

Attachment 3.12-2

Notice of Intent



State Water Resources Control Board

NOTICE OF INTENT

TO COMPLY WITH THE TERMS OF THE
GENERAL PERMIT TO DISCHARGE STORM WATER
ASSOCIATED WITH CONSTRUCTION ACTIVITY (WQ ORDER No. 99-08-DWQ)

**I. NOI STATUS (SEE INSTRUCTIONS)**

MARK ONLY ONE ITEM	1. <input checked="" type="checkbox"/> New Construction	2. <input type="checkbox"/> Change of Information for WDID#	<input type="text"/>
--------------------	---	---	----------------------

II. PROPERTY OWNER

Name GWF Energy LLC	Contact Person Mark Kehoe		
Mailing Address 4300 Railroad Avenue	Title Director, Environmental and Safety Programs		
City Pittsburg	State CA	Zip 94565	Phone (925) 431- 1440

III. DEVELOPER/CONTRACTOR INFORMATION

Developer/Contractor	Contact Person		
Mailing Address	Title		
City	State e	Zip	Phone () -

IV. CONSTRUCTION PROJECT INFORMATION

Site/Project Name Tracy Peaker Project	Site Contact Person Dan Monk		
Physical Address/Location SW1/4, SW1/4 Sec 36, T2S R4E, MDBM	Latitude 37° 45'	Longitude 121° 30'	County San Joaquin
City (or nearest City) Tracy	Zip 95377	Site Phone Number NA () -	Emergency Phone Number (925) 778-8678
A. Total size of construction site area: 40 Acres	C. Percent of site imperviousness (including rooftops): Before Construction: 0 % After Construction: 11 %	D. Tract Number(s): 209-240-11	
B. Total area to be disturbed: 9 Acres (% of total 22.5)	E. Mile Post Marker: _____		
F. Is the construction site part of a larger common plan of development or sale? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	G. Name of plan or development:		
H. Construction commencement date: 01 / 01/02	J. Projected construction dates: Complete grading: 01 / 15 / 02 Complete project: 07 / 31 / 02		
I. % of site to be mass graded: _____			
K. Type of Construction (Check all that apply): 1. <input type="checkbox"/> Residential 2. <input type="checkbox"/> Commercial 3. <input type="checkbox"/> Industrial 4. <input type="checkbox"/> Reconstruction 5. <input type="checkbox"/> Transportation 6. <input checked="" type="checkbox"/> Utility Description: Power Plant 7. <input type="checkbox"/> Other (Please List): _____			

V. BILLING INFORMATION

SEND BILL TO: <input checked="" type="checkbox"/> OWNER (as in II. above)	Name GWF Energy LLC	Contact Person Mark Kehoe	
<input type="checkbox"/> DEVELOPER (as in III. above)	Mailing Address 4300 Railroad Avenue	Phone/Fax (925)431.1440 / 431.0518	
<input type="checkbox"/> OTHER (enter information at right)	City Pittsburg	State CA	Zip 94565

VI. REGULATORY STATUS

A. Has a local agency approved a required erosion/sediment control plan?..... YES NO
Does the erosion/sediment control plan address construction activities such as infrastructure and structures?..... YES NO
Name of local agency: _____ Phone: () --

B. Is this project or any part thereof, subject to conditions imposed under a CWA Section 404 permit of 401 Water Quality Certification?..... YES NO
If yes, provide details: _____

VII. RECEIVING WATER INFORMATION

A. Does the storm water runoff from the construction site discharge to (Check all that apply):

- 1. Indirectly to waters of the U.S.
- 2. Storm drain system - Enter owner's name: _____
- 3. Directly to waters of U.S. (e.g. , river, lake, creek, stream, bay, ocean, etc.)

B. Name of receiving water: (river, lake, creek, stream, bay, ocean): _____

VIII. IMPLEMENTATION OF NPDES PERMIT REQUIREMENTS

A. STORM WATER POLLUTION PREVENTION PLAN (SWPPP) (check one)

- A SWPPP has been prepared for this facility and is available for review: Date Prepared: ___/___/___ Date Amended: ___/___/___
- A SWPPP will be prepared and ready for review by (enter date): 12/01/01
- A tentative schedule has been included in the SWPPP for activities such as grading, street construction, home construction, etc.

B. MONITORING PROGRAM

A monitoring and maintenance schedule has been developed that includes inspection of the construction BMPs before anticipated storm events and after actual storm events and is available for review.
If checked above: A qualified person has been assigned responsibility for pre-storm and post-storm BMP inspections to identify effectiveness and necessary repairs or design changes..... YES NO
Name: _____ Phone: () --

C. PERMIT COMPLIANCE RESPONSIBILITY

A qualified person has been assigned responsibility to ensure full compliance with the Permit, and to implement all elements of the Storm Water Pollution Prevention Plan including:

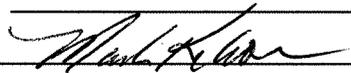
- 1. Preparing an annual compliance evaluation..... YES NO
Name: Neftali Nevarez Phone: (925) 431-- 1445
- 2. Eliminating all unauthorized discharges..... YES NO

IX. VICINITY MAP AND FEE (must show site location in relation to nearest named streets, intersections, etc.)

Have you included a vicinity map with this submittal?..... YES NO
Have you included payment of the annual fee with this submittal?..... YES NO

X. CERTIFICATIONS

"I certify under penalty of law that this document and all attachments were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment. In addition, I certify that the provisions of the permit, including the development and implementation of a Storm Water Pollution Prevention Plan and a Monitoring Program Plan will be complied with."

Printed Name: Mark Kehoe
Signature:  Date: 09/05/01
Title: Director, Environmental and Safety Programs



TRACY OPERATORS
P.O. Box 1209
Tracy, CA 95378-1209

September 6, 2001

Mr. Doug Wheeler, Vice President
GWF Energy LLC
4300 Railroad Avenue
Pittsburg, CA 94565

RE: Water Transfer Agreement

Dear Mr. Wheeler:

This letter is to confirm our recent discussion regarding the Central Valley Project (CVP) water entitlement currently held by the Tracy Biomass Power Plant at 14800 W. Schulte Road, Tracy California. The Tracy Biomass plant currently holds a CVP of 120 acre-feet per year of water from the Delta-Mendota Canal that is served by the Plain View Water District. This entitlement is maintained on a yearly basis by the Tracy Biomass plant although we have not used our entitlement since the plant was built in 1990.

We agree to provide our allotted entitlement of CVP water to GWF Energy LLC for its Tracy Peaker Project should GWF's allotment from Plain View Water District fall below the water needs of the plant. Compensation for said water will be determined at the time the water is needed by the Tracy Peaker Project.

If you have any questions regarding our commitment to GWF Energy LLC, please feel free to contact me at (209) 879-6921.

Respectfully,

Doug Tomison
Plant Supervisor



State Water Resources Control Board

Division of Water Quality

1001 I Street • Sacramento, California 95814 • (916) 341-5455
 Mailing Address: P.O. Box 100 • Sacramento, California • 95812
 FAX (916) 341-5463 • Internet Address: <http://www.swrcb.ca.gov>



Gray Davis
 Governor

Winston H. Hickox
 Secretary for
 Environmental
 Protection

MAY 18 2001

To: Dischargers Enrolled Under the State Board's National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges of Storm Water Associated with Construction Activity

MODIFICATIONS TO THE NPDES GENERAL PERMIT FOR DISCHARGES OF STORM WATER ASSOCIATED WITH CONSTRUCTION ACTIVITY (GENERAL PERMIT)

On April 26, 2001, the State Water Resources Control Board adopted Resolution No. 2001-046, modifying the General Construction Storm Water Permit in response to a Judgement and Writ of Mandate issued on September 15, 2000 by the Superior Court, County of Sacramento. This modified language takes effect immediately. Permittees with ongoing construction have until August 1, 2001 to develop a sampling and analysis procedure and to amend their Storm Water Pollution Prevention Plan (SWPPP).

Enclosed is a copy of Resolution No. 2001-046 and the adopted language which modifies Sections A and B of the General Permit.

These documents are also available electronically at: www.swrcb.ca.gov/stormwtr/index.html, under "Newly adopted modifications of the General Permit Water Quality Order No. 99-08-DWQ."

If you have further questions, you may send an email to: stormwater@dwq.swrcb.ca.gov or leave a message on the Construction Inquiry Line at 916-341-5537.

Sincerely,

Stan Martinson, Chief
 Division of Water Quality

Enclosure

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at: <http://www.swrcb.ca.gov>

California Environmental Protection Agency

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2001 - 046

MODIFICATION OF WATER QUALITY ORDER 99-08-DWQ STATE WATER
RESOURCES CONTROL BOARD (SWRCB) NATIONAL POLLUTANT DISCHARGE
ELIMINATION SYSTEM (NPDES) GENERAL PERMIT FOR STORM WATER
DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY

WHEREAS:

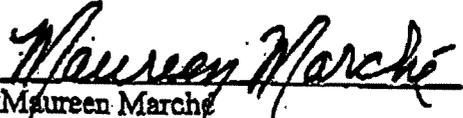
1. The SWRCB adopted a statewide general NPDES permit for storm water discharges associated with construction activity (General Permit) on August 19, 1999.
2. The San Francisco BayKeeper, Santa Monica BayKeeper, San Diego BayKeeper, and Orange Coast Keeper filed a petition for writ of mandate challenging the General Permit in the Superior Court, County of Sacramento.
3. The court directed the SWRCB to modify the provisions of the General Permit to require permittees to implement specific sampling and analytical procedures to determine whether Best Management Practices implemented on a construction site are: (a) preventing further impairment by sediment in storm waters discharged directly into waters listed as impaired for sediment or silt, and (b) preventing other pollutants, that are known or should be known by permittees to occur on construction sites and that are not visually detectable in storm water discharges, from causing or contributing to exceedances of water quality objectives.
4. A public hearing was held on February 7, 2001 to receive comments on the proposed modification language. All comments and testimony have been considered. The Attachment specifies the changes to the monitoring provisions in the General Permit in response to the written comments submitted and the testimony taken at the hearing.
5. On April 4, 2001 an SWRCB Workshop was held and informal comments were heard from the public. The draft modification language was subsequently changed in response to these comments. This current draft is posted on the Internet web page in a strike-out/underline format.

THEREFORE BE IT RESOLVED THAT:

The SWRCB adopts the modified findings and monitoring provisions in the General Permit (Attachment).

CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on April 26, 2001.


Maureen Marche
Clerk to the Board

Attachment

MODIFICATIONS TO WATER QUALITY ORDER 99-08-DWQ
STATE WATER RESOURCES CONTROL BOARD (SWRCB)
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMIT FOR
STORM WATER DISCHARGES ASSOCIATED WITH
CONSTRUCTION ACTIVITY (GENERAL PERMIT)

MODIFICATIONS TO THE FACT SHEET

The following paragraph is added to BACKGROUND

On August 19, 1999, the State Water Resources Control Board (SWRCB) reissued the General Construction Storm Water Permit (Water Quality Order 99-08-DWQ referred to as "General Permit"). The San Francisco BayKeeper, Santa Monica BayKeeper, San Diego BayKeeper, and Orange Coast Keeper filed a petition for writ of mandate challenging the General Permit in the Superior Court, County of Sacramento. The Court issued a judgment and writ of mandate on September 15, 2000. The Court directed the SWRCB to modify the provisions of the General Permit to require permittees to implement specific sampling and analytical procedures to determine whether Best Management Practices (BMPs) implemented on a construction site are: (1) preventing further impairment by sediment in storm waters discharged directly into waters listed as impaired for sediment or silt, and (2) preventing other pollutants, that are known or should be known by permittees to occur on construction sites and that are not visually detectable in storm water discharges, from causing or contributing to exceedances of water quality objectives. The monitoring provisions in the General Permit have been modified pursuant to the court order.

MODIFICATIONS TO THE PERMIT

Finding 15:

The Monitoring Program and Reporting Requirements are modified in compliance with a judgment in the case of San Francisco BayKeeper, et al. v. State Water Resources Control Board. The modifications include sampling and analysis requirements for direct discharges of sediment to waters impaired due to sediment and for pollutants that are not visually detectable in runoff that may cause or contribute to an exceedance of water quality objectives.

SECTION A: STORM WATER POLLUTION PREVENTION PLAN (SWPPP)

I. Objectives

- e. Identify a sampling and analysis strategy and sampling schedule for discharges from construction activity which discharge directly into water bodies listed on Attachment 3. (Clean Water Act Section 303(d) [303(d)] Water Bodies listed for Sedimentation).

- f. For all construction activity, identify a sampling and analysis strategy and sampling schedule for discharges that have been discovered through visual monitoring to be potentially contaminated by pollutants not visually detectable in the runoff.

2. Implementation Schedule

- d. Existing permittees shall revise their SWPPP in accordance with the sampling and analysis modifications prior to August 1, 2001. For ongoing construction activity involving a change of ownership the new owner shall review the existing SWPPP and amend the sampling and analysis strategy, if required, within 45 days. For construction activity commencing after the date of adoption, the SWPPP shall be developed in accordance with the modification language adopted.

5. Source Identification

b. Pollutant Source and BMP Identification

- (7) Show the locations of direct discharge from the construction site into a Section 303(d) list water body. Show the designated sampling locations in the receiving waters, which represent the prevailing conditions of the water bodies upstream of the construction site discharge and immediately downstream from the last point of discharge.
- (8) Show the locations designated for sampling the discharge from areas identified in Section A. 5. b. (2), (3), and (4) and Section A. 5. c. (1) and (2). Samples shall be taken should visual monitoring indicate that there has been a breach, malfunction, leakage, or spill from a BMP which could result in the discharge in storm water of pollutants that would not be visually detectable, or if storm water comes into contact with soil amendments or other exposed materials or contamination and is allowed to be discharged. Describe the sampling procedure, location, and rationale for obtaining the uncontaminated sample of storm water.

SECTION B: MONITORING PROGRAM AND REPORTING REQUIREMENTS

7. Monitoring Program for Sedimentation/Siltation

Dischargers of storm water associated with construction activity that directly enters a water body listed in Attachment 3 shall conduct a sampling and analysis program for the pollutants (sedimentation/siltation or turbidity) causing the impairment. The discharger shall monitor for the applicable parameter. If the water body is listed for sedimentation or siltation, samples should be analyzed for Settleable Solids (ml/l) and Total Suspended Solids (mg/l). Alternatively or in addition, samples may be analyzed for suspended sediment concentration according to ASTM D3977-97. If the water body is listed for turbidity, samples should be analyzed for turbidity (NTU). Discharges that flow through

tributaries that are not listed in Attachment 3 or that flow into Municipal Separate Storm Sewer Systems (MS4) are not subject to these sampling and analysis requirements. The sampling and analysis parameters and procedures must be designed to determine whether the BMPs installed and maintained prevent discharges of sediment from contributing to impairment in receiving waters.

Samples shall be collected during the first two hours of discharge from rain events which result in a direct discharge to any water body listed in Attachment 3. Samples shall be collected during daylight hours (sunrise to sunset). Dischargers need not collect more than four (4) samples per month. All samples shall be taken in the receiving waters and shall be representative of the prevailing conditions of the water bodies. Samples shall be collected from safely accessible locations upstream of the construction site discharge and immediately downstream from the last point of discharge.

For laboratory analysis, all sampling, sample preservation, and analyses must be conducted according to test procedures under 40 CFR Part 136. Field samples shall be collected and analyzed according to the specifications of the manufacturer of the sampling devices employed. Portable meters shall be calibrated according to manufacturer's specification. All field and/or laboratory analytical data shall be kept in the SWPPP document, which is to remain at the construction site at all times until a Notice of Termination has been submitted and approved.

8. Monitoring Program for Pollutants Not Visually Detectable in Storm Water

A sampling and analysis program shall be developed and conducted for pollutants which are not visually detectable in storm water discharges, which are or should be known to occur on the construction site, and which could cause or contribute to an exceedance of water quality objectives in the receiving water. Pollutants that should be considered for inclusion in this sampling and analysis program are those identified in Sections A.5.b. and A.5.c.

Construction materials and compounds that are not stored in water-tight containers under a water-tight roof or inside a building are examples of materials for which the discharger may have to implement sampling and analysis procedures. The goal of the sampling and analysis is to determine whether the BMPs employed and maintained on site are effective in preventing the potential pollutants from coming in contact with storm water and causing or contributing to an exceedance of water quality objectives in the receiving waters. Examples of construction sites that may require sampling and analysis include: sites that are known to have contaminants spilled or spread on the ground; sites where construction practices include the application of soil amendments, such as gypsum, which can increase the pH of the runoff; or sites having uncovered stockpiles of material exposed to storm water. Visual observations before, during, and after storm events may trigger the requirement to collect samples. Any breach, malfunction, leakage, or spill observed which could result in the discharge of pollutants to surface waters that would not be visually detectable in storm water shall trigger the collection of a sample of discharge. Samples shall be collected at all discharge locations which drain the areas

identified by the visual observations and which can be safely accessed. For sites where sampling and analysis is required, personnel trained in water quality sampling procedures shall collect storm water samples. A sufficiently large sample of storm water that has not come in contact with the disturbed soil or the materials stored or used on-site (uncontaminated sample) shall be collected for comparison with the discharge sample. Samples shall be collected during the first two hours of discharge from rain events that occur during daylight hours and which generate runoff.

The uncontaminated sample shall be compared to the samples of discharge using field analysis or through laboratory analysis. Analyses may include, but are not limited to, indicator parameters such as: pH, specific conductance, dissolved oxygen, conductivity, salinity, and TDS.

For laboratory analysis, all sampling, sample preservation, and analyses must be conducted according to test procedures under 40 CFR Part 136. Field discharge samples shall be collected and analyzed according to the specifications of the manufacturer of the sampling devices employed. Portable meters shall be calibrated according to manufacturer's specification. All field and/or analytical data shall be kept in the SWPPP document, which is to remain at the construction site at all times until a Notice of Termination has been submitted and approved.