

January 2012

# The Monthly Dirt

A Monthly Newsletter on the California Construction General Permit  
By WGR Southwest, Inc.

## No More NELs!

The construction community received an early Christmas present last month! On December 2, 2011, the Superior Court of California overturned the Numeric Effluent Limitations (NELs) contained in the California Construction General Permit. This resulted from a court case brought by the California Building Industry Association (BIA) against the State Water Resources Control Board. The BIA challenged portions of the CGP contending that its adoption was procedurally flawed and that its provisions violate the Clean Water Act (CWA) and the Porter-Cologne requirements. The court denied most of BIA's petitions, but the one challenge that was upheld by the court was concerning the NELs. The petitioners contended that the turbidity and pH NELs imposed by the CGP were not developed or evaluated in compliance with the CWA provisions for "technology based effluent limits" (TBELs). They claimed the NELs had not been derived from performance data for applicable BCT measures and practices, while the technical capabilities and cost benefit of using the applicable BCT measures and practices had not been assessed pursuant to CWA factors. The State Water Board could not provide ample data to substantiate that it had indeed followed the CWA process for determining TBELs. Therefore, the court ordered that the NELs in the permit be invalidated until the State Water Board can properly derive a numeric TBEL.

**What does all this mean?** Well, probably not much unless you are on a Risk Level 3 project. You may recall that NELs only applied to Risk Level 3 projects. The NELs for pH were 6.0 and 9.0 and the NEL for turbidity was 500 NTU. Until this ruling, a Risk Level 3 site having analytical results beyond those numbers was automatically out of compliance and the "fine was in the mail". You will also remember from your QSP/QSD training that NEL violations not only resulted in a Notice of Violation, but triggered receiving water monitoring, accelerated reporting requirements, and additional testing for Suspended Sediment Concentration (SSC). If there is now no NEL to violate, then these additional requirements most likely will no longer apply.

No official announcements or news releases have yet been given by the State or posted on their website. Shortly after the court ruling, WGR had a conversation with a senior member the State Water Board's storm water staff and we asked him his thoughts on the ruling. He said the Water Board staff was considering their options, which include everything from reopening and re-writing the CGP to doing nothing and letting the court ruling stand. His unofficial opinion was that the Water Board would most likely do nothing at this time, letting the court ruling stand, and wait until the permit expires and goes through the renewal process before they amend it. The California Storm Water Quality Association (CASQA) stated in their December 12, 2011 Water Quality Newsflash that CGP permittees should assume the NELs are in effect until notified otherwise by the State Water Board. WGR believes that this is an overly cautious perspective. Last month's court ruling invalidated the NELs and they will not be in effect until the court ruling is appealed and overturned. It should not be necessary to wait to hear from the State.

However, there are a couple of important things to consider. First, numeric action levels (NALs) still apply for Risk Level 2 and 3 projects; meaning that corrective action must still be taken for NAL exceedances. To not do so would mean non-compliance with the CGP. Second, the court ruled that NELs for Active Treatment Systems do meet the TBEL guidelines and are still valid. But for now, we can be happy for a step in the right direction in bringing some reasonableness to this very challenging permit.

## **Bret's QSP Chatter..... Inspections!!!!!!**

As we look at the requirements for inspections and what we are supposed to complete at our job sites, this topic is a tough one to swallow. We are busy enough with our own responsibilities on the site to worry about all these inspections the Construction Permit mandates us to do!!!!!! As the QSP or designated responsible individual, we find ourselves pushing the limits on completing them and potentially making a nightmare of the Annual Report.

I am going to break them down so we can hopefully make sense out of them.

**Weekly Inspection** – The Permit says we have to conduct a weekly inspection during all phases of construction. No big deal we are constantly on the site so this is a check in the box and easy to do. Just remember, even if the site is inactive we still must conduct a weekly inspection.

**Before Predicted Rain Inspection** – This inspection will give you the biggest fits as now you have to watch the weather. NOAA is the only weather site accepted by the Permit so make it one of your favorites. The permit doesn't say when it is supposed to be conducted but in a recent FAQ on the Water Board website, they define this as being "48 hours prior to a rain event with a 50% chance or greater of precipitation."

**During Rain Event Inspection** – This one is pretty easy but if the site is inactive then you can guess who has to do the inspection. This inspection must be conducted "every 24 hours during extended rain events". So when it's raining put on your muck boots and get after it.

**Following Qualifying Rain Event Inspection** – This inspection is much like the "before predicted rain inspection" except that it is conducted after a qualifying rain event. Remember, a qualifying rain event is one that produces a ½ inch of rain bookended by 48 hours of dry weather, meaning that 48 hours prior to the event and 48 hours after the event it was dry. The permit states that this inspection will be conducted "48 hours after the conclusion of a qualifying rain event."

**Contained Storm Water Release Inspection** – This inspection revolves around storage basins, detention ponds, and retention basins. If you are going to empty or discharge any of these you must inspect them every 24 hours during the discharge.

**Quarterly Non-storm Water Inspection** – This inspection is probably the easiest to perform and takes very little of your time. To conduct the inspection it only requires you to walk the site and inspect it for any potential non-stormwater that could be leaving your site. Ok so what is non-stormwater????? Well, if it's not falling from the sky and it's a liquid leaving your site it probably qualifies as non-stormwater!!!!!!

During an inspection if a BMP requires maintenance the Permit mandates that you have 72 hours to implement corrective action.

One last thing to remember when you are at the site conducting these inspections. Many of them can be completed at the same time such as the Weekly, Before Predicted Rain, and Quarterly Non-stormwater. Use the inspection form to help you not hinder you.

## **Upcoming Training ...**

- Got SWPPP? QSP/QSD Classes
  - ✓ Fresno – Jan. 17-19, 2012
  - ✓ Fairfield – February 7-9, 2012
  - ✓ Lodi – March 6-8, 2012
  - ✓ Merced – April 10-12, 2012
- Customized training ... bring WGR to your facility or project site. Call us for more info.
- If you are interested in taking a CESSWI review class in the Lodi area, contact Lisa Smith at [lsmith@wgr-sw.com](mailto:lsmith@wgr-sw.com). If there is enough interest, she will coordinate an event taught by an Enviro-cert Intl.-approved instructor.

## **John's QSD Chatter**

### **SWPPP Writing Tips**

Before starting to write a SWPPP document, in addition to the construction drawings, gather the following documents:

- The bid specifications which will help identify the project scope and activities. Also, sometimes specific storm water control measures or housekeeping BMPs are required by the bid spec.
- The CEQA Environmental Impact Report (EIR) or mitigated negative declaration. Usually, these documents will specify required storm water control measures.
- Dept. of Fish and Game (DFG) permits or letters of opinion. What they say in these documents may limit what you can do with storm water BMPs.
- Other permits, such as Section 401 and 404 permits and Low Volume Waste / De-watering NPDES Permits.
- The soils report for the project.
- The construction schedule.

*Please contact us if you have any questions ...*

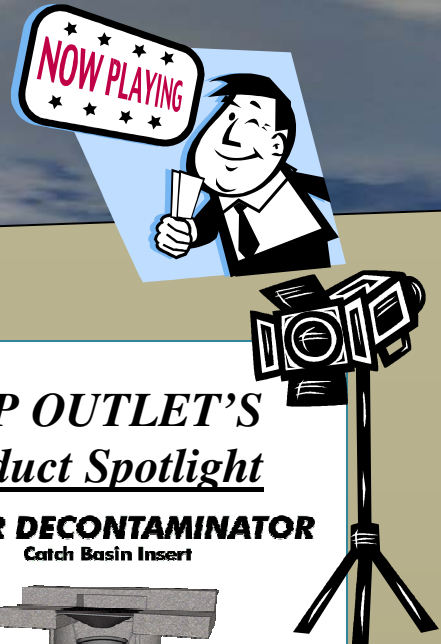
### **The Monthly Dirt** Newsletter Editor:

John Teravskis, QSD, CPESC, REA-I  
[jteravskis@wgr-sw.com](mailto:jteravskis@wgr-sw.com)  
(209) 334-5363 ext. 202 or (209) 649-0877

**Technical Questions about Environmental Compliance?**  
Call ...

**Bret Smith**, QSP, CESSWI  
[bsmith@wgr-sw.com](mailto:bsmith@wgr-sw.com), (209) 642-0181

**Bill Senner**, QSP, CESSWI  
[bsenner@wgr-sw.com](mailto:bsenner@wgr-sw.com), (310) 629-5260



*January Special*

**Oakton T-100 Turbidity Meter Kit \$849**  
(Regularly \$921)

**Contents include:**

Four primary calibration standards, Collection bottle, Lint-free cloth, Silicone oil, Batteries, Hard carrying case.

- Model: WD-35653-00
- Shipping Weight: 4lbs



**BMP OUTLET'S**  
**Product Spotlight**

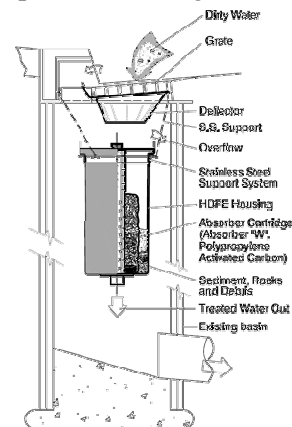
**WATER DECONTAMINATOR**  
 Catch Basin Insert



Applications include removal of oil and contaminants from water run-off sources:

- \* Urban run-off
- \* Roadways
- \* Parking lots
- \* Oil & fuel spills
- \* Military bases
- \* Airports
- \* Industrial sites
- \* Factories
- \* Maintenance areas
- \* Sumps
- \* Fire water run-off
- \* Equipment wash-down

Cleans parking lot run-off, catch basins, ponds, sumps and spills. Cleans dirty water run-off by separating dirt, debris and other solids into a sediment trap. Oils and chemicals are absorbed in a disposable cartridge



**Dewatering Bag**

The D-Watering Bag is an effective device for separating sediment from pumped water. Made from heavyweight, nonwoven geotextile fabric, the D-Watering Bag filters water diluted by solids and sediment with ease. The input sleeve is designed to accommodate several hose diameters. Securing the D-Watering Bag to the hose is quick and easy with heavy duty webbing and d-rings sewn to the sleeve. To maintain uniform integrity, each D-Watering Bag is sewn with a 4 thread lockstitch hem an additional perimeter lockstitch using high strength, marine-rated poly thread.



Product Specifications

- Material 8 ounce nonwoven geotextile
- Strapping Weather resistant 2" polypropylene webbing
- Available sizes 3'x4', 4'x6', & 6'x9'

Visit us at [www.bmpoutlet.com](http://www.bmpoutlet.com)