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February 14, 2018

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
PO Box 100
Sacramento, CA 95812-2000

Dear Ms. Townsend:

Subject: Comment Letter – Industrial General Permit Amendment

The Los Angeles Department of Water and Power (LADWP) is pleased to provide comments on the recent amendment to the State Water Resources Control Board's (SWRCB) Statewide Industrial General Storm Water Permit (IGP) regarding the incorporation of the Total Maximum Daily Loads (TMDLS) and compliance options for industrial discharges.

LADWP is the largest municipally-owned utility in the nation, which serves a 465 square-mile area in Los Angeles with approximately four million residents and a portion of the Eastern Sierras in Owens Valley. Its mission is to provide essential public services (water and power) for grid reliability and public health and safety in an efficient and environmentally responsible manner. LADWP owns four steam electric generating stations that will be affected by the proposed amendments to the IGP.

LADWP supports regulations that protect the environment and provides the following comments to improve implementation of the TMDL requirements. Specifically, LADWP supports the On-site and Off-site compliance options and appreciates the opportunity to use either compliance option as written in the Amendment. Allowing infiltration at a site has the potential to be another local water source. Reuse of storm water also helps offset the use of potable water. Both the on-site and off-site alternatives are beneficial for arid dry regions such as Southern California. The off-site option to be able to fund a watershed storm water project is the best option in terms of receiving the largest benefit for groundwater aquifer augmentation and improving local ground water supplies.

LADWP offers the following specific comments on the amendments to the IGP:

1. Attachment I - On-Site Compliance Option

Section II.6, page 3

The proposed language in this section requires that influent entering infiltration BMPs must meet applicable Maximum Contaminant Level (MCL) criteria, or that treatment be implemented to meet MCLs. LADWP believes this requirement assumes that the underlying groundwater is suitable for drinking water use and that no “treatment” will occur as the infiltrating water passes through the soil matrix. In addition, MCLs adopted under the Safe Drinking Water Act are intended to apply to drinking water at the point of use, and not to receiving waters in the environment. Imposing requirements to meet MCLs may have the effect of requiring extensive and expensive treatment when it may not be necessary to protect the beneficial uses of underlying groundwater, and thus will act to discourage on-site infiltration. For example, to require expensive treatment to reduce total dissolved solids (salt content) if underlying groundwater is too saline for use, or to require treatment to meet secondary MCLs for constituents that are major components of the soil matrix (e.g., iron, manganese). The language of Section J (Protection of Waters of the State against the migration of pollutants that cause or contribute to an exceedance of a water quality objective in groundwater) appears to be sufficient, such that language requiring infiltrated water to meet MCLs may not be necessary.

LADWP recommends that these provisions be eliminated, as the provisions of Section J.2 (pages 7-8) appear to eliminate the need for this language.

LADWP also recommends, separately, that the SWRCB consider developing guidance that clarifies the water quality and treatment requirements that must be met based upon the end use of the storm water captured and infiltrated on-site.

Sections E.1, page 2 and H. 2. c., page 6

LADWP agrees that in order to be effective, an on-site BMP must be able to recover its capacity over a relatively short period of time. Attachment I includes a BMP design requirement that “the BMP will completely dewater and its capacity be fully available within 24 hours should back-to-back rainfall events occur¹”. The SWRCB acknowledges

¹ Industrial General Permit, Attachment I, Pages 2 and 10. Accessed on February 13, 2018 from: https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/industrial/2014indgenpermit/igp_proposed_changes/igp_att_i_compliance.pdf

that "Storm water discharges are highly variable in duration, volume and pollutant concentrations²", yet has included this overly prohibitive design requirement.

LADWP is concerned that this restriction may preclude otherwise beneficial projects that will require slightly longer to dewater.

Therefore, LADWP requests that the requirement that on-site BMPs completely dewater within a 24-hour period be removed from Attachment I.

Section H. 3. a. ii, page 6

The on-site compliance option as written currently requires a licensed professional engineer to certify operation and maintenance plans. LADWP believes that the Qualified Industrial Storm water Practitioner (QISP) has the qualifications to prepare and certify these plans. LADWP suggests that requiring a professional engineer to perform the aforementioned activities will require the additional commitment of limited financial resources for dischargers seeking to use the on-site compliance option, which in turn will dissuade some dischargers from utilizing this option.

LADWP recommends that the SWRCB amend the On-Site Compliance section of Attachment I to allow QISPs to perform the function of plan preparer of the BMP operation and maintenance plans.

Section J. 1. b. page 7

The prohibition against using the on-site compliance option for discharges of storm water associated with industrial activities occurring below the 85th percentile 24-hour storm event in section (J)(1)(2) of Attachment I appears to limit the use of on-site compliance options to only rain events that are above the 85th percentile 24-hour storm event. It is unclear to LADWP whether this section prohibits use of the on-site compliance option to storm events above the 85th percentile 24-hour storm event or merely acts to prohibit dischargers using an on-site BMP from discharging stormwater offsite during an event below the 85th percentile 24-hour storm event.

LADWP requests that the SWRCB revise this section to clarify the intent of the language.

2. Attachment I - Off-Site Compliance Option

Section III A. page 9

² Industrial General Permit Fact Sheet , page 43. Accessed on February 13, 2018 from:
https://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/industrial/2014indgenpermit/igp_proposed_changes/20171213_igp_factsheet.pdf

LADWP requests that dischargers be allowed to enter into local agreements with other agencies and/or dischargers, as well as local municipality(ies) as part of an off-site storm water capture and infiltration BMP. In doing so, there is more flexibility to plan, develop, and implement off-site BMPs, which has the potential to maximize the use of storm-water capture and infiltration BMPs. The end goal of any ground water infiltration BMP under the off-site compliance option should be to recharge the ground water supply. LADWP suggests that allowing dischargers to enter into agreements with other agencies and/or dischargers will maximize groundwater recharge, and for this reason requests that Attachment I be amended accordingly.

Section III A. 2., page 9

LADWP requests that the SWRCB reconsider the requirement that a discharger's facility and the off-site BMP must be located within the same watershed and instead expand the requirement to a regional level. This will allow for more opportunities to augment the ground water supplies where it is favorable to do so and provide a local water supply. This is especially important for dischargers that may not be able to use the on-site option and also would not have the opportunity to use the off-site compliance option due to the location of their facility.

In addition, LADWP believes the requirement that NSWDS and industrial storm water must be conveyed directly to the off-site BMP is overly restrictive, as it may not be possible for this to occur. Instead, LADWP requests that the language of this section be modified (or additional language added) that would allow for offsets or trading when the same volume of water can be captured in an off-site BMP that is not located between the site and the receiving water, thus achieving similar water quality benefit and further expanding opportunities for storm water capture as well as the range of compliance options available to permittees.

3. Amendment to General Permit Order

Section VII.E, page 26, and Section XII - Exceedance Response Actions for Numeric Effluent Limitations

LADWP suggests that numeric effluent limitation (NEL) exceedances follow the procedures for exceedance response actions (ERAs) prior to becoming a violation of the general permit.

The order as written currently requires that certain ERAs be performed in the event of a NAL or TNAL exceedance. ERAs involve the use of an iterative process that involves an evaluation of the exceeded pollutant for the industrial facility, revisions to Best Management Practices (BMPs) and Storm Water Pollution Prevention Plans (SWPPPs), and certification by a QISP of this evaluation until NAL and TNAL results are within the permitted levels.

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The amended permit, as written, states that a NEL exceedance is a violation of the general permit and requires a discharger to comply with the Water Quality Based Corrective Actions (WQBCAs) in Section XX.B of the general permit. WQBCAs follow a similar process to a Level 1 ERA (i.e. evaluation of pollutants, BMP and SWPPP revisions, and a certification of this assessment).

LADWP requests that an exceedance of a NEL should follow the iterative ERA process set forth for NAL or TNAL exceedances, rather than the WQBCA procedures, before being considered a violation of the general permit. This will allow industrial dischargers who act in good faith to remain in compliance with the general permit an opportunity to correct any exceedances before the NEL becomes a violation, while also providing protection to the discharger from citizen suits for NEL exceedances.

4. Attachment C - Glossary

Numeric Effluent Limitations

LADWP notes that the amended Glossary in Attachment C does not provide information for NELs. LADWP requests that the glossary is updated to include this information.

In closing, LADWP appreciates this opportunity to provide comments on the proposed amendment to the IGP and looks forward to working with SWRCB staff in this process. Should you have any questions regarding this letter, please contact me at (213) 367-0436 or Edgar Gomez of the Wastewater Quality and Compliance Group at (213) 367-4425.

Sincerely,



Katherine Rubin
Manager of Wastewater Quality and Compliance

EG:lc

c:

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