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December 8, 2008

Mr. W Richard Speidel
New York State Department of Environmental Conservation
232 Golf Course Rd.
Warrensburg, NY 12885

Re: Jackson – Stormwater Discharge
Bolton (T), Warren Co.
Application No. 5-5220-00338/00001
SPDES Permit NY-0265691

Dear Mr. Speidel:

The Lake George Waterkeeper would like to recognize the New York State Department of Environmental Conservation (“Department”) for allowing public comment on the above referenced permit application for the discharge of stormwater from a construction activity. We feel this is an important step in the water quality protection for the AA-Special waters of the Lake George watershed.

The Lake George Waterkeeper had the opportunity to review the submitted materials and draft permit for the above referenced project. It is our opinion the submission fails to meet the design standards as set forth by the Department. Please find attached detailed concerns and comments regarding the permit application:

1. The permit should have numeric effluent limitations in the permit.

The conditions in the Draft Permit state “There shall be no increase in turbidity that will cause a substantial visible contrast to natural condition”. This is too subjective for a permit condition and permits a large impact from sediment to a water body before it may be determined there is a “substantial visible contrast”. Numeric effluent limits are used in other stormwater permits nationwide for sediment and should be incorporated into the New York State Permit.

2. The language under “Maintain Water Quality” needs to be improved.

The second condition in the Draft Permit states “There shall be no increase in suspended, colloidal and settleable solids that will cause deposition or impair the waters”. The Waterkeeper reads the condition that all three standards must be increased for a violation to occur. The condition should be modified to read “...suspended, colloidal or settleable solids ...” This would make the discharge of one of the three items a permit violation.



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3. On page 12 of the Draft Permit, it is not clear if a sediment considered a pollutant?

4. The design calculations should explain the method of reduction of runoff.

The SWPPP do not include “infiltration” or “exfiltration” discharge in the HydroCAD design calculations. However, each of the basins proposed reduces the stormwater runoff. Where does the runoff volume go? Does it remain in the basins and infiltrate? If so, how will the proposed basins operate under frozen conditions? For example, in the 10-year storm event, Pond 19P has an inflow of 0.051 ac-ft and a discharge of 0.009 ac-ft to Pond 20P. Pond 20P has an inflow of 0.009 ac-ft and a discharge of 0.000 ac-ft. Based on these calculations, all of the runoff has been infiltrated. All ponds exhibit the same pattern. In addition, the woods are referred to and utilized as ponds in the design calculations such as Pond 24P and 22P. How can these be classified as infiltration basins?

5. The proposed stormwater infiltration devices fail to meet the design standards of the New York State Stormwater Design Manual (SWDM).

- SWDM §6.3.1 states “Infiltration practices cannot be located in fill soils, except the top quarter of an infiltration trench or dry well.” The following are estimates for fill areas for the infiltration basins surface: Pond 19P (east infiltration trench) – located on fill soils (existing grade 1084-1087, base of trench 1087); Pond 4P (north infiltration trench) half located on fill slopes (existing grade 1084, base of trench 1085); Pond 5P – half of basin in fill condition; Pond 13P – half of basin in fill condition; Pond 16P – 2/3 in fill conditions; Pond 29P – ½ in fill condition; and Pond 28P – 1/5 in fill condition.
- SWDM §6.3.1 states “Infiltration practices cannot be located on areas with natural slopes greater than 15%”. The following are existing grades for proposed infiltration locations: Pond 19P – 22%; Pond 4P – 20%; Pond 13P – 18%; and Pond 29P – 16%.
- SWDM §6.3.1 states “The bottom of the infiltration facility shall be separated by at least three feet vertically from the seasonally high water table or bedrock layer, as documented by on-site soil testing”. The Department has raised this comment during their review but it does not appear to be adequately addressed. For example:
 - Pond 19P – TP-1 indicates bedrock at a depth of 12” and has the base of the infiltration trench as 1087 and existing grade is 1087. This indicates 2’ of separation lacking.
 - Pond 4P – TP-6 indicates bedrock at 16”. Infiltration facility base at 1085 and existing grade between 1084-1087. This indicates the infiltration trench could be into bedrock with little or no separation.
 - Pond 5P – TP-9 indicates bedrock at 18”. The base of the infiltration facility is 1067 and existing grade is 1067. This indicates 1-1/2’ of separation lacking.
 - Pond 16P – TP-14 indicates seasonal high groundwater at 28”. The infiltration facility base is 945 and existing grade is between 944-946. This indicates 1’ of separation.

6. The proposed infiltration facilities do not have pretreatment devices as required in the SWDM §6.3.3.

If the roadside swales are proposed as pretreatment devices, which do not appear to meet the criteria of the SWDM, how will they be maintained? These riprap lined swales are not routinely cleaned, collected leaf matter and dirt and are very difficult to maintain.

7. Details for the proposed sediment traps on the side of the road are lacking.

The SWPPP and Construction Sequence refer to sediment traps to be constructed. But no details or locations are provided. It is important for these devices to be located in areas away from the proposed infiltration facilities to protect the soils and existing porosity. Many times the sediment traps are located where the proposed infiltration devices are proposed and the infiltration capacity of the soils are severely impacted.

In closing, there are numerous areas of concern regarding the existing application and compliance with the Stormwater Design Manual as well as language in the permit conditions. The Department has realized the impact which construction on steep slopes can have to the high quality waters of the State. This is the reason the Department has required Individual

SPDES for these projects. The Waterkeeper encourages the Department to strengthen the conditions and continue the public process on these permit applications.

Thank you for the consideration of these comments. I look forward to working with the New York State Department of Environmental Conservation in defending the natural resources of the Lake George basin.

Sincerely,

A handwritten signature in black ink that reads "Chris Navitsky". The signature is written in a cursive, flowing style.

Christopher Navitsky, PE
Lake George Waterkeeper

cc: David Gasper – NYSDEC
Bill Lupo, PE – NYSDEC
Pam Kenyon – Town of Bolton
Jeffery Odefey – Waterkeeper Alliance