



O R A N G E C O U N T Y
COASTKEEPER®

Proposed Sector-specific General Permit for Scrap Metal Recycling Facilities

Garry Brown
Orange County Coastkeeper
Inland Empire Waterkeeper

BACKGROUND:

- **Strategy:** litigate a few recyclers--the industry would clean up
- **Orange County Coastkeeper, Inland Empire Waterkeeper, Santa Monica Baykeeper, Ventura Coastkeeper and the San Francisco Baykeeper have brought multiple cases to Federal Court**
- **2 Federal Court Published Rulings that CTR applies to scrapyards at the discharge point or end of pipe. “gutter is the receiving water”**





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11/6/2009 1:40

**CITIZEN SUIT ENFORCEMENT UNDER THE
FEDERAL CLEAN WATER ACT
A Snapshot of the California Experience
Based on Notices of Intent to Sue
March 2009 through June 2010**

May 2011

REED SATO, DIRECTOR
OFFICE OF ENFORCEMENT

Who are the Organizations Filing These Notices?

Orange County Coastkeeper
Northern California River Watch
California Sportfishing Protection Alliance
San Francisco Baykeeper
Global Community Monitor
Santa Monica Baykeeper
Communities for a Better Environment
Ecological Rights Foundation
Environmental World Watch
Our Children's Earth Foundation
TEAM Enterprises
Wild Equity Institute
Wishtoyo Foundation
Ventura Coastkeeper
John and Pauline Loades

Which Firms Represent these Citizen Organizations?

Lawyers for Clean Water, Inc.
The Law Office of Jack Silver
The Law Offices of Andrew Packard
Environmental Advocates
Lozeau Drury LLP
Greiben & Associates
Kershaw, Cutter & Ratinoff, LLP
Klamath Environmental Law Center
Law Office of Suma Peesapati

Problems with Strategy (Speaking for OCCK & IEWK)

- Industry not responding as a whole to our cases
- CTR unachievable for outdoor facility-- 365 days/year
- Goal is to clean up the industry-- not close it down
- Dollars diverted rather than invested in BMPs to clean up the industry

Purpose of this Proposed Sector-Specific Permit:

- Develop rigorous but achievable numeric standards
- Provide a Clear Path to Compliance
- Create a level field for the industry
- Develop “quality data” based on BAT
- Draft IGP Does NOT provide any of the above

THE STAKEHOLDER PROCESS:

- Proposed idea to develop permit to G. Adams, SA Recycling
- Proposed idea to Kurt Berchtold & asked for R8 staff participation
- Initial meeting with facility owners- explain idea
- Invited facility owners to participate
- Metal Recyclers Water Quality Standards Committee, composed of metal recyclers- large & small, environmental community, regulators, engineers, and BMP manufacturers, and a facilitator

THE STAKEHOLDER PROCESS (CONTINUED)

- Held numerous meetings between April and October 2010
- Convened three industry meetings to inform and collect input
- Reported progress to greater Environmental Community
- R8 staff prepared five drafts and held

WHY DO WE NEED THIS PERMIT NOW?

- Without industry moving to clean up--litigation will expand
- The Draft IGP does not provide guidance to this unique industry
- Many facilities are spending money on 1) lawsuits or 2)BMPs without certainty of compliance
- To commence developing data set with protocols & quality assurance

WHAT DO WE ASK TODAY?

- The Committee's goal has been statewide adoption of this permit
- Assurance the permit would stay intact—keep NEL numeric standards
- Alternative- support Region 8 Permit adoption in February 2012
- Monitor progress and evaluate for future statewide adoption

IN CLOSING...

- Tremendous investment by all parties
- Remember last when Environmental Community and Industry came arm and arm and asked for permit approval –of a stronger permit