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A LIMITED LIABILITY PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

January 19, 2012

Via U.S. Mail & E-Mail

Mr. Michael Adackapara
Mr. Mark Smythe
Santa Ana Regional Water Quality Control Board
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JAN 23 2012



Re: Comments on the Sector-Specific General Permit for Storm Water Runoff Associated with Industrial Activities from Scrap Metal Recycling Facilities within the Santa Ana Region [Sixth Draft: January 6, 2012] ("Scrap Permit")

Dear Mr. Adackapara and Mr. Smythe:

Our office represents the Paper, Glass, and Plastic Recyclers Monitoring Group (hereinafter referred to as "PGPRMG"). The PGPRMG was developed in 1992 and is an approved storm water monitoring group pursuant to California's General Industrial Storm Water Permit. The PGPRMG consists of over twenty facilities that operate within the jurisdictions of the Los Angeles, San Francisco Bay, Santa Ana, Central Valley, and San Diego Regional Water Quality Control Boards.

The PGPRMG requests that the exclusion that states "[t]his Permit is not applicable to recycling facilities commonly referred to as material recovery facilities . . ." be expanded to include other types of recycling facilities, including, but not limited to: buy-back centers and traditional commercial/industrial recycling facilities that only receive recyclable materials, primarily from non-industrial and residential sources, where no processes are performed on metal scrap other than sorting, compaction, storage and transport.

In addition, the PGPRMG requests that Option 2, a non-phased approach that requires all discharges be in compliance with all the water quality-based numeric effluent limitations ("WQBELs") in Table 1b of the Scrap Permit, be either removed or revised due to the

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fact that Table 1b imposes WQBELs without providing a reasonable potential analysis pursuant to 40 CFR 122.44.

Lastly, the PGPRMG would like to emphasize that the opinions in California Building Industry Association v. State Water Resources Control Board (December 2, 2011) Case No. 34-2009-80000338 ("CBIA"), Santa Monica Baykeeper v. Kramer Metals (C.D. Cal. 2009) 619 F. Supp. 2d 914, and Santa Monica Baykeeper v. Int'l Metals Ecko (C.D. Cal. 2009) 619 F. Supp. 2d 936 provide little, if any, justification for Option 2. First and foremost all three opinions were issued in a lower court (superior court or federal district court) and therefore are persuasive at best – but certainly not binding, controlling authority. Moreover, as referenced in the Scrap Permit's fact sheet, the Sacramento Superior Court dealt with the construction general permit (not an industrial permit) and ultimately invalidated numeric technology-based effluent limitations ("TBELs"), and not WQBELs, for pH and turbidity on procedural grounds.

We appreciate the opportunity to present these comments. If you have any questions or comments, please contact our office.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'William W. Funderburk, Jr.', with a long horizontal flourish extending to the right.

William W. Funderburk, Jr.

WWF:ss