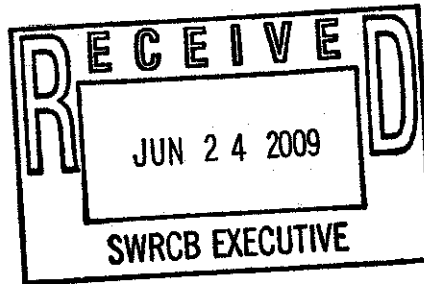




Public Comment
Dft. Construction Gen. Permit
Deadline: 6/24/09 by 5:00 p.m.



June 24, 2009

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

SUBJECT: COMMENT LETTER – DRAFT CONSTRUCTION PERMIT

Dear Ms. Townsend:

Rick Engineering Company offers comments on the following topics in the Draft Construction Permit, Order No. 2009-XX-DWQ:

I. Findings

- Pg. 4. #19: Please clarify this statement. Are buildings constructed on land used for agriculture now covered under this permit?
- Pg. 5. #24: Please clarify the statement "For municipal operators, repaving of asphalt roads is routine maintenance except where the underlying and/or surround soil is cleared, graded, or excavated as part of the repaving operation." If a construction project is covered by a SWPPP, and a road near the project will be improved (grind and overlay where no soil is disturbed), will the SWPPP need to address this area since there is grading within the on-site project? Why is the permit singling out repaving operations and stating this is not considered routine maintenance. It should be included as routine maintenance.
- Pg. 6. #35: Please define the term "not tributary or hydrologically connected to waters of the United States".
- Pg. 6. #37: The last sentence states "The RWQCBs have the authority to require Risk Determination to be performed on projects currently covered under Water Quality Order No. 99-08-DWQ where they deem it necessary". Please provide an explanation as to how the RWQCBs will make this determination. What is their criteria? When in the process will this determination occur? All dischargers are grandfathered in (for traditional projects) as Risk Level 1. The progress as we understand it would be as follows: A discharger will prepare a SWPPP in accordance with Risk Level 1 requirements and then submit electronically their PRDs and then start constructing their project.

Pg. 9. #54:

Please clarify when an NAL Report will need to be submitted and clarify the term "directly enforceable."

Pg. 9. #55:

Please clarify what information is reported in the SMARTS system when a discharger has a NAL exceedance. What is the time frame for the RWQCB to request a NAL Exceedance Report from the discharger.

II. Conditions For Permit Coverage

Pg. 14. Sec. B 4a: What is the annual fee schedule? Please provide the fee schedule.

III. Discharge Prohibitions

No Questions/Comments

IV. Special Provisions

Pg. 23. Sec. I 1: The Errata Sheet states ... "a person legally authorized to sign" "(the LRP's Approved Signatory)", please provide information regarding what is the required documentation for this authority. It is described for Mineral Estates but not for other parties.

Pg. 24. Sec. I 1c iii: Please provide a definition for "agent".

V. Effluent Standards

Pg. 28. Sec. A 2: Define non-conventional and conventional pollutants.

VI. Receiving Water Limitations

No Questions/ Comments

VII. Training Qualifications and Certification Requirements

Pg. 32. Sec. A: Define or provide examples of recognized governmental agencies or professional organization.

Pg. 33. Sec. B 5: Need to add "approved signatory" after "duly authorized representative" in order to stay consistent with the language previously noted on page 23. The Errata Sheet tried to clarify this however the Errata Sheet needs to first LRP need to be removed and replaced with the original text "any duly authorized representative" and then balance of the revised sentence on the Errata Sheet should stay.

VIII. Risk Determination

Pg. 34: How and when will the RWQCB chose to break a project into separate levels of implementation if there is more than one Risk Level determination? Need more clarification regarding how to write the SWPPP.

IX. Risk Level 1 Requirements

No Questions/ Comments

X. Risk Level 2 Requirements

No Questions/ Comments

XI. Risk Level 3 Requirements

No Questions/ Comments

XII. Active Treatment Systems (ATS)

No Questions/ Comments

XIII. Post-Construction Standards

Pg. 35. Sec. A 1: What is the process for appealing to the appropriate Regional Board for an exception to this requirement? What is the time frame?

Pg. 35. Sec. A 3: Please describe "volume that cannot be addressed using non-structural practices"? How is this approved by the Regional Board? Do we need to submit a Water Quality Management Plan to the Regional Board? Will it be reviewed? What is the timeline for this?

Pg. 35. Sec. A 4: What is the intent of drainage density?

XIV. SWPPP Requirements

Pg. 36. Sec. A: How can a QSD "ensure" that all SWPPPS are amended or revised when there is a significant change to the project? The QSD will be a consultant hired by the discharger to prepare the SWPPP. In this paragraph I believe the QSD needs to be replaced with the discharger/LRP.

- Pg. 36. Sec. D: Please confirm how "during working hours" is defined. Does a sign need to be posted at the project entrance with the working hours? Please define the term "while construction is occurring". Does this mean while the site is "active"? Please note that there may be a situation where there is a rain event, and no construction is currently occurring, then the SWPPP may not be on-site.

XV. Regional Board Authorities

No Questions/Comments

XVI Annual Reporting Requirements

- Pg. 39. Sec. E 2: Will "individuals responsible for BMP installation, inspection, maintenance and repair" still be required to receive formal and informal SWPPP training? Please confirm that these individuals are not considered QSPs.

Attachment A Linear Underground/Overhead Requirements

- Pg. 2. Sec. A 4: How will LUP dischargers obtain permit coverage for each Regional Board area prior to the commencement of construction?
- Pg. 15. Sec. H 1: Will the persons responsible for implementing requirements of this General Permit need to be a QSPs as well? Please define who this applies to versus p.16(d).
- Pg. 22. Sec. IIbv (2): Should Attachment I be Appendix 2?
- Pg. 22. Sec. IIbvi(1): How does the discharger evaluate the quantity of run-on and runoff through a visual observation? Does this require any calculations?
- Pg. 28. Sec. I 2 b v(2): Should Attachment I be Appendix 2?
- Pg. 40. Sec. K 7: Please defined the "public comment period for review".
- Pg. 43. Sec. L 3a iii: Do inspections need to be conducting before, during and after storm events, or per p.23 (2) "dischargers shall perform weekly inspections and observations, and at least once each 24-hour period during extended storm events." Please clarify to make the two consistent.

Attachment A.2

- Pg. 1: Last paragraph. Please defined "less than 50% of the construction project is complete." Is this at the time of permit adoption, or permit effective date?

Attachment B Permit Registration Documents (PRDs)

Pg. 1 Sec. D: Please clarify the last sentence on this page. Construction projects typically include off-site improvements that are not considered contiguous. Would all access roads need to be included in the acreage covered under the NOI to create a contiguous area? Please define access road. How does one define the start and end of an access road? One drives on roads the minute one leaves their home and drives to work (ie construction site). At what point does a traveled road become an access road? Is it defined by road traveled within the property boundary, paved or unpaved?

Please note that if the initial calculation are required to include all acres to be disturbed during the duration of the project, then the Risk Level may be unnecessarily skewed to being a higher risk level. Suggest revising this statement to be that the NOI must cover the area to be disturbed, not necessarily the entire area of the project. The NOI would be revised as construction progresses.

What is the Small Construction Erosivity Wavier surcharge fee for?

Third Paragraph on page 2: Please confirm that checks are made payable to the "State Water Board" and no longer the "State Water Resources Control Board."

Pg. 2 Sec. E: Please define construction activity. Is that mobilizing construction, dropping lumber, bringing in the job trailer, disturbing soil, and etc.

Pg. 3 Sec. J 2: Will 5 site maps need to be submitted to reflect the 5 distinct phases of construction as described on page 3 of the Findings?

Attachment C Risk Level 1 Requirements

Pg. 1 Sec. B c: Will all chemicals need to be stored in watertight containers or in a storage shed (completely enclosed)? If the material is actively being used, can this text be replaced to state "secondary containment"?

Pg. 2 Sec. B 2 g: Please define hazardous and non hazardous spills.

Pg. 3 Sec. B 4 c&d: Define erodible landscape material

Pg. 5 Sec. E 1: A sediment control measure may not be practical at the project perimeter (what if there is sufficient erosion control)? What if the construction site perimeter travels up a slope where sediment control measures wouldn't be practical along the perimeter?

Pg. 5 Sec. G 2: Are pre and post-rain inspections required as well?

- Pg. 6 Sec. G. 5 h: Is there criteria for the photographs taken and submitted?
- Pg. 8 Sec. I 2 d: REAPs are not required for Risk Level 1 projects, therefore this text should be removed from this section.
- Pg. 8. Sec. I 3 a: Define a qualifying rain event.
- Pg. 8 Sec. 3 b: Please clarify the term "derived from and discharged subsequent to".
- Pg. 8 Sec. 3 c: Please change the term "business hours" to "job site hours" to be consistent with the rest of the permit.
- Pg. 8. Sec. I 3 e i: How can you visually observe/identify any spills, leaks, or uncontrolled pollutant sources prior to each qualifying rain event? Should it read "after" instead of "prior".
- Pg. 9. Sec. I 3 e: Remove REAP since not applicable for Type 1 projects.
- Pg. 9. Sec. I 3 f: Replace "c" with "e".
- Pg. 9, Sec. I 3 g: Pg. 5. Sec. G.2 states inspections performed at least once each 24-hour period during extended storm events....., however this section requires post rain event visual inspections. Please clarify in both sections and make consistent.

Attachment D Risk Level 2 Requirements

- Pg. 4. Sec. B 7: Please clarify this statement. Does this mean that Risk Level 1 projects are not required to document all housekeeping BMPS in the SWPPP?
- Pg. 5. Footnote 2: Define preliminary stage.
- Pg. 6. Sec. E 7: Define "immediate access roads".
- Pg. 8, Sec. H 3 b: Does the Risk Level need to be recalculated at time the REAP is prepared? How do I change my risk level as I progress through construction?
- Pg. 8, Sec. H 3 c&e: Define "Site Storm Water Manager" and "Storm Water Sampling Agent".

Ms. Jeannine Townsend
June 24, 2009
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Additional general comments:


Please provide guidelines for the electronic submittal process. During the public hearings the process was discussed and it appeared that the process was still being developed but when the process has been finalized please provide a guidance document on how to file electronically all documents required. This would be very useful to the dischargers.

The option to choose an R Factor should not be solely based on the timeframe of the project (length of construction). The R Factor should be based on the "Phase" of Construction. Furthermore, the R Factor should be reevaluated throughout the life of construction.

We thank you for considering these comments. If you have any questions regarding our comments you can reach me directly at (619) 688-1448 to discuss further.

Sincerely,

RICK ENGINEERING COMPANY


Jayne Janda-Timba
R.C.E. #70649, Exp. 06/09
Associate

JJT:vs:k/mydoc/miscjtt/townsend