

TO BWEW, CCD, RO and Oil and Gas

FROM Dean M. Auchenbach, WPS, NPDES/Construction/Erosion Control Section

THROUGH Jennifer Orr, Chief, NPDES/Construction/Erosion Control Section
Kenneth Murin, Chief, Division of WET
Jeffrey Means, Director, BWEW

DATE October 17, 2012

RE Program clarification related to the charging of disturbed acre fees for permit renewals

MESSAGE: **Clarification Number: PCM_WET_ESS_12_001**

This document serves to give guidance to regional staff and conservation districts regarding the charging of the \$100 per disturbed acre fee for permit renewals.

Guidance for Disturbed Acre Fees for Permit Renewals

When renewing any permits issued under the Chapter 102 regulations the permit applicant must pay the appropriate permit filing fee (either \$500 or \$1,500) for the type of permit they are renewing. The application must also follow the following guidance regarding the \$100 per disturbed acre fee:

1. If the applicant previously paid the per disturbed acre fee (their project would have been submitted on or after 11-19-10) for their project during the initial permit application submission, they **DO NOT** need to pay the per disturbed acre fee at permit renewal, if they are not proposing any additional acres disturbed. The disturbed acre fee is paid once over the life of the project. Example: 50.7 acres at time of initial permit application paid \$5,100 in disturbed acre fees would pay nothing for a disturbed acre fee at time of permit renewal if there is no additional disturbed acreage proposed.
2. If at the time of initial permit application submission the applicant did not pay the per disturbed acre fee (ex. Permit application was submitted before 11-19-10 when per disturbed acre fee went into effect) they **MUST** pay the disturbed acre fee at the time of

permit renewal. This disturbed acre fee would be based on the amount of acres that are currently not permanently stabilized and the acres that will be disturbed in the future. Any acres where work has been completed and stabilized can be subtracted from the amount of disturbed acres for the project. Example: 50.7 acre project with 10 acres completed and stabilized and the applicant had not paid the per disturbed acre fee previously they would pay a disturbed acre fee of \$4,100.

3. If the project will be expanding the project site beyond the area proposed in the original permit, this is a **MAJOR MODIFICATION**. The permittee should follow the following:
 - If the applicant paid the disturbed acre fee previously they would only **pay the disturbed acre fee on the additional acres**, rounded to the closest whole number, for the major modification. Example: if a 50.7 acre site that previously paid the disturbed acre fee is adding 3.2 acres of additional disturbance they would pay a fee of \$300.
4. Phased Projects: if the applicant is proposing to phase the project they should follow the permit guidelines for phased projects (DEP document # 363-21343-013, March 29, 2003) The applicant may choose to pay the disturbed acre fee for the entire projects and all phases or they may pay for each phase as they submit detailed E&S and PCSM plans and drawings.
 - If the applicant paid the disturbed acre fee at the time of initial permit application for the entire site they would **not** need to pay the disturbed acre fee when renewing their permit or when submitting plans for a future phase.
 - If the applicant did not pay the disturbed acre fee at the time of the initial permit application submission (if permit application was submitted prior to 11-19-10) they **MUST** pay the disturbed acre fee at the time of permit renewal. This disturbed acre fee would be based on the amount of acres that are currently not permanently stabilized in the current phase they are working on at the time of permit renewal. Example: 50.7 acres of disturbance to be divided into two phases. Phase 1 is 20 acres and phase 2 is 30.7 acres. At the time of permit renewal the applicant is working in phase 1 so they would pay a disturbed acre fee of \$2,000. If at the time of permit renewal 10 of the 20 acres is stabilized they would pay the disturbed acre fee on the remaining 10 acres of phase 1 so the fee would be \$1,000.
 - When the applicant submits detailed E&S and PCSM plans for future phases they would pay the disturbed acre fee on those phases at that time. So in the example above, when

submitting for phase 2 which is 30.7 acres of earth disturbance the applicant would pay a disturbed acre fee of \$3,100.

Note: The NOI/application checklist will be updated to note that on permit renewals the disturbed acre fee is only necessary if not previously paid.