



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 17 2006

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The Honorable Stephen L. Johnson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington D.C. 20460

RE: Storm Water Regulations

Dear Administrator Johnson:

The Local Government Advisory Committee appreciates the opportunity, although after the official comment period, to provide you with some praise and questions regarding a proposed rule for the National Pollutant Discharge Elimination System (NPDES) related to storm water discharges associated with oil and gas-related construction activities. We want to commend you in maintaining consistency through this rule with the Energy Policy Act of 2005 (Section 323 of this Act which added a new paragraph (24) to Section 502 of the Clean Water Act). But we also want to clearly commend the Agency for correctly interpreting the Clean Water Act regarding the lack of an exemption prior to the statutory change in this Energy Policy Act.

We are very concerned that many local governments will not understand this exemption because such local governments must implement the storm water permitting processes under the Clean Water Act. The inherent unfair nature of this dichotomy calls for a very public explanation. We cannot emphasize enough how the fairness of this change needs to be clearly explained and the explanation needs to be widely distributed through national organizations of local government and in publications going to local governments including the Local Government Environmental Assistance Network.

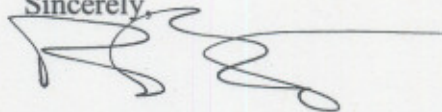
While you have published the proposed rule on January 6, 2006, adding it to the EPA website, as well as published explanatory materials and held some public events around the country, we strongly recommend you do more to explain to state and local governments and the public how this provision exempting storm water discharges from oil and gas-related construction activities is directly related to the Energy Policy Act of 2005.

Finally, some language in the proposed rule, if finalized, would, as described in your fact sheet, "encourage operators of oil and gas field activities [that are exempt from the storm water permitting requirements] to implement and maintain Best Management Practices (BMPs) to minimize erosion and control sediment during and after construction activities to help ensure protection of surface water quality during storm events."

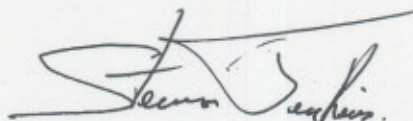
We request that you tell us how this voluntary effort at BMPs is working in the oil and gas industry and what your forecast is for the industry maintaining these practices? We just want to note that to the extent these industries do not use BMPs which effectively reduce loadings to surface waters, other discharging entities, such as municipal wastewater treatment facilities, will have to shoulder the increased burden of load reduction. In addition, municipalities may also incur higher drinking water treatment costs over time than they otherwise would incur. Thus, it is critical that these BMPs be established and fully implemented.

Thank you for the opportunity to advise the Agency regarding regulations and policies you are considering. We stand by to work with you and EPA staff as you complete this rulemaking and look forward to your response to this letter.

Sincerely,



Roy Prescott
Chairman



Steve Jenkins
Chairman
Small Community Advisory Subcommittee

cc. Benjamin Grumbles, Assistant Administrator
Office of Water