Bullet Summary in Support of the NAHB Proposed 1000 NTU Action Level

As an alternative to Option 2, NAHB has proposed that a 1000 NTU Turbidity Action Level be applied to sites that qualified for Option 2 in the proposed ELG. The following is a bullet summary of NAHB comments in support of this action.

- A major portion of the NAHB comments discussed the large discrepancy between EPA theoretical models of construction discharge and actual measured data. Actual data indicates that the average discharge is almost 100 times lower than EPA predicted.

- Most stormwater experts agree that the greatest remaining amount of total sediment runoff comes from a limited number of high risk sites that are subjected to high energy rain events.

- While NAHB is confident that the average sediment runoff is far lower than the EPA models indicated, NAHB also acknowledges that discharges can vary greatly about that average. Therefore, an appropriate and cost effective action would be to target those sites where BMPs are either inadequate or not properly designed.

- NAHB has cited a paper (July 2008 technical document) from the Auckland Regional Council demonstrating that one rain event with high turbidity (>1000 NTU) had a flow weighted total sediment discharge that exceeded total sediment generated from the next six highest rain events *combined*. This paper therefore further demonstrates that a few "catastrophic" rain events likely account for the great majority of construction sediment runoff. Lower volume rain events with turbidities less than 1000 NTU likely constitute less than 20% of the total sediment runoff from construction sites.

- NAHB believes that 1000 NTU is a consensus turbidity level at which most stakeholders would agree that conventional BMPs are not adequate, either due to inadequate design, installation, or maintenance, or because the site soil, topography, climate, etc. is such that any conventional BMP is likely inadequate.

- Indirect support for a 1000 NTU consensus can even be found in Exhibit 4 (on page 7) to the NRDC comments, where an "adequately sized" settling pond is found to have an average discharge of 1000 NTU. Under the NAHB plan, such sites would be discovered, and corrective actions would be taken.

- Washington CGP data indicates the NAHB plan would be effective. King County (Seattle) CGP turbidity data indicated that over a two year period, the 1000 NTU level was exceeded 37 times (about 1% of the measured data points). However, 32 of the 37 measurements came from repeated exceedences at just 7 construction sites. The NAHB plan would have effectively targeted these sites, and required corrective actions.

- Corrective actions could include installation of more effective conventional BMPs, or the use of passive control systems as advocated by NRDC, or, in rare instances, ATS systems. The provision of the NAHB proposal for notification of the regulatory agency in the event of a

second consecutive rain event exceedence gives operators significant incentive to find BMPs that work.

- The NAHB proposal meets a major environmental concern—that narrative limits are too subjective, and rarely result in corrections or other enforcement. The NAHB plan sets a definite numeric action level, and requires corrective action for exceedences at the sites where the vast majority of construction sediment discharge is likely occurring.

- The NAHB proposal also answers some major objections from State regulators. State regulators overwhelmingly are opposed to a national mandatory numeric compliance limit. They fear greatly increased workload, and doubt that a single numeric limit would be applicable in all areas of their State, let alone the entire country. Several States currently use benchmark limit values, and some other States in their indicated that a benchmark value would be less burdensome while also helping pinpoint sites that are having problems.

- As with all ELGs, the national standard is intended to be a minimum action. States could of course initiate lower benchmarks in sensitive or impaired watersheds, particular regions, or even statewide if they think it appropriate. NAHB has always maintained that there needs to be flexibility to address local or regional requirements in any stormwater rule.