

May 21, 2004

Allyn Turner, Director
WVDEP Division of Water and Waste Management
414 Summers Street
Charleston, WV 25301
Attention: Anne Howell, Public Information Office

**Re: Comments on West Virginia Division of Highways NPDES permit registration
WVR100830**

Dear Ms. Turner:

On behalf of the organizations and individuals listed below, please accept these comments on DEP's possible registration of the West Virginia Division of Highways (DOH), WVR100830, under the general NPDES permit WV0115924, for storm water associated with construction activities. DOH seeks this permit registration to discharge drainage from construction of a section of Corridor H, a four-lane highway between the South Branch River and 0.6 miles east of County Route 220/8 to unnamed tributaries of the South Branch of the Potomac River, and directly into the South Branch itself. This project will disturb 159.2 acres and is located in Moorefield, Hardy County.

We have reviewed the information sent last week to Evan Hansen at the West Virginia Rivers Coalition by Anne Howell at DEP's Public Information Office. Through a Freedom of Information Act request, Mr. Hansen requested the following information:

1. The permit application
2. The Storm Water Pollution Prevention Plan (SWPPP)
3. For all large maps, a copy of the map names
4. The draft permit itself (if there is a draft permit--but I think this may be a registration under a general permit)
5. The fact sheet (if it exists)

We therefore assume that the information provided by Ms. Howell includes, among other things, the entire storm water pollution prevention plan.

This is one of the first construction sites greater than 100 acres permitted under the general construction storm water permit since the general permit was reissued in 2002 and revised in early 2004 according to an EQB Order. For large projects such as this, it is especially important that DEP require that the project plans meet permit requirements. In the ways described below, this application and SWPPP do not meet the requirements of the permit. ***We request that DEP not approve the registration at this time, and require significant revisions before reconsidering the application.***

The SWPPP is not complete

DOH submitted its Site Registration Application Form dated March 8, 2004 to DEP.

Temporary sediment controls are missing. Question 14 requires a detailed map of temporary sediment controls to be attached to the form. According to DOH's answer to this question, it "Will be performed by the Contractor awarded the project. Approved Contractor's Erosion Control Plan will be available @ WVDOH Field Office." In other words, DOH is asking for DEP approval of a sediment control plan that has not been completed, that will be developed by their contractor in the future. DEP cannot properly review and approve the SWPPP without understanding exactly which temporary sediment controls will be installed. In fact, temporary sediment controls are one of the most important aspects of the SWPPP and are crucial for protecting water quality.

The public review and comment on this application is likewise impossible if these sediment controls are not included with the SWPPP. Maps were provided for many project areas, which show sediment basins, pipe slope drains, and perhaps other temporary controls. But while these maps may show some of the larger structures, they are incomplete.

Seven other questions are not answered correctly. Items 10, 12, 15, 16, 18, and 19 of the application are required and have not been provided by DOH. The "name of the individual who prepared the Pollution Prevention Plan" is missing from item 4.

Many permit requirements are omitted from the application and SWPPP. The general permit requires the following items to be included, but they are not present:

- G.4.b.5 GPP
- G.4.d.1.A Preventive maintenance program
- G.4.d.1.C Identify areas of potential spills & procedures for cleaning up
- G.4.d.1.D Training: type & time frames
- G.4.d.1.E Identify company inspectors
- G.4.e.1.A Timetable for major activities
- G.4.e.1.B Total area of the site
- G.4.e.1.C NRCS soil description; nature of fill material (term "select embankment" may be meaningful to DOH, but not to the public)
- G.4.e.1.D Missing map elements: topsoil stockpiles, waste areas, borrow sites, location of impervious areas, property boundaries and easements, receiving stream, access roads, springs
- G.4.e.2.A.i Schedule of vegetative practices, preservation of existing vegetation; seedbed preparation requirements; dates of grading activities
- G.4.e.2.A.ii Sediment basins appear to have outlets at bottom, not allowing half the volume to be in a permanent pool
- G.4.e.2.(B) Calculations, maps, drawings to show basis for storm water management plan
- G.4.e.2.(E) Maintenance procedures

DOH shows "drainage areas" only for part of the project, does not show "project areas"

for any of the parts, and does not show how and where storm water will reach the waters of the state

DOH is required to show maps and all sediment control methods for the entire project, not just parts of it (G.4.e.1.D and G.4.e.2.(B)).

The first large sheet shows clearing and grubbing starting at station 1516, while "Area #1" starts around station 1533. Area #1 ends around station 1540, while Area #2 starts around station 1545. Areas continue to omit paved areas in this manner. These areas appear to match the "drainage areas" listed in Attachment 17, which therefore is equally incomplete.

Furthermore the drainage areas seem implausible; why would water run sideways along the hill at the SE edge of Area #1, instead of downhill into Area #2?

"Project areas" are crucial for identifying percent increase in impervious area, but they are not shown. The overview map (after Mr. Sothen's signature) shows a sausage shape marked as "project location." This may be the sum of the "project areas," but since drainage calculations are done separately in Attachment 17 for individual drainage areas, the project areas need to be similarly subdivided.

Each 8.5" x 11" area map shows thin lines on both sides of the highway, and crossing the contour lines. While not marked, this appears to be a more precise rendering of the "project location" but it is not subdivided into areas to match the 15 areas listed in Attachment 17. Furthermore all outlets except number 10 are outside these thin lines. The small map for Area #15 also shows some extra dotted lines, without explanation. The document does not show acreage of either the total project area or the 15 individual parts.

The detailed boundaries do not match between large and small maps.

Outlets 2, 3, 4, 5, 7, 9, 10, 11, 12, and 14 do not show any connection to the waters of the state, as required.

While the impervious percentages in Attachment 17 appear to exempt DOH from specific limits on peak post-construction runoff rates, DOH is still bound by G.4.e.2.(B) "protect both the site and the receiving stream from post-construction erosion." Increases of 56% and 88% at outlets 1 and 4 make it very likely that DOH will cause erosion and violate this requirement. There is only an intermittent stream at outlet 1, and no stream shown at outlet 4

Antidegradation is ignored

The current approved part of the antidegradation implementation procedures at 60 CSR 5 do not exempt general permit registrations from the antidegradation process. A full antidegradation review is therefore required before the permit registration can be approved.

Overall, the site registration application and SWPPP are incomplete and do not conform to the requirements of the general permit. For these reasons, we ***request that DEP not approve the***

registration at this time, and require significant revisions before reconsidering the application.

Thank you for considering these comments.

Sincerely,

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