way to confirm fee receipt or not include it as a requirement prior to construction start. Can a certified mail receipt be used?
13	VII.1.b	Application	<p>“If the project acreage subject to the annual fee has changed, dischargers shall mail a revised annual fee <i>no less than seven days</i> after electronically submitting all</p>

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			<p>PRDs or lose permit coverage.”</p> <ul style="list-style-type: none"> ▪ If the acreage has decreased, no fee should be required, so the statement requiring a fee should be revised to state, “if applicable” or “When the project area subject to the annual fee has increased,...” ▪ Should “...no less...” be “no more” ? ▪ The requirement to mail a revised annual fee within 7 days of submitting the PRD is unnecessarily too strict and does not allow for normal check processing time. Allow a minimum of 15 days.
13	VII.3	Application	<ul style="list-style-type: none"> ▪ Due to the extensive changes and numerous additional requirements, entities with multiple projects under this permit will have difficulty making the required changes for all projects within the specified time period. It is requested that this time period be increased to 120 days.
13	VII.4	Application	<p>“For existing dischargers, permit coverage under this General Permit shall commence on the date the electronic PRDs are administratively accepted by the State Water Board or Regional Water Boards or the effective date of the General Permit, whichever is later.”</p> <ul style="list-style-type: none"> ▪ If the effective date of the permit is before the PRDs are administratively accepted, an existing discharger will not be covered by either the old or new permit. This needs to be resolved. <p>“For new dischargers, permit coverage shall commence on the date the PRDs are administratively accepted by the State Water Board and/or Regional Water Boards and the required permit fee has been submitted or the effective date of the General Permit, whichever is later.”</p> <ul style="list-style-type: none"> ▪ Dischargers that have projects starting within the first 90-100 days of adoption of the new permit will have to prepare two SWPPPs and M&RPs. This is unreasonable.
13	VII.4	Application	<ul style="list-style-type: none"> ▪ This item needs more detail. For example: <ul style="list-style-type: none"> ○ What is meant by administratively accepted? ○ How will the applicant know when it is accepted? ○ For fees, can a certified mail receipt be used?
13	VII.5	SWPPP	<p>“The SWPPP shall be kept available at the construction site at all times...”</p> <ul style="list-style-type: none"> ▪ Linear projects do not always have on-site buildings at which the SWPPP can be retained. The permit needs to recognize this and allow the following: “The SWPPP shall be available at the construction site during work

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			hours while construction is occurring and shall be made available upon request. When the original SWPPP is retained by a crewmember in a construction vehicle and is not currently at the construction site, copies of the BMPs and map/drawing will be left with the field crew and the originals SWPPP shall be made available via a request by radio/telephone.”
14	VII.9	Non-Storm Water	<p>“The discharger shall notify the Regional Water Board of any non-storm water discharges not authorized by this General Permit to determine the need for a separate NPDES permit.”</p> <ul style="list-style-type: none"> ▪ Clarify whether the RWQCB have to be notified if the treated discharge of the non-stormwater will meet the requirements.
15	IX.A.1	Limits	<p>“If the monitoring result is greater than the NEL, then the discharger is out of compliance.”</p> <ul style="list-style-type: none"> ▪ This method of determining whether there is an exceedance assumes that the NEL is an instantaneous maximum limit. Since the derivation of the NEL is not provided it is not possible to comment on the appropriateness of this compliance determination methodology. It may be more appropriate to determine compliance based on a daily, weekly or monthly average of sample results. Note that the Storm Water Panel’s June 2006 report recommended that “...a Numeric Limit or Action Level should be compared to the average discharge concentration (see Page 17, Item 8)
15	IX.A.2	Monitoring & Reporting	<p>“When effluent monitoring indicates that a NEL listed in Table 2 is violated, the discharger shall electronically enter into SWARM the analytical results, which were in violation of the NEL, <i>within 48 hours of receiving the results.</i>”</p> <ul style="list-style-type: none"> ▪ This time schedule for submitting the information to the SWRCB is too short, especially when the results are received late in the work week (e.g., Thursday, Friday). This should be revised to allow 5 days.
15	VIII.A.1	Risk Category	<p>“The Discharger shall determine a risk category for the project using the methodology in Attachment F, Sediment Transport Risk Worksheet, prior to construction activities commencing.”</p> <ul style="list-style-type: none"> ▪ The current methodology for calculating a risk category has the following shortcomings: <ul style="list-style-type: none"> ○ Very few projects will be categorized as Low; ○ No allowance is made for assessing the category for linear projects which may have portions of the project in each of the categories, but would assign the highest risk to the entire project.

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			<ul style="list-style-type: none"> ▪ See additional comments for Attachment F
15	VIII.B.1-3	ATS	<ol style="list-style-type: none"> 1. “The discharger shall complete a soil particle size analysis...” 2. “If fill material is brought onto the site, it shall be characterized...” 3. “At least one sample shall be taken per mapped soil unit on the site.” <ul style="list-style-type: none"> ▪ Many linear projects will conduct trenching and excavation activities in existing paved areas, such as city streets. Dirt removed from these activities is normally trucked off-site or placed back into the trench. Temporary stockpiling of soil may be done but with BMPs in place. It is not reasonable to require testing of soils in existing paved areas, or to require testing of soils imported for trench and excavation backfill. ▪ Pleased define “mapped soil unit”.
16	IX.B	Action Levels	<p>“Whenever effluent monitoring indicates that an AL listed in Table 2 is exceeded, the discharger shall immediately implement corrective actions if appropriate; conduct a construction site evaluation to determine whether pollutant source(s) associated with construction activity may have caused or contributed to the AL exceedance; and electronically enter monitoring results into SWARM within 48 hours of receiving the results.”</p> <ul style="list-style-type: none"> ▪ This time schedule for entering the information into SWARM is too short, especially when the results are received late in the work week (e.g., Thursday, Friday). A period of 5 days should be provided once all the required reporting information obtained. It is unclear whether the specifics of the corrective actions, site evaluation, extra turbidity evaluation and receiving water monitoring are subject to the time limit for entering the “monitoring results”. The requirement needs to be clear what is required to be entered and what triggers the start of the clock. We recommend that the information be entered into SWARM within 5 days after all of the information for a specific AL exceedance is obtained. ▪ Conducting receiving water monitoring for TPH after receipt of the results will not be very meaningful due to the lab turnaround time for TPH analysis, and should be deleted as a requirement.
16	IX.B.1	Monitoring & Reporting	<p>“The demonstration must be submitted to the Regional Water Board within 48 hours from the discovery of the exceedance and must provide specific information describing the non-construction related source(s);...”</p> <ul style="list-style-type: none"> ▪ See comment to Section IX.B.
16	IX.B.1	Monitoring & Reporting	<ul style="list-style-type: none"> ▪ Action Level Exceedance Evaluation Reports (ALEERs) are required to be submitted electronically to the RWQCB. ALEERs should not be submitted

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			to the same compliance electronic data base as analytical results conducted for numeric effluent limits. Action levels are not considered effluent limits and the exceedance of an AL is not considered a compliance issue. There should be a separate electronic database or no data base at all for ALs and ALEERs. Rather the discharger should be required to make the appropriate notes in the SWPPP and the annual report as in Section IX.B.2 and submit a hard copy of the ALEER to the RWQCB.				
16	IX.Table 2	Analytical Methods	<table border="1" style="width: 100%;"> <tr> <td style="width: 10%;">pH</td> <td>Field test with <i>calibrated paper</i> or portable instrument</td> </tr> </table> <ul style="list-style-type: none"> ▪ Since this is an NPDES permit, 40CFR136 approved methods are required to be used for analysis. However, there is no approved 40CFR136 method for calibrated paper. <table border="1" style="width: 100%;"> <tr> <td style="width: 10%;">TPH</td> <td>DHS/EPA 8015M C₁₂-C₂₈ (direct injection)</td> </tr> </table> <ul style="list-style-type: none"> ▪ Since this is an NPDES permit, 40CFR136 approved methods are required to be used for analysis. However, direct injection is not an approved 40CFR136 method. 	pH	Field test with <i>calibrated paper</i> or portable instrument	TPH	DHS/EPA 8015M C ₁₂ -C ₂₈ (direct injection)
pH	Field test with <i>calibrated paper</i> or portable instrument						
TPH	DHS/EPA 8015M C ₁₂ -C ₂₈ (direct injection)						
17	IX.B.2	Action Levels	<p>“...the pollutant source(s) responsible for the exceedance of the AL have been identified and are related to construction activities; additional BMPs and/or SWPPP implementation measures as necessary to comply with receiving water objectives have been identified and implemented; and revised the SWPPP, as soon as is practicable but <i>no later than seven days after the triggering determination</i>. However, unless required to comply with receiving water objectives, no additional on-site activities or revision of the SWPPP with respect to sediment control will be required <i>if the turbidity in the release was equal to or less than 1.2 times the turbidity estimated to occur under the actual rainfall conditions at the time of the exceedance, if the site were naturally vegetated, using the method presented in Attachment E, OR if the turbidity in the release was equal to or less than 1.2 times the actual turbidity measured in the receiving water upstream of the storm water discharge from the site.</i>”</p> <ul style="list-style-type: none"> ▪ The permit language needs to be more specific to what constitutes the “triggering determination” 				

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			<ul style="list-style-type: none"> ▪ Please provide the basis for using “1.2” as a multiplier <p>“In addition, if the discharger, State Water Board, or Regional Water Board determines that storm water discharges or non-storm water discharges have caused or contributed to AL exceedances for the same parameter (pH, turbidity or TPH) in two consecutive storm events within the <i>same drainage area</i>, the discharger shall:”</p> <ul style="list-style-type: none"> ▪ What does “same drainage area” refer to (e.g., watershed, sub-watershed, etc)?
17	IX.B.2.b	Monitoring & Reporting	<ul style="list-style-type: none"> ▪ Action Level Exceedance Evaluation Reports (ALEERs) are required to be submitted electronically to the RWQCB. ALEERs should not be submitted to the same compliance electronic data base as analytical results conducted for numeric effluent limits. Action levels are not considered effluent limits and the exceedance of an AL is not considered a compliance issue. There should be a separate electronic database or no data base at all for ALs and ALEERs.
18	IX.C.1	Erosion Control	<p>“The discharger shall provide appropriate soil cover for inactive¹⁰ areas of soils disturbed by construction activities that are not scheduled to be re-disturbed until the next stage of construction.”</p> <ul style="list-style-type: none"> ▪ In the dry season, and in arid and semiarid regions of the state, such as the lower elevations of Southern California, this requirement is unreasonably stringent and results in unnecessary costs and schedule impacts. In these areas, cover should be mandatory only in the event of a prediction of rainfall. Dust control can be accomplished with appropriate judicious watering.
18	IX.C.2	Erosion Control	<p>“At a minimum, the discharger shall stabilize all active¹¹ disturbed areas regardless of time of year from all erosive forces, including rainfall, non-storm water runoff, and wind.”</p> <ul style="list-style-type: none"> ▪ This provision should be deleted as it is not possible to stabilize active construction areas. Also see Section IX.C.2, where inactive construction sites are not required to provide soil cover for up to 14 days. ▪ The actual area being disturbed cannot be stabilized until after the disturbance. Please clarify the wording to indicate that appropriate BMPs should be used downstream of the area being disturbed to prevent areas being disturbed contributing to runoff sediment load should rain occur.

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18	IX.C.3	Erosion Control	<p>“The discharger shall implement wind erosion (i.e. dust) all stages of construction. The discharger shall pay particular attention to soils in Wind Erodibility Groups (WEGs) 1 and 2.”</p> <ul style="list-style-type: none"> ▪ This provision should be revised to read “...shall implement appropriate and feasible wind erosion...” as different stages of construction will have different BMPs that are appropriate to implement. ▪ The phrase “...pay particular attention...” needs to be clarified.
18	IX.D.1	Run-on Control	<ul style="list-style-type: none"> ▪ Site Run-on control for long linear projects in streets is not usually possible due to street runoff volumes and safety considerations (e.g., creating ponding, or other water streams that could cause hydroplaning of vehicles, etc.). Control in the streets is usually accomplished by stopping work prior to rain events, and implementing appropriate BMPs similar to that required in the Small LUP permit.
18	IX.E.1	ATS	<ul style="list-style-type: none"> ▪ ATSs are not warranted to be required during the dry season in arid and semi-arid regions such as the desert and southern California, and is even questionable during the rainy season in southern California. The Source Control Option is the only requirement that should be in this permit for these areas during the dry season.
18	IX.E.1	Sediment Control	<p>“If the soils to be exposed contain more than 10% (by weight) particle sizes smaller than 0.02 mm (medium silt), the discharger shall either use an ATS or implement the source control requirements described below in Section VIII.G.”</p> <ul style="list-style-type: none"> ▪ This should be revised to read “...Section VIII.H”
18	IX.E.1	Sediment Control	<ul style="list-style-type: none"> ▪ On segments of long linear projects that are in remote areas, an ATS may not be logistically possible. The source control option should be explicitly stated as permissible in these situations.
18	IX.E.2	Sediment Control	<p>“The discharger shall, at minimum, design sediment basins according to Attachment H.”</p> <ul style="list-style-type: none"> ▪ This language should be revised to clarify that sediment basins are not required, but when they are used they need to comply with the requirements in Attachment H.
19	IX.E.5	Sediment Control	<p>“The discharger shall, at all times, establish effective perimeter controls and stabilize all construction entrances/exits sufficient to control erosion and sediment discharges from the site.”</p> <ul style="list-style-type: none"> ▪ At some sites it may not be possible or safe to establish stabilized construction entrances. At such sites, alternative BMPs (e.g., sweeping) should be allowed.

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19	IX.E.6	Sediment Control	<p>“At all times during the year, the discharger shall appropriately protect and maintain all storm drain inlets and perimeter controls, runoff control BMPs, and stabilized entrances/exits.”</p> <ul style="list-style-type: none"> ▪ Linear projects conducted in city streets are move continuously along the length of the construction. Traditionally, perimeter controls are not used in city streets, but other appropriate BMPs are used to protect storm water inlets in active construction areas. Placing extensive BMPs along trench lines is not reasonable, unless needed to protect exposed areas when rain is forecast.
19	IX.E.7	Sediment Control	<p>“The discharger shall limit traffic to stabilized driveways.”</p> <ul style="list-style-type: none"> ▪ This requirement should be revised to state: “The discharger shall direct traffic to entrances identified for the project at which BMPs are being implemented.”
19	IX.F.1	Sediment Control	<p>“The discharger shall use stabilized entrances/exits as the only access points for heavy equipment in order to prevent tracking of sediment onto public or private roadways.”</p> <ul style="list-style-type: none"> ▪ See comments for Sections IX.E.5 and IX.E.7
19	IX.F.2	Sediment Control	<p>“On a daily basis or more frequently as necessary, the discharger inspect all public and private roads that receive storm water discharges from the project and sweep or vacuum roadways as necessary.”</p> <ul style="list-style-type: none"> ▪ This requirement should be limited to those days on which construction activity takes place. For example, there may not be any construction that takes place on weekends and holidays. For rain events, if a pre-, during- or post- construction inspection on a weekend or holiday indicates that sweeping is necessary, then sweeping could be required.
19	IX.G.1	ATS	<p>“If the soils to be exposed contain more than 10% (by weight) particle sizes smaller than 0.02 mm (medium silt), the discharger shall either deploy an ATS or comply with source control procedures described in Section VIII.G.”</p> <ul style="list-style-type: none"> ▪ The end of this sentence should be revised to state: “...described in Section VIII.H.”
19	IX.G.1	General	<ul style="list-style-type: none"> ▪ The reference to “Section VIII.G should be “Section IX.H”
19	IX.G.2	ATS	<p>“Thirty days before deploying an ATS, the discharger shall submit a supplemental report to the appropriate Regional Water Board for approval prior to discharge.”</p> <ul style="list-style-type: none"> ▪ The PRDs need to be submitted no later than 14 days prior to construction start, but this section requires the supplemental report no later than 30 days before deploying the ATS.

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			<ul style="list-style-type: none"> ○ If the ATS will be deployed at the beginning of the project, does the supplemental report get submitted at the same time as the PRDs (and then do the PRDs have to be submitted no later than 30 days in advance of construction start)? ○ Also, what is the review process/time for the supplemental report?
20	IX.G.2.c	ATS	<p>“...the cells are appropriately sized to capture and treat, within 48 hours, the range of expected site runoff from the smallest storms up to the runoff from 1.5 times the ten-year, 24-hour design storm event.”</p> <ul style="list-style-type: none"> ▪ In at least southern California, the requirement to size the treatment for 1.5 times the 10-year 24-hour storm is roughly equivalent to sizing the system for a 100-year 24 hour storm. It is unreasonable to have to size the system for this large of an event. In fact, the Storm Water Panel’s recommendations to the SWRCB stated that “...Numeric Limits and Action Levels not apply to storms of unusual event size and/or pattern (e.g., flood events).³” If the numeric limits are not applicable, the treatment system required to meet the limits should not be required. ▪ Assuming a 10-year, 24-hour storm of 4”, drainage areas of 1, 3, 5 and 8 acres, and a 2 ft. depth of the sediment basin in front of the ATS, the area required for the sediment basin would be 0.25, 0.75, 1.25 and 2.0 acres, respectively. This represents 25% of the drainage area (note that this percent increases to 50% in areas where the 10-year, 24-hour storm is 8”). If baker tanks were used for storage in place of a sediment basin, it would require 9, 27, 45 and 72 tanks respectively. Again, as the Storm Water Panel recommended, the numeric limits and action levels should not apply to storms of unusual event size and/or pattern.
20	IX.G.2.c.i	ATS	<p>“This calculation shall include the total volume of water expected to discharge into the system, including run-on from adjacent properties and from undisturbed areas of the project site. Flow that is diverted around the construction site and which will not discharge into the system does not need to be included in the treatment cell sizing calculations.”</p> <ul style="list-style-type: none"> ▪ If flows from undisturbed areas of the project do not flow onto the disturbed areas, they should not be required to be treated and therefore should also not be required to be included in the sizing calculation. Only

³ Page 18, Number 11. “The Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities”, Storm Water Panel Recommendations to the California State Water Resources Control Board, June 19, 2006.

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			those areas that will contribute stormwater from construction activities or disturbed sites should be included in the sizing and treatment requirements.
20	IX.G.2.c.i	ATS	<ul style="list-style-type: none"> See the comment for Section IX.G.2.c.
20	IX.G.3	ATS	<p>“...the discharger shall provide information in the supplemental report demonstrating that all additives will be removed prior to discharge of flow from the ATS,...”</p> <ul style="list-style-type: none"> Please describe the basis on which this demonstration can be made. <p>“...or that the discharge of chemical additives from the ATS in expected concentrations will not affect the survival of aquatic life in receiving waters or violate the NELs described in Section IV.3.”</p> <ul style="list-style-type: none"> The permit should provide the discharger the option of using specified additives or treatments that, when used, do not require toxicity tests to be conducted.
21	IX.G.5.c	ATS	<p>“The discharger shall direct all ATS discharges through a physical filter such as a vegetated swale and provide outlet protection to prevent erosion and scour of the embankment and channel.”</p> <ul style="list-style-type: none"> It is unclear why the treated effluent would need to be discharged through a physical filter since it has already been treated. Also, on linear projects installation of grassy swales would be infeasible.
21	IX.G.5.e	Monitoring & Reporting	<p>“...the discharger shall electronically enter into SWARM the analytical results, which were in violation of the NEL, within 48 hours of receiving the results.”</p> <ul style="list-style-type: none"> The comments made for Section IX.B. are also applicable to this section.
21	IX.H.1.b	Source Control	<p>“Limit the areas of active construction to five acres at any one time.”</p> <ul style="list-style-type: none"> Linear projects will cross many drainage areas. Also, linear projects may be broken into different sections which may be covered by separate SWPPPs and could be under construction at the same time. Therefore, this section should state “...at any one time within the immediate drainage basin.”
21	IX.H.1.c	Source Control	<p>“Provide 100 percent soil cover for all areas of inactive construction throughout the entire time of construction, on a year-round basis.”</p> <ul style="list-style-type: none"> Providing 100% soil cover is too restrictive. Even to achieve EPA’s final stabilization only requires 70% of the original vegetative cover. This requirement would also not be practical for linear project construction in existing paved areas or on a year round basis (i.e., non-rainy season).

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21	IX.H.1.d	Source Control	<p>“Provide appropriate perimeter control at all appropriate locations along the site perimeter and at all inlets to the storm drain system at all times during the rainy season.”</p> <ul style="list-style-type: none"> ▪ This condition needs to take into consideration public safety, as placing BMPs on some inlets in existing streets may cause a safety hazard due to water ponding in the street.
21	IX.H.1.e	Source Control	<p>“Provide vegetated buffer strips between the active construction area and any water bodies. “</p> <ul style="list-style-type: none"> ▪ This requirement is not feasible on linear projects.
21	IX.H.1.f	Source Control	<p>“Provide stabilized construction entrances and limit all vehicle and foot traffic to those entrances.”</p> <ul style="list-style-type: none"> ▪ This requirement should not limit the options for BMPs at construction entrances to stabilized entrances. Other methods such as sweeping may be safer and or more effective on linear projects. Also, this should require the discharger to direct (not limit) vehicle traffic and foot traffic to the specified entrances.
22	IX.I.1.c	Good Housekeeping	<p>“Storing chemicals in watertight containers or in a bermed storage shed (completely enclosed), with appropriate secondary containment.”</p> <ul style="list-style-type: none"> ▪ Storage sheds are already enclosed and should not be required to be bermed.
22	IX.I.1.d	Good Housekeeping	<p>“Minimizing contact of construction materials with precipitation.”</p> <ul style="list-style-type: none"> ▪ Certain materials are made to be installed outside in their final form (e.g., power poles) and should not be required to “minimize contact”.
22	IX.I.2.b	Good Housekeeping	<p>“Berming sanitation facilities (e.g., Porta Potties) and preventing them from being kept within the curb and gutter or on sidewalks or adjacent to a storm drain.”</p> <ul style="list-style-type: none"> ▪ Linear projects constructed in existing paved areas (e.g., city streets) many times have no other place to put porta-potties than in the street or on an adjacent walkway area. This requirement should not apply to linear projects. ▪ Berming porta potties seems excessive unless there are more than a few isolated instances of tank failure.
22	IX.I.2.f	Good Housekeeping	<p>“Addressing procedures to deal with hazardous and non-hazardous spills.”</p> <ul style="list-style-type: none"> ▪ This section is duplicative of Section IX.I.2.g and could be eliminated.
23	IX.I.3.a	Good Housekeeping	<p>“Not allowing oil, grease, or fuel to leak in to the soil.”</p> <ul style="list-style-type: none"> ▪ This is not a feasible BMP. The BMP should be to take measures to prevent leaks onto the ground and to promptly cleanup any observed

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			leaks.
23	IX.I.3.b	Good Housekeeping	<p>“Placing all equipment or vehicles, which are to be fueled, maintained and stored in a designated area fitted with appropriate BMPs.”</p> <ul style="list-style-type: none"> ▪ This requirement needs to address the fact that some equipment is not able to be moved to a designated fueling location and must be fueled in-place.
24	IX.J.3	Training	<ul style="list-style-type: none"> ▪ A qualified SWPPP practitioner is defined in Section X.A.3, not as stated in Section IX. Companies that have professional staff in an environmental department with degrees in engineering, biology, and geology with many years of SWPPP development and implementation experience, we would object to any unnecessary registration requirements for a SWPPP Practitioner. If there are any specified requirements, we request experience level and attendance at a SWRCB/RWQCB training course only.
24	IX.K.1	Hydromodification	<ul style="list-style-type: none"> ▪ We agree that hydromodification should be addressed in the design and construction of a site. We agree that there needs to be consistent statewide requirements. However, we disagree with the SWRCB incorporating the concept in this permit. The proper place for consistent statewide hydromodification requirements is a statewide MS4 permit that requires that grading and building permits be contingent on proper hydrological design and that prevent hydromodification effects.
25	IX.L.1	Training	<ul style="list-style-type: none"> ▪ Inspections should not require a Qualified SWPPP Practitioner. Construction foreman should be sufficient.
26	IX.M.1	Training	<ul style="list-style-type: none"> ▪ In the last sentence, amending of the SWPPP should not require a Qualified SWPPP developer. Amendments need to be done as construction conditions change, and can be done by a construction foreman. We have no objection to requiring a SWPPP Developer to perform a periodic review of the amendments.
28	X.A.8	Risk Category	<ul style="list-style-type: none"> ▪ We strongly agree that low risk projects need not comply with Section X requirements. We do however utilize the same qualified staff mentioned above on our projects.
28	XI.1	REAP	<ul style="list-style-type: none"> ▪ A 30% chance of rain in Southern California normally consists of no precipitation, and at most a few sprinkles or very light showers with no runoff. This trigger should be 50% for Southern California unless logically justified in writing otherwise.

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28	XI.2	REAP	<ul style="list-style-type: none"> We do not believe a separate REAP is necessary for each rain event (see comment on Section XI.3). It is an unnecessary cost and expenditure of staff resources.
28	XI.3	REAP	<ul style="list-style-type: none"> A REAP for every rain event is not necessary or justified. A single project specific general REAP plan will suffice if required to address various predicted rainfall amounts and change of events (such as a change in predicted rainfall amount).
29	XII.1.d	NOT	<ul style="list-style-type: none"> The reference to “Section K” should read “Section IX.K.
29	XII.1.d	NOT	<ul style="list-style-type: none"> The permit needs to clarify how the demonstration with the New and Re-development Standards in Section IX.K is possible at the end of the project. We are concerned that this implies an on-going effort with no defined end-point. This condition could be covered by the post project BMP plan. Non-conformance could have the same consequences as not adhering to the other post-construction BMPs.
30	XIII.2	Application	<ul style="list-style-type: none"> We strongly object to the “across the board” ninety (90) day public review period. This unnecessarily delays projects that are needed for electric and gas infrastructure reliability and public safety, especially in regard to linear projects. Applying a CEQA type review at this stage of a project is inappropriate. Other newly incorporated aspects of this permit revision such as public accessibility to the electronically submitted NOI, SWPPP and other documents and the specified submittal timeframes are sufficient for public access and expression of any concerns.
34	Attachment A: Glossary	Definitions	<ul style="list-style-type: none"> Please define “stream”. This is important to the interpretation and implementation of the permit.
61	Attachment E-Section E.3	Definitions	<ul style="list-style-type: none"> Please define receiving water. For example does it include gutter, storm drains, 1st order streams, streams with flowing water, a water body with water in it?
63	Attachment E–Section E.5.c	Toxicity	<ul style="list-style-type: none"> Please provide the number of certified toxicity testing labs in Southern California and an analysis of whether or not they would be able to perform the expected number of toxicity tests during the rainy season?
70	Attachment F(1)	Risk Category	<ul style="list-style-type: none"> Construction in ephemeral or intermittent stream beds during the dry season with adequate BMPs should be less than 100 points.
70	Attachment F(3)	Risk Category	<ul style="list-style-type: none"> Sites graded outside the designated rainy season but an erosivity index greater than 5 should only have a risk index of 50 points