



Agenda Date: 12/12/2006

Agenda Placement: 6F

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors  
**FROM:** Michael Stoltz for Robert Peterson - Director  
Public Works  
**REPORT BY:** Todd Adams, Stormwater Program Specialist, 253-4823  
**SUBJECT:** Adoption of resolution establishing construction site runoff control requirements.

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### **RECOMMENDATION**

Director of Public Works requests adoption of a resolution establishing Construction Site Runoff Control Requirements for structural projects that require a building or grading permit.

### **EXECUTIVE SUMMARY**

On November 21, 2006, Public Works staff presented to the Board of Supervisors proposed construction site runoff control requirements recommended for the entire unincorporated area. Based upon the feedback and direction from the Board, staff is returning with a proposed resolution for approval and adoption to establish the Construction Site Runoff Control Requirements. These requirements will become effective immediately upon adoption of the resolution.

### **FISCAL IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Public Works
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	The County's General Stormwater Permit requires the County to eliminate all illicit discharges in the Napa River watershed. This resolution covers the entire unincorporated area of Napa County based upon the goal of applying uniform pollution control requirements for all receiving waters within Napa County. This is consistent with the Stormwater Management and Discharge Control Ordinance No. 1240 adopted on June 22, 2004.

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Is the general fund affected?	No
Future fiscal impact:	The cost of administering the Construction Site Runoff Control Requirements (i.e. plan review and inspections) will be recovered through time and material fees presently collected.
Consequences if not approved:	The County must adopt Construction Site Runoff Control Requirements to remain in compliance with the General Permit. Potential liability for the County for construction sites that discharge pollutants into the County's stormwater conveyance system is a maximum fine of \$10,000 per violation, per day.
Additional Information:	None

### **ENVIRONMENTAL IMPACT**

**Categorical Exemption Class 5:** It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. The project will not impact an environmental resource of hazardous or critical concern, has no cumulative impact, there is no reasonable possibility that the activity may have a significant effect on the environment due to unusual circumstances, will not result in damage to scenic resources, is not located on a list of hazardous waste sites, cause substantial adverse change in the significance of a historical resource or extract groundwater in excess of the Phase 1 groundwater extraction standards as set by the Department of Public Works. [See Class 5 ("Minor Alterations in Land Use Limitations") which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15305; see also Napa County's Local Procedures for Implementing the California Environmental Quality Act, Appendix B.]

### **BACKGROUND AND DISCUSSION**

On May 20, 2004, Napa County was issued coverage under the Phase II Municipal Stormwater National Pollutant Discharge Elimination System General Permit (General Permit) for the areas within the Napa River watershed. Under the conditions of the General Permit, the County must develop and implement programs to reduce the discharge of pollutants to the maximum extent practicable.

The Board also adopted Stormwater Management and Discharge Control Ordinance No. 1240 on June 22, 2004. This ordinance covers the entire unincorporated area of Napa County based upon the goal of applying uniform pollution control requirements for all receiving waters within Napa County.

The County must adopt Construction Site Runoff Control Requirements to remain in compliance with the General Permit.

A workshop presenting the proposed Construction Site Runoff Control Requirements was conducted at the regular meeting of the Board on November 21, 2006. The following information was provided as part of the November 21 presentation.

### **Overview of Proposed Construction Site Runoff Control Requirements**

The proposed Construction Site Runoff Control Requirements are designed to meet the conditions of Elements III and IV of the General Permit by ensuring that building and grading applicants, with the greatest potential to impact water quality, comply with the following:

1. Prepare plans for review and approval by the Department of Public Works (DPW) to ensure that all pollutant sources are addressed and that Best Management Practices (BMPs) selected are appropriate for the site conditions. Plan review is a ministerial action that is not subject to the California Environmental Quality Act (CEQA) review.
2. Train all construction site workers/contractors to ensure that BMPs are implemented properly.
3. Conduct self-inspections to evaluate BMP effectiveness, make repairs, and/or revise implementation to ensure that pollutants discharged from the construction site are reduced to the maximum extent practicable.
4. Submit to routine inspections by DPW based on the project's potential to discharge pollutants to ensure that illicit discharges are prevented or corrected.

It is proposed that building and grading permit applications will be subject to the Requirements if they meet any of the following criteria:

- | disturbance of 10,000 square feet or more, or
- | located on slopes 15% or greater, or
- | within 50 feet of a stormwater conveyance system, or
- | earthmoving of 50 cubic yards or more.

All other grading and building permits issued by the County must comply with standard conditions of approval for BMP implementation to address all pollutant sources including erosion control, sediment control, and material management. These projects are not subject to routine inspections, but may be inspected by the DPW in response to complaints reported to the stormwater hotline.

In addition, the proposed Construction Site Runoff Control Requirements will extend the grading season for some structural projects and eliminate the distinction between Sensitive Domestic Water Supply Watersheds (SDWSWs) and non-SDWSWs. These proposed modifications to the existing Conservation Regulations will simplify the grading seasons for different categories of structural projects and better reflect actual weather patterns in Napa County.

### **Justification for Applying the Requirements to Projects under 1 Acre and under 15% Slope**

#### Applicability Criteria

The criteria developed to determine whether projects must prepare a plan and be subject to routine inspections by the DPW is based upon the project's potential to pollute waterways. The four factors that determine a project's potential to pollute include the area of disturbance, the slope, proximity to a stormwater conveyance system, and the amount of cut and fill. The basis for selecting criteria is summarized below.

1. 10,000 square feet of disturbance or more - Projects that disturb one acre or more are already subject to the State's NPDES General Permit for Construction. These projects are required to prepare and implement a Stormwater Pollution Prevention Plan (SWPPP), conduct inspections, and training, and in some cases conduct sampling and analysis. DPW experience is that projects disturbing 10,000 square feet or more (approximately 1/4 acre) are significant and should be required to prepare and submit a plan for review and approval. Illicit discharges from projects of this size have been observed, and might have been prevented had a plan been submitted for review by DPW staff. 10,000 square feet is still a high enough threshold that most single family home construction and additions will not have to prepare or submit plans or be included in the routine inspection program.
2. 15% slopes and greater - This criteria is consistent with the County's Conservation Regulations.
3. Within 50 feet of a stormwater conveyance system - Projects with disturbance near stormwater conveyance

systems (curb and gutter, ditches, creeks) do not have much buffer to filter pollutants if erosion and sediment control BMPs are not effective or fail. The DPW developed the criteria of 50 feet based upon the typical widths required to adequately filter sediment for slopes between 0% and 15%.

4. Earthmoving of 50 cubic yards or more - The criteria of 50 cubic yards of cut and/or fill is based upon the threshold for a grading permit per California Building Code.

These criteria are also consistent with the stormwater requirements in adjacent counties.

### Summary of Costs

Projects subject to the proposed Construction Site Runoff Control Requirements will incur the cost to 1) prepare a plan, 2) submit it for review, and 3) be subject to inspections by DPW.

The potential costs are summarized as follows.

1. The cost to prepare a plan will vary depending on the nature of the project. Larger projects and projects in sensitive areas will require a longer and more comprehensive plan which takes more time to prepare. To minimize costs, the proposed requirements allow applicants to prepare their own plans unless the project is on a slope greater than 15%. The DPW has also provided a template which the applicant may use to prepare their own plans.
2. The typical cost to review and approve plans ranges from \$72 to \$144 provided the plan is complete. In some cases additional time may be required to provide comments and/or modifications that improve the overall plan and effectiveness of BMPs. Based on the DPW's experience reviewing and approving plans, these comments and modifications to the plans often result in lower construction costs for the applicant by ensuring that BMPs are appropriate for their use and effective at eliminating illicit discharges.
3. The frequency of inspections by DPW depends on the project's potential to result in illicit discharges (i.e. area, slope, proximity to a stormwater conveyance system, amount of cut and fill) and the project's implementation of BMPs. Projects with higher potential to pollute will be inspected more often as will projects with poor BMP implementation.

### Summary of Benefits

Despite the fact that Element IV of the General Permit only applies to construction sites greater than 1 acre, Element III is clear that the County is potentially liable for all illicit discharges. Furthermore, the San Francisco Bay Regional Water Quality Control Board (SFBRWQCB) has indicated that the County must take whatever enforcement action is necessary to abate the discharge in a timely manner. Appropriate enforcement actions for ongoing and recurring discharges include citations, stop work orders, civil injunctions, and/or referral to a State agency for enforcement. Based upon the experience of DPW, projects that developed their own plans without any review or approval often select BMPs that are inappropriate for the site conditions or improperly install them. The plan review process is intended to prevent poor BMP implementation and illicit discharges before enforcement action is necessary and to educate property owners, contractors, and others of the proper use of erosion control measures.

## **SUPPORTING DOCUMENTS**

A . Resolution

B . Napa County Construction Site Runoff Control Requirements

CEO Recommendation: Approve

Reviewed By: Andrew Carey