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Your Home Is Our Business

Comments on Connecticut's Draft "General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities"
June 23, 2011

The HBA of Connecticut (HBACT) is a professional trade association with approximately 1,000 member firms statewide, employing tens of thousands of Connecticut citizens. Our members, all small businesses, are residential and light commercial real estate developers, builders and home improvement contractors, and associated trade contractors, suppliers, vendors and those businesses and professionals that provide services to our diverse industry. Our members build 70% to 80% of all new homes and apartments in the state each year. A major forum within the HBACT is the CT Developers Council, which meets monthly to address a wide range of real estate development issues, including stormwater issues. Our members' interests are directly and indirectly affected by the changes in the proposed draft permit.

Our comments are divided between general comments and specific comments referencing various pages of the draft permit. References below to "builder" refer to any builder, developer, remodeler or associate member in our industry which must comply with the new draft permit.

General Comments

The draft Connecticut General Stormwater Permit contains an abundance of new requirements and they go into much more detail than in the old permit. DEP admits that the reissuance of the construction stormwater general permit has "significant modifications from the current permit." (email communication, dated December 21, 2010, from Kevin Sowa, Secretary I, DEP, to construction stakeholders). Accordingly, there will be an increased chance for a builder to miss some of the many new requirements, while, at the same time, the permit application and its paperwork will be under increased public scrutiny (see comment below for page 15 for more on this issue).

Some of the requirements are especially problematic, adding time and expense of compliance and difficult if not impossible regulatory requirements to an already difficult process. This is particularly true for the residential development industry due to the very small business structure of most industry participants who do not possess the staff or resources to adequately handle the workload generated by this draft permit. Therefore, as a general matter, we strongly urge DEP to greatly streamline, shorten and simplify the draft permit, to focus the draft permit solely on controlling stormwater runoff from construction sites, and to remove all requirements and any associated appendixes not relevant to controlling stormwater runoff from construction sites.

In particular, we maintain that there is no connection to controlling stormwater runoff from construction sites with the requirements – or even suggestion or referral - for archeological and historic preservation review (Appendix G) or endangered species review (Appendix A). We find the inclusion of these two requirements to be irrelevant to stormwater controls. In addition, we maintain that the DEP has no legal authority to incorporate by reference or otherwise require

such endangered species review for those private development activities falling outside the authority granted to the agency in the CT Endangered Species Act (CESA). Our legal arguments on this comment are made separately through our legal counsel, Greg Sharp, Murtha Cullina LLP.

Also, DEP should delay final implementation of the draft permit due to several ongoing developments:

First, pursuant to ongoing discussions with DEP about how to implement provisions of House Bill 6400, even though it did not pass the general assembly in the 2011 regular session, we urge changes to the draft permit in order to incorporate a desired two-track system, i.e., authorizing the use of certain stormwater professionals to certify compliance with the permit, or requiring permit applicants to proceed with outside District review as outlined in the current draft, or as to be modified. We strongly urge the DEP to keep this option open and work with stakeholders to implement as much of this two-track system as possible. Further, it is the intent of the stakeholders and legislators who worked on HB 6400 to bring it back as soon as possible to work out any remaining issues and adopt it into law. Therefore, we urge DEP to delay finalizing this permit until such legislation is adopted; otherwise the permit would have to be opened up to incorporate legislative changes – likely a more cumbersome process. In the alternative, if DEP decides to push toward final adoption without waiting for adoption of this legislation, we again encourage DEP to incorporate as much of the concepts within HB 6400 as possible now.

Second, DEP has been undertaking a Low Impact Development guidance project. The Final Report of the LID working group was recently posted on the DEP's web site (all 373 pages) and a 6th meeting of the LID working group was held just this past Monday, June 20, 2011, with a 7th meeting to be scheduled. Since the draft permit references LID practices, it seems prudent to delay final adoption of the permit until DEP adopts or otherwise recognizes the LID Final Report, and then make appropriate cross references in the permit to avoid unnecessary confusion on the part of the regulated community (see specific comment below for the definition of Low Impact Development" at page 5).

Third, because a new national stormwater rule will be made final in late 2011 or 2012, it would make sense to extend the present CT General Stormwater Permit and finalize it after the federal rule is adopted. Otherwise, the new permit will have to be re-opened to address the new requirements in the 2012 federal stormwater rule, assuming that the draft CT permit is finalized this year.

Our final two general comments concern the time to complete review and the excessive fees the draft permit imposes on general permit registrants.

In addition to specific comments regarding timing noted below for page 9, Section 3*(c)*(*1*)(A), under the draft permit a schedule for submitting a general permit registration could look as follows: Submit Plan to Conservation District (day 1); District issues comments (day 30); Applicant revises plan (day 45); Conservation District reviews revisions (day 60); Submit to DEP 90 days before construction for smaller sites, 120 days for sites with 20 acres or more of disturbance (day 150 or 180). This 5 to 6 month time schedule does not include the

recommendation provided in the draft permit to begin an applicant's historic preservation, archeological review and endangered species review "*up to one year (or more)* prior to the projected construction initiation date and, if possible, prior to property purchase." This "one year (or more)" period must precede submission to the Conservation District because such reviews are required as part of the permit registration. So, essentially, the timeline to obtain a stormwater general permit for construction activity is 1 year plus 5 or 6 months (or more).

Five or six months alone is patently unreasonable, let alone tacking on the time period to begin historic preservation, archeological reviews and endangered species reviews. It would place an undue burden on the development community to have to advance a project through local approvals and to the stage necessary to complete this application process and then wait five to six months for this process to complete. We urge DEP to greatly streamline the review timeline by: 1) deleting the historic preservation, archeological reviews and endangered species reviews; 2) allowing self-certification of compliance by stormwater professionals (i.e., the self-certification track), and 3) for a non-self-certifying track, allowing the simultaneous submission to Conservation Districts and DEP of a permit registration to make their respective reviews concurrent rather than sequential.

Finally for general comments, the application fees under the draft permit are excessive. For locally approvable projects, the fee to DEP is $625 (page 12 of the permit), but this is after substantial fees are paid to the Conservation Districts for review. These District fees, outlined in Appendix F, Exhibit 1, for residential developments are based on the number of lots, while commercial and multifamily developments are based on number of disturbed acres. Subdivisions with smaller lot sizes, a trend promoted by smart growth principles, are penalized by this fee system. For example, a hypothetical 20 lot clustered subdivision, disturbing, say, a total of 5 acres will pay a fee of $4,635 to the Conservation District, whereas another project disturbing the same acres pays $2,200. The $4,635 fee equates to almost 58 hours of time at $80/hour. This 58 hours of time is an inordinate amount of time for the Conservation District's review, and suggests to us that the District's schedule of fees will be, in most cases, a windfall revenue source for these nonprofit organizations.

Moreover, add the District fees and DEP's fee together, combined with the expense of the many new requirements contained in the draft permit, plus the time value of money associated with the timing issues mentioned above, this single new permit program could add over $1,000 to the cost of every new home or apartment unit in the state. We suggest that controlling stormwater runoff from construction sites does not have to be this complicated, time-consuming or expensive and we urge DEP to implement simpler, quicker and less expensive regulatory oversight of stormwater controls on construction sites.

Specific Comments

Page 4 Definitions: We have been informed that the new definition of "Effective Impervious Area" is not correct or valid and urge DEP to double check this definition.

Page 5 Definitions: The definition of "Low Impact Development" appears too limiting. To better coordinate and be consistent with the DEP's ongoing LID Guidance development effort,

we suggest the following amended definition for LID: "… means a ~~site design~~ strategy that maintains, mimics or replicates predevelopment hydrology through the use of site design principles and small-scale controls integrated throughout a site to manage runoff volume and water quality at the source. LID methods are not appropriate for all sites and different LID methods should be designed specifically to accommodate both project needs and specific sites." This definition would send clear guidance to both the regulated community and other regulators of developments that LID methods are not automatically beneficial or practical to controlling stormwater runoff. Also, Appendix B and other sections of the draft permit reference LID principles. In addition to other comments made about the use of LID (e.g., see comments for pages 18 and 22 below), Appendix B includes strategies for LID that may not be appropriate or comply with the work of the agency's LID task group. In particular, DEP "encourages the utilization of one, or a combination of …" a list of specific LID measures, without any indication of a performance goal or standard.

Moreover, the work of the LID Task Group, based on its most recent meeting, is now confusing at best. It has been all participants' (including DEP representatives') understanding that LID methods would not be mandated in this permit, yet the latest meeting of the LID Task Group seemed to suggest LID would be mandated. DEP needs to clarify its intent regarding its LID work as it is integral to not only the draft permit but also how other land use regulators, e.g., local planning, zoning and wetland agencies, will treat LID methods.

Page 6 Definitions: For the definition of "Qualified Inspector" we strongly suggest specifically referencing or acknowledging CPESC, CPSWQ and other certification programs, and adding a more reasonable definition of qualified inspector. Given new inspection requirements, it is critically important to have available to the regulated community as many qualified inspectors as possible. See related comments for pages 24-25, Inspections.

Page 8, One of the requirements for authorization, item (6) Discharge to Groundwater, states, "The stormwater is *not* discharged entirely to groundwater, meaning a stormwater discharge to a surface water will not occur up to a 100-year, 24-hour rainfall event."

We have no idea what this means or how to comply with it. Does it mean that unless you experience a 100-year, 24-hour event or larger, then no stormwater discharges can be made to surface water (meaning that all rainfall must be infiltrated or transpired on site)? If that is the meaning, on some sites this will not be possible without great expense and increased liability for potential BMP failures. CT DEP needs to clarify exactly what is meant by the above item. If the intent is to infiltrate as much as possible, flexibility must be allowed for sites with poor soils, near surface rock structures, polluted soils, high water table, etc. to use stormwater management tools other than infiltration methods.

Page 9, Section 3*(b)*(8)(B): This section requires that sites discharging to impaired waters meet the requirements of the permit's section 5(*b*)(3), which is pages 23-24 of the draft permit, and "receives a written affirmation determination from the commissioner that the discharge meets the requirements of that section." Without such an affirmation from the commissioner, the permit is not authorized.

This section, therefore, requires that construction activities need to first commence at the site to demonstrate that they meet the permit requirements, then the commissioner affirms compliance with this section, then and only then is the permit authorized, yet without the Commissioner's affirmation of compliance Section 3(b)(8)(B) on page 9 states, "the construction activity is not authorized by this general permit …." This "Catch-22" - construction activity is not authorized without the referenced Commissioner's affirmation, and you cannot get that affirmation without conducting construction activity – makes no sense.

If the intent of the language is for the commissioner's staff to do their own review of the permit and the stormwater management plan for the project after an initial review and approval of the project by CT DEP has already taken place, such reiterative actions to review construction projects add cost and delay to the project but provide no additional environmental benefit. Focus should be on getting an adequate review of the project, not multiple reviews. In any case, the impossibility of complying with Sections 3(b)(8)(B) and 5(b)(3) must be fixed. We also have additional specific comments regarding section 5(b)(3) on pages 23-24 below.

Page 9, Section 3*(c)*(*1*)(A): Requires that a completed permit registration be filed 90 days prior to commencement of construction. The old permit required 30 days advanced registration.

We urge the DEP to articulate a valid reason for tripling this time period, to consider a shorter period of time and, again, to implement a two-track permitting system. For stormwater professional certified registrations, the only time period to wait for after submittal should be the public notice and comments period. For the outside District and DEP review track, we offer to work with the agency to reduce the total time to no more than 60 days, followed by the public notice and comment period. Simultaneous submission to the outside District and DEP should shorten the total length of review time, with the District reviewing the plan for compliance and the DEP reviewing other aspects of the permit registration for compliance.

Page 10, Section 3(c)(3) Re-Registration of Existing Projects: This section requires that for projects for which no Notice of Termination has been submitted, a Re-Registration Form shall be submitted no more than sixty (60) days after the effective date of this new general permit. This is not sufficient time in which to notify the universe of possible projects falling under this section and is very likely to catch many small businesses off guard, putting them in violation. Rather than require re-registration of existing projects, we urge the DEP to simply send a notice to existing registrants that a Notice of Termination is required.

Page 13, Section 4(c)(2)(I) of the draft permit includes new "affirmations" or documentation regarding the project. New requirements include: a) documentation from the DEP Office of Long Island Sound regarding the Coastal Site Plan or its exemption by the Office (using Appendix D of the permit); b) documentation that the construction activity will not endanger or threaten species (using Appendix A of the permit); c) if the site is discharging to impaired waters, documentation that the construction activity meets Sections 5(*b*)(3) and 5(*b*)(8) (see comments on this above for page 9); d) assurance that the construction activity is not within an aquifer protection area (using Appendix C); and e) a written determination notice from the appropriate District that the project plan meets Section 5(*b*) or a notice that the District was unable to comply with the time limit for Plan review (see Appendix F).

In addition to lack of legal authority to apply the endangered species review to private projects falling outside the authority of the CT Endangered Species Act (CESA), the endangered species requirements of the draft permit are especially extensive if state-listed species may be found in the project area. The process, explained in Appendix A takes as many pages to explain it as the rest of the permit (31 pages). The CT DEP recommends that the process for endangered species "*be initiated up to one year (or more)* prior to initiation of the construction project, or, if possible, prior to the property purchase." If state-listed species may be present at the project site, seasonal surveys by qualified biologists or botanists or both, may be necessary. In fact, if multiple hits are found in the natural diversity database of the many hundreds of state listed animal and plant species, a qualified specialist for each species may have to be hired to conduct the review. "These proposed endangered species requirements are the most extensive requirements that I have seen in any draft stormwater permit [in the nation]" – Glynn Roundtree, Environmental Policy Analyst, Water and Wetlands Department, National Association of Home Builders, Washington, DC. We strongly urge the DEP to delete this review not only due to the lack of legal authority to apply it to private projects on private land falling outside CESA's authority to regulate but also due to the extremely onerous, time consuming and expensive proposition it presents for those private applicants finding a "blob" on their project site.

This requirement is especially difficult also due to the breadth of a species' "blob" in the diversity database, possibly extending onto adjacent or neighboring property where an adequate investigation may not be possible. Moreover, whereas in prior permits, this requirement was made a condition of a general permit, the proposed draft permit makes it a prerequisite to obtaining a permit registration – this is a significant ramping up of the applicability of CESA reviews on private activity on private land.

Page 14, Section (L): This is a new requirement for a description of "the proposed total effective impervious area for the site and for each stormwater outfall." How will this information be used by DEP? If used for only redeveloped sites (see page 22, subsection (b), noting a requirement to design a site to achieve an effective impervious area of less than twelve percent (12%)), then the requirement for this description should be limited to only redeveloped sites.

Page 14, Section (M): This requires documentation that the construction activity has been reviewed for consistency with state Historic Preservation statutes (using Appendix G). Therefore, in accordance with Appendix G, an applicant for a stormwater general permit registration must, in all cases, first "Determine if the proposed site is within an area of [historic] significance" and "Assess site characteristics to determine the presence of a potential archeological site, sacred site, and/or scared object …." If there's any positive indication from these reviews, further investigation may be required by the CT Commission on Culture and Tourism. DEP advises applicants for this general permit that this review "**be initiated up to one year** prior to registration for this permit *(or prior to property purchase if possible)…*" Appendix G (emphasis in original). These historic and archeological reviews have no relevance to stormwater regulation and we strongly urge DEP to eliminate this requirement from the permit, especially for private projects on private land (e.g., locally approvable projects).

Page 15, Section *(e)*: This subsection covers the public review period for both the project registration and the project plans. The HBA of CT has been informed, and we hereby make DEP aware, that in the Chesapeake Bay region, environmentalists are planning to oppose as many construction projects as possible once project information becomes available on state websites. EPA is actively encouraging members of the public, especially environmentalists, to review the paperwork generated by builders seeking permits for new construction projects and the inspection logs of active construction projects if they are publically accessible. Due to this heightened public scrutiny, CT builders will need to ensure that their paperwork, especially their stormwater management plans for new projects, are as complete and as error-free as possible; otherwise delays in projects are likely due to this increased public scrutiny. Therefore, again, we urge DEP to make the draft permit as short, as simple and as certain as possible so that the many small business participants in the residential construction industry do not get caught in this public scrutiny trap.

Page 17, Section 5(a)(5): This section refers to a new requirement for High Quality Waters, requiring conformance to the Connecticut Anti-Degradation Implementation Policy in the Water Quality Standards. With no experience with this policy, more investigation and explanation by DEP as to what this requires is warranted.

Page 17, Section 5*(b):* This covers the Stormwater Pollution Control Plan in more detail than the last permit and in more detail than in most other state stormwater permits. A potentially troubling new requirement may include Section 5*(b)(1)(B)*(i) which requires that the site plan indicate "impaired waters (identifying those with and without a TMDL)…". We are not aware of any easy access for a builder to a website where all existing impaired waters, including those with and without a TMDL, in the state are listed? How, then, can builders comply with this requirement? We urge DEP to first create a reasonable and accurate way to make such information available to permit seekers over the internet.

Page 18: A new section (v) on this page addresses low impact development (LID) information requirements under the permit. Subsection 5(b)(1)(B)(v)(a) refers to slopes 3:1 and steeper. Does this refer to natural or man-made slopes? Subsection 5(b)(1)(B)(v)(c) requires information on soils suitable on the site for infiltration and the best locations for infiltration BMPs. The section mandates infiltration rates be measured by a field permeability test. There is not adequate CT state guidance existing for determining infiltration test locations on a building site (how many tests are required, how the spacing of tests are determined, etc.). Therefore, we are not sure how builders can best meet this new requirement. Moreover, measuring the location of all areas with soils suitable for infiltration and areas of the site best suited for infiltration will be expensive and is not necessary for the design of many LID methods. Again, we urge DEP to delay final adoption of this permit until the DEP's LID task group work is completed; then, rather than place LID information, and specifically LID standards, in this general permit, simply reference the LID work as it is incorporated into or amended to the Stormwater Quality Manual and Guidelines.

Page 21, Section 5(b)(2)(B): The new Dewatering Wastewater Standards here states that no visible discoloration of discharge water is allowed. On a site with fine silts and clays, there is no reasonable way to filter very fine particles that may stay in suspension for days. Even the filter

bags that can be used on pump discharges allow these fine particles through. Therefore, this standard is unachievable without elaborate filtration.

Page 22: Subsection (ii) deals with post-construction control measures and states that site design shall incorporate LID practices or other measures to meet performance standards in subsection (i). Throughout the work of DEP's LID task group, it was determined and understood by all participants, including DEP representatives, that LID measures would not be mandatory and not be required in the new stormwater general permit. LID measures would be offered only as optional guidance information. Is it DEP's intent through this provision to reverse that understanding and make LID measures mandatory in all cases? Where LID measures are not feasible or practical, how does an applicant comply with this requirement? We urge DEP to clarify its intent regarding LID measures in this permit.

Further, subsection (i)(a) on this page requires, for the first time, that undeveloped sites meet the Groundwater Recharge Volume in accordance with the CT Stormwater Quality Manual; yet, GRV is not a water quality item; it is a volume reduction requirement. Subsection (i)(b) requires that redevelopment sites meet, if possible, a limit of 12% for impervious pavements at the project site (where this is not possible, a report to the commissioner is mandated). This provision may be in conflict with local regulations and for many sites is likely not achievable. Subsection(i)(c) requires that sites discharging to impaired waters must retain and infiltrate the first 1 inch of rainfall. This seems to be in conflict with the GRV provision in subsection (i)(a).

Page 23: For the first time, this permit requires calculations and designs dealing with controls for "floatables" in section 5*(b)*(2)(C)(ii)(b). The provision needs to make more clear that this is a goal, not a mandate. Also, velocity dissipation controls are noted in 5*(b)*(2)(C)(ii)(c). This provision does not state how these controls are to be designed.

These requirements on pages 22 and 23, individually and collectively, may prove technically challenging and/or expensive to meet. The HBA of CT needs to further investigate the impact of these new post-construction requirements with technical consultants and we urge DEP to do the same. Moreover, a new national post-construction federal rule is expected to be made final in late 2011 or 2012. It would make sense for DEP to wait for the national rule before it finalizes this permit. Otherwise, the permit will have to be reopened to address the new post-construction rule and the Construction & Development Effluent Limitation Guidelines (ELGs) rule which is also expected to be re-proposed in 2011.

In addition, maintenance of the post-construction LID BMPs seems to be unaddressed in the permit. Since maintenance will be required, and in impaired waters certified, we are uncertain how home builders and home buyers will be impacted by LID maintenance requirements. Access to LID devices on homeowner's properties to inspect and maintain them, and deciding on who is responsible for maintaining LID devices on private property are often divisive issues. The permit needs to clarify how these issues are to be handled.

Page 23: Subsection (D)(iv): This page contains new requirements for chemical and petroleum storage on the site, including the need for impermeable containment areas and storage under a roofed area. Read literally, that means a contractor going onto a site with a typical 5 gallon

gasoline container to fuel equipment such as a chain saw or other power equipment, must first construct a roofed shed with impermeable containment. We urge DEP to include an exception from such roofed, impermeable containment requirements for such smaller real-life construction practices.

Page 24: Subsection (B)'s requirement that no more than 3 acres may be disturbed at any time, and to ensure that there will be no discharge to impaired waters from up to a 2-year, 24-hour rain event (3" rain fall) may be impossible to achieve.

Page 24: Subsection (C)(iii) of Section 5(*b*)(3) requires that discharge monitoring take place, if applicable, for any "indicator pollutant" in a TMDL that covers the site. This requirement could prove difficult if it is more than just a visual inspection for the pollutant. It might require complex monitoring procedures difficult to manage in the field, and perhaps laboratory analysis of the samples. Currently, there is no federal monitoring guidance for such procedures at construction sites. In addition, the new requirements of section 3(b)(8) and 5(b)(3) are onerous as it involves a lot more work to review the TMDL reports for a project within such a watershed. Applicants must also show that there is additional Waste Load Allocation in the TMDL, design the project to make sure it is not exceeded and monitor to confirm, or show that the specific requirements of the TMDL are met. There is a lot of variation in the TMDL's so the amount of effort needed to address this issue will vary widely. Is DEP providing guidance to builders on procedures for monitoring of an indicator pollutant?

Further, this section is a component of the requirements in section 3(b)(8)(B), referred to above for page 9, which must receive an affirmative determination by the commissioner. Again, the language seems to require that the construction site must be active and discharging stormwater for the determination to be made. Yet the permit – and, therefore, construction activity – will not be "authorized." The permit needs more clarity on this issue.

Pages 24 and 25, Section (4) Inspections: This subsection requires a rain gauge to be maintained on the site and that "at least once a week and within 24 hours of the end of a storm that generates a discharge, a "qualified inspector" (as defined in the permit and provided by the permittee) must inspect the site for a number of itemized matters and generate a report from the inspections that must indicate whether the site is in compliance with the permit. The requirements for the "qualified inspector" mean that relatively few people will qualify to do the inspections, and it will be expensive for a builder to obtain assurance that the inspector will be on site to do the inspections within 24 hours of the end of a storm.

This section seems fraught with problems, especially the requirements for a qualified inspector (see page 6 of the permit for the inspector's qualifications) and the requirement that the inspection must take place within 24 hours of the end of a storm. If a rainstorm took place on Christmas Eve, would an inspection really be expected to be done on Christmas day? And, presumably, most rainfall events in CT, given that CT is geographically small, means that every construction site in the state will demand the services of a qualified inspector within a very short period of time (i.e., 1 day). Are there sufficient numbers of qualified inspectors, as defined, to handle the workload (inspections, tests, reports) required by the draft permit? At a minimum, the permit must include more realistic qualifications for the qualified inspector, a more realistic time

period for inspections to be done, and a more realistic hierarchy of which sites require more intensive testing and reporting.

Page 25: Section (5)(C) requires that projects covered under the previous CT Stormwater General Permit and still active when this new permit is finalized, must be updated with a number of the most problematic sections from this draft permit. Active projects discharging to sensitive or impaired waters will be eligible to receive additional control measures. We urge DEP to adopt a "grandfathering" provision for projects that have already gone through and are in compliance with previous general permits. Otherwise, this requirement would be like forcing a builder who received a building permit pursuant to the State Building Code being forced to update construction if the State Building Code is amendment during construction. This code requirement is not imposed on builders and we urge DEP to not impose a similar requirement on development sites, particularly since some of the new requirements in this draft permit may be undoable or extraordinarily expensive to do at sites approved under the old permit.

Pages 26 -28: Section 5*(c) Monitoring Requirements* covers proposed new monthly monitoring requirements for turbidity. In addition to monthly monitoring, three representative grab samples are required at different times during a storm event. This sampling is required at all point source discharges, and a report must be submitted to DEP each month showing the results of the testing. This cost will be significant, especially for larger projects with several discharge points, and we urge DEP to consider ways to reduce the cost of its monitoring requirements to permit registrants.

Also, again, the Construction & Development Effluent Limitation Guidelines (C&D ELGs) numeric limit for turbidity, initially withdrawn by EPA after admitting it did not have an adequate technical basis for its original proposal, will be re-proposed shortly by EPA. That rule will likely allow hand-held monitoring devices to be used for compliance and requires monitoring daily for discharges at sites with 20 acres of disturbed land or more. Why does DEP expect that hand-held devices will not be sufficient, based on the column in the Stormwater Monitoring Report for identification of the laboratory where the turbidity analysis is done? (see page 1 of 1, after page 31 of the permit and before Appendix A).

In light of the proposed (or soon to be proposed) C&D ELGs rule, DEP is urged to justify why it is proposing its own turbidity monitoring requirements and how its new requirements will relate to the ELGs rule's requirement for monitoring turbidity at large construction sites. Since the CT draft permit contains no turbidity limit, it is not clear what value the monitoring provides to the state. If CT insists on its own state monitoring requirements, the ability to use hand-held devices to measure turbidity should be allowed rather than the using more expensive and more burdensome laboratory analysis of discharge samples.

Pages 30 and 31: Section 6 Termination Requirements. Section 6*(a)* (1) requires that a new post-construction inspection by a Conservation District is done to confirm compliance with post-construction requirements, and Section 6*(a)*(2) requires that the permit holder shall inspect the site for final stabilization prior to completing the Notice of Termination form. Section 6*(b)* lists a number of new details required on the Termination Form. We urge DEP to incorporate here

the option of allowing a qualified inspector or qualified stormwater professional, as outlined in the legislature's HB 6400 in the 2011 session, to perform the required inspection.

Appendixes: numerous comments on the appendixes are made above in various places.

Thank you for the opportunity to comment on the draft stormwater general permit for construction activities. The HBA of CT looks forward to working with DEP to clarify and amend the permit so it is workable, reasonable and cost effective for the residential construction and development industry and the home buyers who benefit from purchasing our product.

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