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February 11, 2016

Rosario Aston
Los Angeles Regional Water Quality Control Board ("Board")
320 W. 4th Street, Suite 200
Los Angeles, CA 90013

Re: Owens-Brockway Glass Container Inc. Vernon Plant ("Owens")
Tentative NPDES Discharge Permit No. CA0056464 ("Tentative Permit")

Dear Ms. Aston:

Although Owens had hoped to review the above-referenced Tentative Permit directly with Board staff, with this letter, we are pleased to provide our written comments to you.

First, Owens would like to emphasize the fact that it does not discharge any waste water to the storm water discharge points. And, since the only discharge from the facility is storm water during rain events, an individual NPDES storm water permit is not the appropriate permit type for this facility.

Even so, Owens provides the following comments on the sections of the Tentative Permit where we believe that data is either incorrect or not relevant, valid, or representative, and therefore cannot be relied upon to establish Water Quality Based Effluent Limits (WQBELs). We have also provided specific comments and suggested changes to the permit language.

An Individual NPDES Permit Based on WQBELs is not appropriate for the Owens Facility

Owens does not discharge any waste water into waters of the United States. Only storm water from rain events is discharged. Historically, storm water from the facility was regulated under the California Stormwater Industrial General Permit. However, as you are aware, after Owens' NPDES permit was last renewed, because its storm water discharges were included along with its former industrial wastewater discharges in that permit, Owens discontinued coverage under its General Permit. Owens recognizes that its approach in that situation was misguided. As shown by the issues highlighted below, the Tentative Permit illustrates why storm water should not be addressed through an individual NPDES permit.

- Owens does not discharge waste water to the storm water system; Owens only discharges storm water during rain events.
- The WQBELs in the Tentative Permit are inconsistent with U.S. Environmental Protection Agency and State Water Resources Control Board policies established for the control of storm water from industrial sources.

The Tentative Permit (*see* Attachment F) states that there is no need to consider background concentrations, mixing zones, or the fact that direct urban runoff will co-mingle with Owens' storm water discharge. During rain events, the Los Angeles River is swollen with huge volumes of urban

runoff from throughout the Basin; therefore, mixing zones must be taken into account because the volume of storm water from Owens' site is only a miniscule portion of that storm water which eventually flows into the river. Owens' storm water does not discharge directly into the Los Angeles River; rather, it is co-mingled with urban and industrial runoff as it is relayed by underground piping over a 4 mile corridor, past numerous laterals, before finally reaching the outfall into the Los Angeles River. Further, while storm water flows in the Los Angeles Basin have the potential to pose an acute impact, storm water flows are too brief and infrequent (typically less than a day) to pose a chronic impact to the watershed at the point of discharge. Therefore, it is inappropriate for the Tentative Permit to require Owens' end of pipe, undiluted storm water to meet the water quality objectives when other discharges and runoff along a 4 mile corridor comingle with and dwarf Owen's volume prior to reaching the river.

The U.S. Environmental Protection Agency and the California State Water Resources Control Board have acknowledged many times, when adopting policies and plans, that storm water effluent is markedly different from point source (industrial) discharges. The potential impact to receiving waters caused by storm water flow is vastly different from the impact that is caused by industrial process flows that are consistently flowing with concentrations that could pose both chronic and acute risks to watersheds. Because of the difference in contaminant concentrations, and the co-mingling with urban runoff, the State Implementation Policy specifically states that it must not be used to regulate storm water[1]. Nevertheless, the Tentative NPDES permit relies on the State Implementation Policy to establish WQBELs for storm water from the Owens facility[2]. WQBELs for storm water should be removed from Owens' Tentative Permit.

In our view, the most appropriate, valid, and relevant approach that is consistent with representative data is to allow Owens to comply with NPDES permit requirements through the California Industrial General Permit. This approach will harmonize storm water compliance at Owens' facility with all other industrial facilities in the Los Angeles River watershed, which in our view, is the only sustainable, practical, and prudent approach to regulating storm water.

Given the fact that Owens discharges no waste waters to receiving waters of the United States, it should be allowed to opt-in to the General Permit to assure proper regulation and compliance with state storm water policies.[3]

The Tentative Permit does not rely on all Available, Valid, Relevant, and Representative Data

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[1] See State Implementation Policy Page 3, Footnote 1.

[2] See Tentative Permit, page F-20.

[3] Rescinding Owens' Individual NPDES permit to allow conversion to the General Permit is consistent with prior Board actions. Indeed, the Board has approved the rescission of multiple individual NPDES permits, and subsequently granted coverage under the General Industrial Stormwater Permit (e.g., Order No. R4-2004-0142 transfer to WDID 4 19I022281). Further, two active glass plants are covered under the General Permit; subjecting the Vernon facility to an Individual Permit based on WQBELs is arbitrary and inconsistent with state policies.

Notwithstanding the fact that an Individual NPDES Permit is inappropriate for Owens' facility, the Tentative Permit does not rely on all available, valid, relevant and representative data. The points shown below highlight the major conditions that require additional time and consultation to clarify or modify the Tentative NPDES permit in advance of any Order being adopted:

- ***Elimination of industrial discharge:*** The intent of the Tentative Permit is to address wastes that are discharged to receiving waters. As explained above, Owens does not discharge any waste or waste waters to waters of the United States; Owens discharges only storm water during rain events. Nevertheless, the Tentative Permit proposes Median Monthly Effluent Limitation ("MMEL"), which the permit itself recognizes as inappropriate for storm water effluent (see Pages E-9 and 10 of the permit). This is repeated throughout the Tentative Permit. The monthly limits should be removed, as such chronic limits do not apply to intermittent storm water flows. Further, this is consistent with the approach taken by staff for NPDES permits issued by the Board in 2015 (see Order R4-2015-0023).

  In addition to these inappropriate monthly limits, other parts of the Tentative Permit apply to industrial discharges. While a number of examples and suggested changes regarding this issue are included in the Specific Comments below, the list may not be exhaustive. All language where industrial discharge is contemplated, including references to wastes discharged to storm water discharge points, should be removed.

- ***Clarification on New Constituents for which WDRs are proposed:*** The Tentative Permit provides that acute toxicity testing is to be replaced by chronic toxicity testing as this method is more stringent. To support this notion, a section in the draft permit that is non-existent (See Page F-16; reference to Section IV.C.6) was referenced. At a minimum, the reasoning for adding new constituents should be clearly stated. The State Water Resources Control Board's toxic policy recognizes that toxicity assessment of urban runoff is difficult, with substantial uncertainty, and any assessment routinely varies by orders of magnitude over intervals as short as an hour. The Board recognizes that chronic toxicity criteria are applicable to dry weather, not wet weather. It bears repeating that Owens discharges no waste water to receiving waters; Owens discharges only storm water during rain events, and has no industrial effluent that poses any chronic risk to receiving water bodies and associated fish and vegetation. Storm water poses only acute impacts, as exposure periods last several hours, not the seven-day or longer interval under which chronic toxicity testing is performed. Owens maintains that chronic toxicity testing, while relevant to facilities that discharge industrial waste continuously, is not relevant, is not valid, and is not representative of Owens' effluent and should be removed from the Tentative Permit.

- ***Basis for the RPA:*** Owens believes that the data used in preparation of the Reasonable Potential Analysis ("RPA") are incorrect. Specifically, the Tentative Permit establishes an effluent limit for PCBs; the staff report suggests that this limit is necessary based on sampling data from Owens' facility; however, this is not the case. PCBs have not been detected in storm water effluent from Owens' facility; PCB effluent limits are therefore not valid, not

representative, and not relevant. Therefore, all PCB limits should be deleted from the Tentative Permit.

In addition, hexavalent chromium is incorrectly identified as having a maximum effluent concentration ("MEC") of 30 micrograms/liter at Discharge Point 001. Owens' data indicates that the maximum MEC for hexavalent chromium was 11 micrograms/liter, which is less than the most stringent water quality standard of 11.43 micrograms/liter (a chronic criteria for fresh water). Further, Tables F-9 and F-10 of the Tentative Permit should indicate that limits for both Chromium (VI) and Chromium (III) are not needed. Accordingly, all chromium limits should be deleted from the Tentative Permit.

The table below demonstrates that the MECs for PCBs, hexavalent chromium, and trivalent chromium are below the most stringent water quality criteria ("C"), and therefore, limits for these constituents should be deleted from the permit.

Constituent	Most stringent water quality criteria (C) (µg/L)	Maximum Effluent Concentration (MEC) Discharge Point 001 (µg/L)	Maximum Effluent Concentration (MEC) Discharge Point 002 (µg/L)
PCBs	0.00017	ND	ND
Chromium VI	11.43	11	6.6
Chromium III	464.06	260	28

As discussed above, storm water from Owens' facility poses no chronic risk. Therefore, Owens maintains that the RPA must be revised to identify the most stringent water quality standard for acute risks, not chronic risks. Chronic risks are not relevant, not representative, and are not valid when establishing WQBEL for storm water discharges.

The RPA establishes dry-weather effluent standards for copper and lead, which is inappropriate for Owens' facility; because it has no discharge during dry weather. Owens' only discharge is storm water; therefore dry-weather standards are not valid, appropriate or representative of the storm water effluent; and all dry-weather standards should be deleted from the permit.

The RPA establishes monthly effluent limits for Owens' facility based on the State Implementation Policy. However, the State Implementation Policy specifically states that "this policy does not apply to regulation of storm water discharges." Significantly, the State Implementation Policy concludes that its general storm water permits for industrial sources should be used as the "relevant regulatory approach" for all storm water effluent[1]. Therefore, the monthly limits in the Tentative Permit are not valid, not relevant, and not representative for storm water and should be deleted. The RPA cannot be used to establish WQBELs for discharges comprised solely of storm water; these water quality based limits can only be based on the General Industrial Permit's numeric action levels.

Finally, the RPA relies on data that are not representative of Owens' site conditions. In the past two years, Owens has invested over $1MM in storm water management projects and enhanced BMPs, which have reduced concentrations and effluent loads by orders of magnitude. Therefore, the effluent data generated prior to 2015 are not representative or reasonable for establishing effluent limits for the facility. The RPA must be revised using effluent data that is representative of current operations and site conditions.

Analytical results from the two most recent rain events (September 15, 2015 and January 5, 2016), which are representative of the facility's current condition, show a number of MECs below the most stringent water quality criteria as follows:

Constituent	Most stringent water quality criteria (C) (µg/L)	Maximum Effluent Concentration (MEC) Discharge Point 001 (µg/L)	Maximum Effluent Concentration (MEC) Discharge Point 002 (µg/L)
Antimony	6	3.7	2.9
Arsenic	10	3.9	5.0
Cadmium	5	2.3	2.2
Silver	22.12	ND	ND
Thallium	2	0.33	ND
Cyanide	5.2	ND	ND

Accordingly, in addition to deleting the invalid effluent limits for PCBs, hexavalent chromium, and total chromium, effluent limits for antimony, arsenic, cadmium, silver, thallium, and cyanide should be deleted, as those limits are not relevant or representative of the facility's current condition.

- ***Proposed Effluent Limits:*** Owens has found several apparent calculation errors for mass loading effluent limitations, specifically the mass limits for dioxins and for hexavalent chromium. Owens requests that Board staff confirm the accuracy of all calculations in the Tentative Permit. Moreover, Owens seeks to understand the need for monthly mass loading for specific constituents, which as discussed in detail above, is inconsistent for those facilities that release only storm water. Notably, much of Section VII.E (Average Monthly Effluent Limitation) is written assuming that additional samples could be collected at equal intervals during a calendar month or more frequent interval; this is not representative of Owens' operations, and should not be relied upon to establish effluent limits.

- ***Proposed Monitoring Conditions:*** Owens' current permit requires installation and operation of a rainfall gauge; Owens requests that the Tentative Permit be modified to allow for rain gauge data as an acceptable basis for calculation of flow. It is our experience that intermittent storm water discharges, which have significant and inherent variation over time, may not be properly estimated through use of industrial flow monitoring methods which are designed to measure continuous discharges.

- ***Other errors:*** Additional inconsistencies and inaccuracies that appear throughout the Tentative Permit, include the following:
  - There is no annual reporting required under the Tentative Permit, yet annual reporting is referenced in Attachment G.
  - Testing for residual chlorine is required even though the discharge of fire protection system test water has been eliminated.
  - Bypass effluent streams do not occur at Owens' facility, but are regulated per Attachment D.
  - The Storm Water Pollution Prevention Plan (SWPPP) requirements in Attachment G continue to reference the Industrial General Permit, which is no longer in effect.
  - Typographical errors appear throughout the document (e.g., Table 4, Attachment F, etc.).

Owens respectfully requests that the Board staff carefully review the Tentative Permit to remove these and any other inconsistencies and inaccuracies. Several specific examples are provided below.

Additional Comments:

<u>III.A.1. and 2. (Page 4)</u>
Owens suggests revising the language to the following:

"Owens discharges storm water through Discharge Points 001 and 002 as follows:

1. Discharge Point 001 – (Latitude 33.99639° North; Longitude – 118.21722° West)
   The discharge through Discharge Point 001 consists of up to 0.163 MGD of storm water runoff from the central yard. This includes areas such as the cooling tower, furnace building, and various administrative/maintenance buildings.

2. Discharge Point 002 – (Latitude 33.99732° North; Longitude – 118.21944° West)
   The discharge through Discharge Point 002 consists of up to 0.680 MGD of storm water runoff from the main yard. This includes areas such as the batch house, oxygen plant, and storage/equipment maintenance buildings."

<u>III.B. (Page 5)</u>
Owens does not discharge waste via storm water discharge points; Owens discharges only storm water during rain events. Owens suggests revising the language to the following:
"Discharges of thermal wastes, elevated temperature wastes, toxic wastes, deleterious substances, or other wastes to a storm drain system, the Los Angeles River, or other waters of the State, are prohibited."

III.H. (Page 5)
Delete this paragraph. Owens does not discharge waste via storm water discharge points; Owens discharges only storm water during rain events. Discharges of waste are prohibited by revised Paragraph III.B, so this paragraph should be deleted.

Section IV. Effluent Limitations, Tables 4 and 5:
The mass loading limits in the Tentative Permit include at least two calculation errors, as shown below. Footnote 1, after both Tables 4 and 5, provides the following equation to determine the mass-based limitations:

Mass (lbs/day) = 8.34 x concentration (mg/L) x Q (MGD)

Based on this equation, Owens' calculated mass-based effluent limits differ from the proposed limits for both Chromium VI and 2,3,7,8-TCDD at EFF-002:

Parameter	Proposed Limit in Tentative Permit	Calculated Limit
Chromium VI	0.03 lbs/day	0.09 lbs/day
2,3,7,8-TCDD	1.7×10^{-13} lbs/day	1.6×10^{-10} lbs/day

IV.A.1.a., Table 4 (Page 6) :
The number "86" under the column "Instantaneous Maximum" should be for "Temperature", not "Settleable Solids".

VI.A.2.c. (Page 13):
Owens does not discharge waste via storm water discharge points; Owens discharges only storm water during rain events.

Attachment E, I.L. (Pages E-3 and E-4):
The current language reads as follows:
"For analyses with short holding times such as pH and total residual chlorine, the analyses may be conducted by a field technician or chemist from an ELAP certified laboratory provided that the personnel receives proper training and follows SOPs for field sampling and analysis. ..."
The phrase "from an ELAP certified laboratory" should be deleted from this clause, as it would be unduly burdensome to require Owens to have ELAP certified laboratory personnel available on-site to timely sample the facility's storm water discharge on an urgent basis.

All references to residual chlorine should be removed from the Tentative Permit as fire protection system test water is no longer released to the storm water system.

Attachment E-7, Table E-2, Footnote 1:
The language should be changed as follows:
"The Discharger shall measure the discharge flow through Discharge Points Nos. 001 and 002 either by 1) a flow meter or 2) multiplying inches of rainfall (as determined per Attachment E.IX.A.

Rainfall Monitoring) by gallons of discharge per inch of rain (31,000 gal./inch at Discharge Point 001; 129,500 gal. at Discharge Point 002).

Attachment E, I.Q. reads as follows:

> "For parameters that both average monthly and daily maximum limits are specified and the monitoring frequency is less than four times a month, the following shall apply. If an analytical result is greater than the average monthly limit, the Discharger shall collect four additional samples at approximately equal intervals during the month, until compliance with the average monthly limit has been demonstrated. All five analytical results shall be reported in the monitoring report for that month, or 45 days after results for the additional samples were received, whichever is later. In the event of noncompliance with an average monthly effluent limitation, the sampling frequency for that constituent shall be increased to weekly and shall continue at this level until compliance with the average monthly effluent limitation has been demonstrated. The Discharger shall provide for the approval of the Executive Officer a program to ensure future compliance with the average monthly limit."

The language of this condition is intended for a facility that discharges wastewater continuously. Owens discharges only storm water during rain events. Owens cannot increase frequency to collect additional samples at equal intervals during a month, or collect weekly samples. Attachment E, I.Q. should be deleted in its entirety.

Attachment F, I. Table F-1 (page F-3) :

- The correct name of Discharger is Owens-Brockway Glass Container Inc.
- The correct Name of the Facility is Owens-Brockway Glass Container Inc.
- The Facility Contact is Doug Pittman, Assistant Plant Manager, (323) 586-4275.
- The authorized person to sign and submit reports is Rodney Detmer, Plant Manager, (323) 586-4288.

Attachment F,
II. Facility Description
A. Description of Wastewater and Biosolids Treatment and Controls (Pages F-4 to F-6) :

Owens suggests revising the first five paragraphs of this section to the following:

This NPDES permit allows the discharge of 0.843 million gallons per day (MGD) of storm water from the Owens-Brockway Glass Container facility. Information submitted by the Discharger on November 19, 2015, indicated that the total storm water discharge from the Facility is 0.843 MGD (i.e., 0.163 MGD at Discharge Point 001 and 0.680 MGD at Discharge Point 002).

The previous NPDES permit (Order No. R4-2010-0087-R) allowed the discharge of 1.0453 MGD of wastewater and 1.566 MGD storm water to surface waters. The ROWD, permit renewal application, and self-monitoring reports submitted indicate that since November 2004, all

routinely-generated plant wastewater is discharged to the sanitary sewer under a joint permit issued by the City of Vernon and Los Angeles County Sanitation Districts of (Permit No. 1029).

Although the discharge of 1.0 MGD furnace drain water was allowed by the previous permit, furnace drain water was never discharged to the storm sewer. Approximately every 12 – 15 years, a furnace is drained of glass for maintenance or color change purposes. It takes approximately 24 hours to drain a furnace of glass. During a furnace drain, glass is discharged into a flume of water flowing into a holding area in the basement or slab outside the furnace building, where it is collected in a fabricated "pond" for recirculation. Excess furnace drain water is hauled off-site for disposal or discharged into the sanitary sewer; it is not discharged to the storm sewer.

The previous permit also allowed discharge of 0.04 MGD oxygen plant vacuum pump seal water. The vacuum pump seal water from two oxygen plants are combined into a recirculating system. Bleed water from this water recirculation system was previously discharged via Discharge Point 001, but is now recirculated as cooling water. Order No. R4-2010-0087-R permits the discharge of oxygen plant seal water in the event of an emergency (e.g., loss of sewer system pumps) to the storm drain through Discharge Point 001; however, even in the event of loss of sewer system pumps, oxygen plant vacuum pump seal water would not be discharged to storm water.

In addition, the current permit allows Owens to discharge 0.0053 MGD of fire protection water. The fire protection system is tested approximately once every 3 months, using City-supplied water, without the addition of any chemicals. During testing, test water was previously allowed to flow to catch basins that discharge to storm water outfalls. Owens no longer discharges fire protection system test water to storm drains; it is now either routed to the basement closed loop recirculation system or pumped into a container for off-site disposal. Therefore, this permit does not authorize the discharge of fire protection system test water to the storm drain and into the surface waters.

Third complete paragraph on Page F-5:

Owens no longer has a wash pad adjacent to the covered cullet bins. The third complete paragraph on Page F-5 should be deleted.

The First complete paragraph on Page F-6 should be changed as follows:

The Facility no longer requires an option for discharge of the furnace drain water, oxygen plant vacuum pump seal water, or fire protection system test water to surface waters. Therefore, this Order only regulates the discharge of storm water runoff.

Attachment F, II.B.1-2. (Page F-6):

Owens suggests changing the language to the following:

1. Discharge Point 001 – (Latitude 33.99639° North; Longitude – 118.21722° West)
   The discharge through Discharge Point 001 consists of up to 0.163 MGD of storm water runoff from the central yard/production area. This includes areas such as the cooling tower, furnace building, and various administrative/maintenance buildings.

2. Discharge Point 002 – (Latitude 33.99732° North; Longitude – 118.21944° West)
   The discharge through Discharge Point 002 consists of up to 0.680 MGD of storm water runoff from the main yard. This includes areas such as the batch house, oxygen plant, and storage/equipment maintenance buildings.

Attachment F:
Owens discharges non-contact, non-industrial storm water through roof gutters and parking lots. The Tentative Permit should reflect that non-contact, non-industrial storm water flows are authorized.

Owens respectfully requests a meeting with the Board staff in advance of the public hearing. We believe that a review of the Tentative Permit in greater detail, with an in-person discussion of its terms, provides the most efficient path forward.

Further, Owens respectfully requests a redline copy of the Tentative Permit, and an executable copy of the Excel spreadsheet that was used to document the RPA, with an explanation of the highlighted areas. We ask that these materials be provided well in advance of the public meeting before the Board, to allow Owens sufficient time to review and prepare comments.

Owens appreciates the Board's consideration of these comments. If you have any questions concerning these issues, please contact me at 323-586-4275.

Respectfully,

Douglas E. Pittman, Assistant Plant Manager
Owens-Brockway Glass Container Inc.