



Sierra Pacific Industries

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via electronic mail centralvalleyredding@waterboards.ca.gov

Mr. Bryan Smith
Water Resources Control Engineer
Central Valley Regional Water Quality Control Board
Redding Branch Office
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Redding, CA 96002

Subject: **COMMENTS REGARDING TENTATIVE WASTE DISCHARGE REQUIREMENTS FOR SIERRA PACIFIC INDUSTRIES, BURNEY DIVISION SAWMILL AND COGENERATION FACILITY, SHASTA COUNTY
WDID 5A452015001, NPDES No. CA0003981**

Dear Mr. Smith:

This letter presents Sierra Pacific Industries' (SPI) comments regarding the above referenced Order. We appreciate the opportunity to review and provide comments on the tentative Order and thank you in advance for your consideration of our comments.

Background

The tentative Order authorizes the discharge of industrial stormwater from the SPI Burney Division Facility. The tentative Order represents the renewal of the NPDES permit historically held by SPI to authorize discharges of industrial stormwater. This Order, and the prior Order, are effectively individual NPDES stormwater permits issued in lieu of authorization under the California General Industrial Stormwater Permit, NPDES General Permit No. CAS000001, (General Permit).

During the term of the prior permit, which was issued in 2007, the Burney facility has made several improvements aimed at eliminating the discharge of industrial stormwater from the log deck area. The most significant investment was the construction of a new stormwater retention pond in 2009. Following construction of the pond, and after a period of operational experience with the water system, including the new pond, SPI has virtually eliminated discharges of industrial stormwater from the log yard area. The facility has not discharged any industrial stormwater from the log deck area since early 2011.

General Comments on the Tentative Order

Given the nature of the discharge and the performance of the facility over the past four years, SPI requests that the Water Board rescind the existing NPDES permit and forgo the current renewal efforts; SPI will obtain coverage under the General Permit in the event of an extreme storm event or series of events that could result in a discharge of industrial stormwater. Discharges of industrial stormwater from the log deck area that may occur due to an extreme storm event, or series of events, would be monitored and managed under the terms and conditions of the General Permit applicable to other industrial stormwater discharges and the balance of the facility.

The tentative Order states the following to justify the individual NPDES permit approach for industrial stormwater discharges from this facility, *"The discharge of industrial storm water from the log yard could be regulated under the General Industrial Storm Water Permit. However, due to the complexity of the Facility operations and unique threats to water quality, the Central Valley Water Board has elected to*

regulate these discharges with an individual NPDES permit. Therefore, discharges of industrial storm water from the log yard are not covered under the General Industrial Storm Water Permit and are covered under this Order.” However, the facility has not discharged industrial stormwater from the log yard in over four years. The type of storm or series of storms that might cause the facility to discharge industrial stormwater from the log yard are infrequent and would not be expected to alter the receiving water conditions at the time of such discharge. Moreover, since the facility can hold several inches of log yard area precipitation prior to a discharge (much greater than the minimum 2” suggested by the tentative Order), the quality of the stormwater discharged in an extreme event would be markedly improved as compared to “typical” log yard stormwater runoff. The circumstances of this stormwater discharge do not represent a unique threat to water quality. As to the complexity of the facility operations, the facility stores and scales whole logs, primarily pine and fir. The logs are not treated with any chemicals, there are no chemicals or fuels stored in the area, and the equipment used to move the logs is run-of-the-mill heavy equipment fueled by diesel. This would not seem to rise to the level of complexity warranting an individual NPDES permit for industrial stormwater discharges.

If the Water Board insists on regulating the stormwater discharge under an individual permit, SPI objects to the Water Board’s new inclusion of several inappropriate numeric action levels (NAL) and ratcheting down the constituent-appropriate NALs to levels well below what is applicable to the rest of the industry and the balance of this same site under the General Permit. The establishment of overly stringent and unnecessary requirements places an unfair burden upon SPI, sets up SPI for failure, and may subject SPI to third party action liability and/or Water Board enforcement.

SPI does appreciate the Water Board’s thorough and time-consuming efforts in preparing the tentative Order and we look forward to further discussions aimed at rescinding the current NPDES permit in favor of coverage under the General Permit. Should those discussions result in continued coverage under an individual permit, we appreciate the Water Board’s consideration of the following specific comments.

Specific Comments on the Tentative Order

Section VI.C.2.b This section imposes a requirement to conduct a log yard flushing study. SPI does not believe further study is needed at this time. We agree with collecting at least two inches of rain fall for the assurance that there is no process water in the discharge; however, the collection system is set up to collect as much rainwater as possible, which is greater than the first 2 inches after cessation of sprinkling. Thus, there are ample measures, updated since the last permit’s issuance, to ensure that no process water is entrained in the stormwater discharge from this area. As to the quality of the stormwater discharged, the tentative Order requires SPI to meet the NALs, or else improve BMPs to meet the NALs. The results of any flushing study will not affect the volume of rainwater collected since SPI is already collecting the maximum amount possible in an effort to minimize any discharge of stormwater from the log deck area. An additional complication of this study requirement is that in order to meet its objectives (e.g., determine the amount of rainfall capture that achieves NALs), it will be necessary to conduct the study while the log yard is not operating, a regulatory burden that is not reasonable as required by Water Code section 13000 or supported by Water Code section 13267.

Section VI.C.2.c Table 5 establishes new NALs in this permit. In general, SPI agrees with establishing action levels in lieu of effluent limitations for industrial pollutants that may affect industrial-related stormwater discharges. However, SPI disagrees with establishing NALs for pollutants that are not prescribed as a stormwater concern for sawmills and log yards. Rather, the NALs should be based on the General Permit, which specifically applies to industrial stormwater discharges from the Burney facility. We understand that the Water Board is choosing to issue an individual permit with added discharge limitations, monitoring, reporting, studies, and related requirements; however, we do not believe that the issuance of an individual stormwater permit justifies adding NALs for non-stormwater pollutants at levels significantly below what would otherwise be applicable to other stormwater discharges under the General Permit. Each proposed action level is discussed further below:

Total Suspended Solids (TSS): The action level is appropriately set at 100 mg/L provided that the TSS limit is modified to be an annual average consistent with the General Permit and the standard applicable to other regional industrial stormwater discharges.

Zinc, Total Recoverable: This is a known stormwater pollutant for sawmills and planing mills, however, it is not a stormwater pollutant for log storage areas. We do not disagree with establishing an action level for zinc because of its listing as a stormwater pollutant under the mill's SIC code. However, the General Permit establishes an action level for zinc of 260 ug/L, as an annual average. This level currently applies to the balance of the facility not covered under this individual permit and other sawmills. The derivation of this permit's substantially reduced NAL for zinc is the use of average receiving water hardness to recalculate the NAL; to the extent this procedure is being implemented pursuant to the State Implementation Plan (SIP), it is inappropriate because, by its own terms, the SIP is inapplicable to stormwater discharges. Moreover, it is clear that the regulation of stormwater in California does not typically consider site-specific hardness of the receiving water. In the 2014 Response to Comments document regarding the new General Permit, the Water Board states, "...this Permit does not require that hardness be considered when evaluating whether NAL exceedances have occurred, hardness might be considered for discharges to impaired water bodies or when TMDLs are adopted into this Permit." The receiving water here is not impaired and there are no applicable TMDLs. We request that the NAL be set consistent with the NAL applicable to the rest of the industry through the General Permit.

Chemical Oxygen Demand: This is a known stormwater pollutant for the facility and the action level is appropriately set at 120 mg/L. We request that the COD limit be an annual average consistent with the General Permit and the requirement applicable to other sawmills.

Iron, Total Recoverable: Iron is not likely an industrial stormwater pollutant from the log yard area that should be regulated by this permit. However, the local geology is known to be a source of iron in stormwater and SPI does not object to continued monitoring for iron to further evaluate background sources of iron. The NAL is consistent with that established by the General Permit.

Manganese, Total Recoverable: The tentative Order establishes an NAL for manganese based on the secondary MCL of 50 ug/L. The Fact Sheet evaluated data collected in 2010 and 2011, which demonstrates that all of the receiving water results (14 samples) are less than half of the secondary MCL for manganese. SPI has not completed any studies on sources of manganese in the stormwater discharge; however, manganese is naturally occurring (12th most abundant element on earth) and it is well known that concentrations in waters are highly dependent on pH and oxidation-reduction potential. The elevated concentrations historically observed in the log yard stormwater could be due to reducing conditions in the ponds or ditches that would increase manganese concentrations in water. The receiving water, however, is well oxygenated and elevated manganese in the stormwater discharge has no effect on the receiving waters, as evidenced by the data presented in the fact sheet. For this reason, an NAL is unnecessary to impose to protect water quality and is unreasonable. Further, the NAL of 50 ug/L is impractical, if not impossible, to achieve, and was specifically excluded from the list of NALs in the General Permit, so subjecting SPI to such a requirement would be inconsistent with State stormwater policy. The NAL for manganese is not required by any applicable regulation, and unnecessary for protection of water quality. SPI does not object to monitoring for manganese, but establishment of an NAL based on the secondary MCL will force further study, BMP enhancements, generation of reports, and generally expend money and resources without any benefit to water quality since the receiving water is already well below the secondary MCL.

Tannins and lignins: We do not object to monitoring for tannins and lignins, although we believe it is not necessary given the required monitoring and NAL for COD, which has similar industrial sources as tannins and lignins. It is noted that the General Permit does not contain NALs for tannins and lignins at saw mills, planing mills, or log yards; and we are unaware of any other sawmills that have action levels

for tannins and lignins. Further, as noted in the Fact Sheet, no numeric criteria or objectives for tannins and lignins have been developed. However, the NAL is established by the Water Board at 30 mg/L which the Fact Sheet purports is, "Based on the levels of tannins and lignins in the effluent and the nature of runoff from sawmill operations." Establishing a NAL for tannins and lignins is not necessary to protect water quality (the imposed requirements for COD are adequately protective), is not required by any applicable regulations, is not applied to any other sawmills that we are aware of, and the proposed numeric value of the NAL is arbitrarily chosen. SPI requests that the Water Board remove the NAL for tannins and lignins.

Chronic Toxicity: SPI objects to the inclusion of a NAL for chronic toxicity for several reasons. First, as noted in the Fact Sheet, the State Implementation Plan contains implementation gaps regarding the appropriate form and implementation of chronic toxicity limits. Therefore, new Central Valley Regional Board NPDES permits do not contain numeric chronic toxicity limits pending resolution. However, the inclusion of a numeric TUC NAL effectively imposes an effluent limitation since accelerated chronic toxicity monitoring and TRE requirements could be triggered and exceedance of the NAL could result in Regional Water Board and/or third party lawsuit liability. Moreover, the stormwater discharge from the Burney facility is intermittent, as is the nature of stormwater discharges. Chronic toxicity for intermittent stormwater discharges is not meaningful and should not be applied as a NAL. The Order establishes NALs for zinc, COD, and TSS, and includes a stormwater effluent limitation for pH. These NALs and limitations on stormwater discharges are fully indicative of BMP performance and fully protective of water quality. Stormwater discharges to inland surface waters under the General Permit are not required to monitor for toxicity and we are not aware of any sawmills conducting chronic toxicity testing on stormwater discharges. SPI respectfully requests that the NAL for chronic toxicity be removed.

Sample Result Averaging: As noted above, SPI believes that the NALs that are retained in a final permit should apply averaging times consistent with the General Permit (e.g., annual average for both COD and TSS). In addition, SPI notes that the General Permit allows for averaging the results from multiple stormwater discharge points. Accordingly, results of sampling the discharge of industrial stormwater from the log yard would be averaged with the industrial stormwater discharged from the balance of the facility. SPI requests that the Order allow averaging of industrial stormwater sample results consistent with the General Permit.

Section VI.C.3.a. This section requires update and submittal of a Salinity Evaluation and Minimization Plan and requires an annual report on implementation and performance. As noted in the Fact Sheet regarding the Water Board's evaluation of salinity, "Based on the relatively low reported salinity, the discharge does not have reasonable potential to cause or contribute to an in-stream excursion of the water quality objectives for salinity...". Notwithstanding that reasonable potential analysis is not applicable or appropriate for industrial stormwater discharges, since there is no reasonable potential to discharge salinity, it does not make sense for the permit to require implementation of a salinity reduction plan and require annual monitoring and reporting pursuant to such plan. We request this requirement be removed.

Comments on the Monitoring and Reporting Program

Section IV.A: This section sets forth monitoring requirements for industrial stormwater discharges at Location EFF-001. The tentative Order adds new monitoring requirements for ammonia, biochemical oxygen demand (BOD), dissolved oxygen, minerals, and temperature. There is no justification provided in the Order or the Fact Sheet for increasing required monitoring. The new monitoring requirements are in addition to an already long list of monitoring parameters that should not apply to the discharge of industrial stormwater. If SPI were to seek coverage under the General Permit for the industrial stormwater discharges, which we understand the Water Board is preempting with this individual permit, the monitoring requirements would include a minimum of four samples per year, for pH, TSS, COD, Zinc, Oil and Grease, and whatever additional pollutants may be listed as the result of a pollutant evaluation.

These are the monitoring requirements for all other stormwater discharges not covered by an individual permit. Thus, SPI would expect consideration of reduced monitoring requirements as opposed to increased monitoring requirements, especially given the improved water management and lack of discharge from the facility. If the pollutant evaluation required by Section VI.C.3.e of the Order identified ammonia, minerals, BOD, and temperature as potential stormwater pollutants from industrial operations, monitoring would be appropriate. SPI requests that any new monitoring requirements be deferred until there is justification for adding the requirements and that the Water Board consider limiting the monitoring requirements to industrial-related stormwater pollutants.

Section V.B For reasons already presented above, SPI opposes chronic toxicity monitoring for stormwater discharges. Moreover, a recent 2014 Water Board-issued NPDES permit for a near identical stormwater discharge, stated that, "... three species chronic toxicity monitoring has not been retained from Order R5-2007-0061 due to the intermittent nature of the storm water discharge and the infeasibility of continuous (*i.e.*, multi-day) sample collection, which is required of the analysis." That same reasoning, plus the reasoning provided above, applies to this stormwater discharge, and suggests chronic toxicity monitoring should not be required. The tentative Order includes an effluent limitation and monitoring requirements for acute toxicity, which SPI can accept, even though such limits and monitoring requirements are rarely applied to industrial stormwater discharges.

Section VI.A. This section adds several monitoring requirements for the ponds that have not been required in previous Orders. Specifically, arsenic, copper, zinc, COD, chloride, sulfate, TDS, iron, and manganese have been added. The Fact Sheet provides no technical or regulatory basis for the new monitoring requirements, but simply states the added monitoring is necessary to assess impacts of the discharge on groundwater. Since the tentative Order already requires a groundwater characterization study, and an anti-degradation analysis for groundwater, and a Title 27 exemption evaluation for groundwater, and additionally requires a new groundwater monitoring network and new groundwater monitoring and reporting requirements, the addition of new pond monitoring requirements is excessive. SPI requests that any new pond monitoring requirements be deferred to the conclusion of the required groundwater studies, which will provide information regarding any contaminants of concern in groundwater – information which is not currently available to justify the added monitoring. Further, if, as requested above, the existing permit is rescinded, the proposed permit not pursued, in favor of General Permit coverage, the requirements for groundwater investigation and protection can be included in separately issued waste discharge requirements.

Section VIII.A. This section contains receiving water monitoring requirements. The list of analytes is extensive, typical of NPDES permits issued pursuant to the State Implementation Plan (SIP). However, this is a stormwater permit and there is no recognition of substance that the SIP does not apply to this discharge and regulation of industrial stormwater discharges is substantially different than the regulation of process water or process water comingled with storm water. There is no regulatory basis to require receiving water monitoring during discharges of exclusively industrial stormwater. The General Permit, applicable to other discharges of industrial stormwater, does not require receiving water monitoring. The enhanced stormwater monitoring, numeric action levels, and BMP evaluations and improvements already required in the tentative Order are more than fully protective of the receiving water and ensure stormwater is being managed.

Section IX.B.1: This section adds additional monitoring parameters for ash, increases the frequency of monitoring, and increases the reporting requirements. The Fact Sheet explains that the monitoring of ash is to "ensure proper handling of such material." While proper handling of the material, when used as a soil amendment, is already regulated by CalRecycle and the CA Department of Food and Agriculture, we do not object to conducting monitoring because SPI is already performing similar monitoring. We do request that the monitoring frequency remain annual, except for dioxin, which should be once during the

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permit term. The ash quality is fairly consistent and there is no justification provided for increasing the monitoring frequency and increasing the analytes tested.

Section IX.B.2. Please note that ash may be sold to intermediate soil amendment producers that use ash as an ingredient in proprietary soil blends that are packaged for sale on the open market. In such cases the application area will not be available to SPI. Further, Cal Recycle has promulgated an ash reporting requirement in Public Resources Code Section 44107 through Senate Bill 498, effective January 1, 2015. This regulation requires an annual report, including information on ash disposition, be submitted by April 1st of each year for the preceding year. The requirement acknowledges that final disposition information may be unavailable to the producer. SPI requests that the reporting requirements for ash be consistent with the Cal Recycle requirement at PRC 44107.

Thank you again for the opportunity to provide comments on the tentative Order. If you have any questions or require further information, or would like to schedule a meeting to further discuss our comments, please call me at (530) 378-8179, or Mr. Brian Coyle, Burney Division Manager, at (530) 335-3681.

Sincerely,
Sierra Pacific Industries



Tony Jaegel
Director of Environmental Affairs

cc: Brian Coyle/SPI Burney
Stacy Gotham/CV Water Board
Scott Gilbreath/CV Water Board