SPECIAL HEARING
2/3/05
cc: BD, DI, DWQ
E-Cys: BD, CC, HMS, TH, CMW

February 2, 2005

Ms. Debbie Irvin, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor [95814]
P.O. Box 100
Sacramento, CA 95812-0100

Re: Comments of Mineral Associations Coalition Regarding Reissuance of the Storm Water Industrial General Permit – Draft Permit Documents issued December 15, 2004

Dear Ms. Irvin:

These comments are offered on behalf of the Mineral Associations Coalition (MAC), which includes the Construction Materials Association of California, California Mining Association, and Southern California Rock Products Association.

The MAC coalition represents producers of aggregates, ready mixed concrete, industrial, and other minerals from throughout California. These companies provide the essential materials to build California's roads, homes, buildings and bridges and fuel California's construction and manufacturing processes, as well as provide jobs and revenues in their communities. In all, the aggregate and mineral industries contribute directly over $4 billion to California's economy.

Protection of California's water resources is an important objective of the coalition, and while this proposal offers several clarifications and improvements, we also have several concerns, including the following:

- *Corrective Actions*. Many of the actions and timelines required are not practicable for all facilities and all times of the year. Some corrective actions need to wait until the dry season, and this proposal does not provide that flexibility.

- *Natural constituents*. The proposal does not address situations where stormwater sampling may detect natural constituents.

- *BMPs and Covered Materials*. Many of the required BMPs are impractical at aggregate and related facilities. For instance, covering material stockpiles would be impractical, since they are constantly subject to use by mechanized equipment.

- *Dust Requirements*. The requirements to determine where dust will settle in a facility is nearly impractical at a large aggregate or industrial setting.

- *Inspections*. As proposed, the permit would require as many as 500 inspections. This is simply untenable and we offer practical solutions.

These and other comments are detailed in our attached analysis. We would look forward to discussing these in more detail.

Sincerely,

Linda Falasco
CMAC

Steve Bledsoe
SCRPA

Adam Harper
CMA

Mineral Associations Coalition
Construction Materials Association of California
Southern California Rock Products Association
California Mining Association

Comments of Mineral Associations Coalition Regarding Reissuance of the Storm Water Industrial General Permit – Draft Permit Documents issued December 15, 2004

On behalf of its member associations and their respective members, the Mineral Associations Coalition (MAC) is pleased to provide comments on the Draft General Permit for Storm Water Discharges associated with Industrial Activities, issued by the State Water Resources Control Board for public comment on December 15, 2004 (2004 Draft). MAC, its member associations and their members support many of the proposed changes in the 2004 Draft. In particular, MAC supports the 2004 Draft's efforts to provide clearer definition of a discharger's obligations, some increase in inspections and clarity in reporting requirements. MAC is concerned, however, that some of the proposed changes could have significant negative impacts on its members doing business in California without corresponding benefits to water quality. The following is a discussion of some of the proposed changes and their potential impacts, particularly on mineral and mineral processing operations, and specific requests for appropriate revision where MAC has such concerns:

1. <u>Provisions Triggering Action Based on USEPA Benchmark Values (Sections V.7 and VIII.4.f)</u>

Section V.7. and section VIII.4.f. of the 2004 Draft lists tasks to be accomplished within stringent timelines in the event any stormwater sample exceeds certain "benchmark" levels for certain constituents. Page XIV, paragraph 6, the Fact Sheet states that the benchmark values are not numeric storm water effluent limits, and "are not related or necessarily protective of any specific receiving water." However, the actions to be taken upon exceeding one of these benchmarks are referred to as "*corrective actions*." The measures are essentially identical to those required in the event a facility exceeds actual receiving water limitations. If analysis shows that no new measures are needed to reduce or prevent pollutants in compliance with BAT/BCT, the discharger must file a certification that "*must show why the exceedance occurred and <u>why it will not occur again</u> under similar circumstances*."

These provisions clearly treat the benchmarks as effluent limitations, because a discharger's choices (mandatory certifications) do not include any option that would allow levels above the benchmarks to lawfully continue to be discharged. Any time a discharge tends to exceed one of the benchmarks, the facility is, therefore, essentially required to reduce the pollutants to levels below the benchmark.

In addition, a discharger in this situation must bear the burden of incessant monitoring of each subsequent storm, even where the discharge is not causing exceedance of receiving water standards and appropriate BMPs are being implemented, such that permit compliance has already been confirmed. (It is also not clear whether all outfalls have to be re-sampled, and not

just the one where benchmark was exceeded, and whether only the benchmark constituent must be analyzed for in the extra monitoring.)

An important example of the problem presented by this approach is the benchmark value for Total Suspended Solids of 100 mg/L. This is not a receiving water standard and certainly will often not cause exceedance of a water quality standard. For example, the Basin Plan for the Central Valley (Region 5) contains a narrative standard for suspended solids that suspended solids should not create a nuisance condition. (Note that creating a nuisance is already a separate violation of the General Permit.)[1] In addition, the Basin Plan specifies a sliding scale standard for receiving water turbidity expressed in terms of Turbidity Units, and contains standards for sediment and settleable solids, none of which translates to 100 mg/l Total Suspended Solids.

Although the Fact Sheet suggest that the EPA Benchmarks are approximate levels that suggest inadequate SWPPP design or implementation, there is no evidence that this is true for our member companies with respect to the benchmark of 100 mg/l Total Suspended Solids. Under the Clean Water Act, Total Suspended Solids is a conventional pollutant subject to control using Best Conventional Technology (BCT), a standard that considers cost effectiveness. See, for example, EPA's BCT methodology described at 51 Fed. Reg. 24,974-76 (July 9, 1988). We know of no basis, and the 2004 Draft does not provide explanation of any basis, to conclude that the benchmark represents this level of control technology in our members' operations.

In the context of mining facilities, which have large areas of unpaved ground as well as stockpiles of natural materials, it will often be impossible to meet this benchmark. This benchmark level will also be exceeded in natural stormwater due to natural levels of the same types of solids.

Requested Revision of Provisions relating to Benchmarks:

It is critical that the overreaching requirements triggered by exceeding benchmark levels be deleted or revised. If the State Board believes that there is value in use of the bench mark values for reference in evaluating successful SWPPP implementation, we request that Section V.7 be revised as follows:

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[1]The Basin Plan for the Sacramento and San Joaquin watersheds contains the following specific objectives: Sediment: "The suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses."

Settleable Material: "Waters shall not contain substances in concentrations that result in the deposition of material that causes nuisance or adversely affects beneficial uses."

Suspended Material: "Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses."

Turbidity: "Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses. Increases in turbidity attributable to controllable water quality factors shall not exceed [four ranges of turbidity depending upon the receiving water.]" The turbidity narrative then provides for averaging periods, exceptions for dredging, and specific objectives for the American River and Delta waters.

a. In the introduction to V.7, change the phrase "*implement correction actions that include*" to "*take the following actions.*"

b. Delete all portions of Section V.7after subsection V.7.c.iii.

c. Insert at the end of Subsection V.7.c.iii: "*associated with industrial activity.*"

d. Insert the following to the end of the newly revised Section V.7, as a new subparagraph V.7.d: "*The foregoing actions and certification shall be documented in the SWPPP and Annual Report. Subsequent equivalent exceedance of the same benchmark to an equivalent degree do not require repetition of the foregoing actions under this Section V.7.*"

e. Delete the current language of Section VIII.4.f, the requirement for monitoring of all later storms, and substitute the following: "*Collect and analyze samples from the qualifying storm event following implementation of any additional BMPs and SWPPP implementation measures adopted pursuant to Section VII.c.i, at discharge locations and for the constituent(s) identified as exceeding the benchmark(s).*"

Under this approach, a discharger would be required to evaluate its SWPPP and certify the results of the evaluation, but not have to certify that the event would not happen again or make filings with the Regional Board that require Regional Board approval. Removal of the time requirements for implementation of proposed SWPPP revisions is appropriate because the permit already provides elsewhere for the process to be followed for revision of the SWPPP as the need for additional measures is recognized, and where actions are taken in response to permit violations.

2. Time Requirements for Installation of Additional BMPs in V.6 and V.7

These provisions of the storm water permit provide defined schedules for submitting reports and implementation schedules (if necessary) for additional BMPs and corrective actions to assure compliance with receiving water limitations. The implementation schedule is not to exceed 90 days. While in many instances this 90 day time frame is anticipated to be sufficient to implement additional BMPs and/or corrective actions, there are foreseeable situations in which the 90 day time frame is not reasonable. For example, installing an in-line treatment unit may not be practicable until the site can be drained in the spring after rains cease; or repairs to a ditch lining may contribute to additional and on-going exceedance of suspended solids limitations due to disturbances associated with construction in wet conditions. For these reasons, flexibility in the time frames for implementing additional BMPs and corrective actions based on the circumstances should be explicitly provided for in the provisions of the storm water permit.

Revision requested to V.6e and V7e:

We suggest the following addition to these provisions (with the caveat that we have requested deletion of V.7.e above in relation to benchmarks, which is far preferable in that case): "*To the extent that implementation within 90 days is not feasible and not necessary, implementation may occur according to a reasonable schedule described in the SWPPP.*"

3. Proposed Addition of Language Regarding Background Water Quality

The 2004 Draft does not clearly address situations where the results of stormwater sampling may reflect natural conditions rather than addition of pollutants from industrial activities. To clarify the permit and recognize that natural conditions may be distinguished from the regulated pollutants in the discharge, MAC requests that the following be inserted into the permit, possibly as a new subsection of Section V:

"The contribution of natural background water quality conditions shall not be considered in determining exceedances of the requirements of Section I (Discharge Prohibitions), II (Effluent Limitations), III (Receiving Water Limitations), IV (Non-Storm Water Discharges), and the EPA benchmark values referred to in Provision V.7"

4. Minimum Best Management Practices (BMP'S) (Section VII.8)

Section VII. 8. of the 2004 Draft requires minimum BMPs that are required to be implemented "throughout" the facility. MAC does not object to additional guidance on BMPs. However, because the listed BMPs cannot reasonably be implemented at all types of industrial facilities, MAC requests that this section be revised as discussed below.

The language of the introduction to VIII.8 is overly restrictive, as written, allowing a discharger to vary from a specific BMP only if it is "inapplicable." We see many BMPs that are needed for many facilities, but not all facilities, though if omitted entirely from mention by the permit would seem to endorse less than a rigorous SWPPP. Attention to these BMPs can be achieved while still retaining some flexibility to allow the necessary application of appropriate standards in tailoring to each industry and facility. In addition, clarification of language in VIII.8 is needed regarding "burden of proof" and the areas in which minimum BMPs apply.

To make BMPs truly mandatory would require findings by the State Board that the BMPs actually represent BCT for conventional pollutants and BAT for other pollutants. Each of these standards requires specific consideration, in varying respects, of costs and technological feasibility. Because the State Board has not performed or provided such a detailed analysis, leeway must be provided in the selection of BMPs to allow appropriate implementation of the BAT and BCT standards.[2]

In addition, the areas of the facility that do not produce (originate or carry) storm water associated with industrial activity that discharges to waters of the U.S. should be more clearly excluded from the mandatory minimum BMPs. Such areas include, for example, areas where stormwater drains only to retention ponds, for evaporation, percolation and/or reuse, or is otherwise contained.

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[2] We also note that there is no legal requirement under the Clean Water Act that a zero pollutant load be achieved, and since some mandatory BMPs, such as covering storage areas, are designed to completely eliminate discharges from a particular area, it is impossible to state an alternative that provides strictly "equivalent reduction" of pollutants.

Finally, the 2004 Draft language inappropriately states that a discharger "has a burden of proving" certain judgments. The discharger's obligations should simply be clearly outlined in the permit, and in any enforcement action the burden of proof should be appropriately placed based on applicable principles of law. The permit can do so by simply requiring adequate justification for variance from the minimum BMPs.

a. Requested Revision to Minimum BMPs Introductory Paragraph:

MAC therefore requests that the paragraph under the heading "Minimum BMPs" be revised as follows:

> "Dischargers shall implement the following minimum BMPs ~~described below throughout their facilities~~ in areas of the facility from which storm water associated with industrial activity is discharged to waters of the U.S. unless ~~clearly~~ inapplicable, infeasible or otherwise clearly inappropriate ~~to~~ for the facility. If any of the minimum BMPs are not applicable to the facility, are infeasible or otherwise clearly inappropriate for the facility, dischargers shall include a written explanation of ~~inapplicability~~ these determinations in their SWPPP, including also explanation of the alternative BMPs that will provide the level of reduction or prevention of pollutants in the discharge required under this Order. Determination of feasibility and appropriateness of a BMP may take into consideration operational, regulatory and physical constraints." ~~Dischargers have the burden to prove inapplicability. Dischargers may use alternative BMPs instead of the minimum BMPs only if the dischargers provide specific justification in their SWPPP explaining why the minimum BMPs can not be implemented, and what alternative BMPs shall be implemented that will reduce or prevent pollutants in storm water discharges at least to the same degree. Dischargers have the burden to show that its alternative BMPs are at least as effective as the minimum BMPs.~~

As noted above, if dischargers are allowed to provide justification of variance from BMPs under appropriate circumstances, there may be little need to debate the exact wording of individual BMPs. Since the 2004 Draft language in the introduction is so inflexible, however, MAC must comment on particular minimum BMPs, which otherwise may make even well-run facilities with no significant impact on water quality infeasible to operate in California.

b. Request for Revision to Specific Minimum BMP requiring Cover, Section VII.8.i(4):

Section VII. 8.i.(4) includes a minimum BMP that requires covering of all "stored industrial materials that can be readily mobilized by contact with storm water." MAC requests the following revisions to VII.8.i(4):

Substitute the word "*significant*" for the word "*industrial*" in "*industrial materials*," consistent with definitions in the Order. In addition, insert the following at the end of this paragraph: "*This minimum BMP shall not apply to aggregate, ore, or mineral stockpiles, top soil stockpiles, overburden stockpiles, and waste rock dumps at aggregate, mining, and related construction material operations.*"

Stockpiles of different types of aggregate, or rock material, are integral and ubiquitous to an aggregate plant. A typical aggregate plant might have two dozen stockpiles of material. Usually conical in shape, the stockpiles are constantly in use throughout a business day. They are replenished by overhead belt conveyors or radial stackers, and then constantly being removed by loaders as the material is sold. The material is rock of varying diameters. It is wetted as needed to remove dust, helping to control contribution of significant dust-derived pollutants to stormwater. Finer materials, like sand, are also wetted. Other BMPs are employed that direct and control drainage and the mobilization of material, appropriate to the site.

Because of the nature of the material, the proximity of heavy machinery, and the constant use to which the stockpiles are subject, covering of the material would be unnecessary and impractical. Thus, we request that this provision not apply to aggregate and mining operations.

MAC does support other minimum BMPs that would prevent these materials from discharging off property with the storm water discharges, with flexibility to allow tailoring of the BMPs to each specific facility. These BMPs could include grading the storage area to prevent run-on, treating run-off in silt retention ponds or devices, and placing berms or filtering devices around the piles (except for entry and exit points).

c. Request for Revision to Minimum BMP Requiring Diversion of Run-On (Sections VII.8.i.7, 8.vii):

MAC requests the following revisions of minimum BMP language concerning diversion of run-on to a facility:

Section VII.8.i.7:

> *~~Divert~~ Minimize as practicable significant storm water or authorized non-storm water flows from non-industrial areas (such as employee parking) from contact with industrial areas of the facility. Significant f~~F~~lows from non-industrial areas that contact industrial areas of the facility are subject to this General Permit's requirements.*

Section VII.8.vii:

> *Erosion/Sediment Control typically includes practices to prevent erosion from occurring. This includes the planting and maintenance of vegetation to stabilize the ground, diversion of ~~run-on and~~ run-off away from areas subject to erosion, minimization of significant run-on as practicable, etc. Sediment control includes practices to reduce the discharge of sediment once erosion has occurred....*

Depending upon the source and configuration of the run-on, diversion may not be legally authorized or environmentally beneficial. For instance, the diversion or obstruction of the natural flow of a river, stream, or lake could require a Streambed Alteration Agreement under § 1602 of the California Fish & Game Code. The California Department of Fish & Game ("CDFG") conditions Streambed Alteration Agreements to avoid substantial adverse affects upon fish and wildlife resources. Depending upon the location and configuration of the run-on, CDFG could determine that diversion would substantially adversely affect such resources and would impose conditions limiting the diversion. Similarly, if diversion affects a wetland or other water

body that is jurisdictional under § 404 of the Clean Water Act, the United States Army Corps of Engineers may condition authorization under § 404 to limit that diversion. In addition, diversion of a channelized surface flow may also require a water right permit.

The potential conflict between diversion of run-on and other regulatory requirements highlights the fact that diversion is not necessarily the most effective or environmentally beneficial means of protecting water quality, particularly where an insignificant amount of run-un is at issue. Accordingly, MAC requests that the Stormwater Permit be revised to provide more flexibility regarding methods for minimizing water quality impacts associated with run-on.

d. Request for Revision to Specific Minimum BMP requiring Minimizing of Material Handling and Spill Response, and Daily Inspection and Cleaning of Certain Equipment (Sections VII.8.iii and iv) :

VII.8.iv (Material Handling/Waste Management) and related provisions of VII.8.iii (Spill Response Procedures), make many references to the handling or spilling of "materials." The Order's closest definition with respect to materials, "Significant Materials," includes "raw materials" and a number of other materials "that have the potential to be released with storm water discharges."

MAC requests that each reference to "*materials*" be changed to "*significant materials*" for clarity.

We also request the deletion of VII.8.iv (5) concerning daily inspections and cleaning. Equipment used to move earth-derived materials should not have to be "inspected and cleaned daily" simply on the basis that the equipment "can be contaminated by contact with industrial materials or wastes." Loaders and other mining equipment are periodically cleaned, but cleaning the equipment daily actually would increase the disturbance of mud and rock material on them and produce additional wastewater and waste material to be separately managed. In addition, as discussed later in these comments, requiring daily inspections of equipment and containers is unnecessary and overly burdensome. The more general good housekeeping inspection task should suffice as a minimum BMP to address any inspection of equipment along with areas associated with industrial activity and storm water discharges. Again, since the permit is listing minimum BMPs, and housekeeping elements are already addressed in VII.8.i, omitting this item will not be "permission" for cleaning and inspection of such equipment to be ignored.

5. Description of Potential Dust and Particulate Generating Activities (Section VII.6.c)

Section VII.6.c requires that dischargers identify the sources of dust generating activities including where the dust will be deposited and the quantity of dust deposited. MAC members do generally support the identification of types of dust sources and their locations at a facility. Knowing the sources and location of dust generating sources will help the discharger to control dust at the source. However, the requirement to "estimate the quantity of dust and particulate pollutants that may be deposited within the facility's boundaries" is too onerous, as would be any requirement that every source be mapped. Identifying where dust would settle and quantifying the amount would require much time, effort, and money and would not help in the reduction of storm water pollutants. There is no guidance as to how to perform these items and what size

fraction of the dust to consider. A high degree of air modeling would be necessary to determine the locations and quantity of dust deposited. The air modeling would entail a site specific meteorological study and a study of dust particle size, among other things.

Therefore, we request that the requirement to estimate the quantity of dust and particulate pollutants that may be deposited within facility boundaries be deleted. In addition, because the number of separate sources can be considerable and most are closely regulated by air permits, we request the following language be added: "*The description need not provide detailed descriptions of the locations of [add only if estimation of quantity is retained: 'and estimated quantities of pollutants from,'] any source covered by an air pollution control permit.*"

6. Tremendous Increase in the Number of Inspections (Fact Sheet p. XXII; BMP and Monitoring Requirements of Sections VII and VIII)

The Fact Sheet attempts to summarize monitoring activities in Figure 3, on page XXII. However, there are numerous additional inspection requirements not listed on that Figure. To illustrate MAC's members' concern with the tremendous number of new inspection requirements, we chart below the required inspections and their frequencies required by the 2004 Draft:

Inspection Type	Frequency	Inspections Per Year	Inspections per Existing Permit	*Suggested Frequency*	*Inspections per year*
1. Quarterly Inspection (VII.8.vii)	Quarterly	4	0	Quarterly	4
2. Annual Comprehensive Site Compliance Evaluation (VII.9)	Annually	1	1	Annually	1
3. Monthly Storm Water Discharge Visual Observation (VIII.3.a)	Monthly from Oct. 1- May 31	8	8	Monthly from Oct. 1 – May 31	8
4. Drainage Area Inspection (VIII.3.f)	Prior to Storm Events	16	0	Included in bi-weekly inspections.	0
5. Storm Water Storage and Containment Area Inspection (VII.3.b)	Monthly	12	0	Monthly	12
6. Good Housekeeping – Min. BMP (VII.8.i(1))	Weekly	52	0	Biweekly	26
7. Equipment Inspection for Leaks – Min. BMP (VII.8.ii(2))	Weekly	52	0	Biweekly	26
8. Equipment Inspection and cleaning of outdoor material/waste handling equipment – Min. BMP (VII.8.iv(5))	Daily	365	0	Biweekly	26
9. Non-Storm Water Discharge Visual Observation (VIII.?)[3]	Quarterly	4	4	Quarterly	4
Total Yearly Inspections per Facility =		**514**	**36**		**107**

In addition to the 514 yearly inspections listed above, the discharger is required to document all non-discharging storm events and collect and analyze samples from at least two storm events. The combined number inspections are a burden for dischargers. The 514 yearly inspections also does not include the work dischargers are required to perform in the development of the SWPPP,

[3] The 2004 Draft omitted to number the Non-storm water Discharge Visual Observation Section, which precedes the Stormwater Discharge Visual Observation Section numbered VIII.3, such that renumbering will be needed.

installing BMP's, completing the annual report, employee training, and general permit compliance. MAC believes this creates unnecessary hardship for dischargers.

Requested Revisions regarding Inspection Frequency:

At a minimum, MAC recommends reducing the good housekeeping inspection and equipment inspections called for in the Minimum BMPs from a weekly frequency (daily frequency in the case of outdoor handling equipment) to a bi-weekly frequency. (Sections VII.8.i(1), VII.8.ii(2), and VII.8.iv(5).[4] In addition, as explained later in this comment letter, the pre-storm drainage area inspection should be deleted from the monitoring requirements. This would reduce the number of yearly inspections to 107. It would allow for combining the drainage area inspection with the good housekeeping inspections and equipment inspections during the wet season, and still require a rigorous inspection schedule. Since these inspections would be performed prior to an anticipated storm event, any problems would be discovered and corrected prior to a storm. The reduced number of inspections would be equally protective.

In addition, MAC requests that the following change be made to the last sentence of section VII.8.i(1):

If a different inspection schedule is prescribed by regulation, or by a plan developed under the mandate of regulation, for a particular facility or type of facilities (such as closed landfills), the schedule can be adjusted to follow the applicable regulation or plan.

As we believe was recognized by the author of the original sentence, our members' facilities comply with many regulatory plans that themselves provide for inspections. Coordination of these schedules is critical to ensure that facilities are not burdened by unworkable logistics and unnecessarily duplicative and confusing documentation.

7. Requested Changes to Monthly Storm Water Discharge Visual Observation Timing (Section VIII.3.a)

The 2004 Draft requires that the Storm Water Discharge Visual Observation to be performed on the first qualifying storm event of the month. *MAC believes that this inspection should be allowed on any qualifying storm during the month.* Requiring the inspection on the first qualifying storm of each calendar month only puts the discharger in jeopardy of violating the permit due to scheduling difficulties, without any added benefit to storm water quality.

8. Requested Deletion of Pre-Storm Visual Observation Timing (Section VIII.3(f)

MAC requests deletion of the pre-storm visual inspection requirement set forth in Section VIII.3(f). Though included within the stormwater discharge visual inspection section, this is more appropriately considered in the context of BMPs. As noted above, other sections of the 2004 Draft already call for as many as 514 inspections at each facility, which we have proposed to reduce to 107 through some reasonable revisions. Requirements for these types of inspections are more appropriately considered BMPs. With a biweekly, monthly and quarterly frequency of

[4] Our strong preference, noted earlier, is that VII.8.iv(5) be deleted entirely.

key inspections, which can be regularly scheduled, there are adequate inspections to cover all relevant areas and concerns. We also note that the pre-storm inspection requirement is fraught with ambiguity (and thus enforcement disputes) due to weather uncertainties.

9. Storm Water Sampling -- Requested Revision of Timing of Second Sample (Section VIII.4.a)

Section VIII.4.a. requires dischargers to obtain samples from the first two qualifying storm events. Similar to the discussion on Storm Water Visual Observation set forth above, MAC believes requiring the first two storm water events to be sampled only sets up the discharger to violate the permit without added benefit to storm water quality. In addition, the data obtained will not be representative of the quality of the facility's storm water throughout the year. A sample taken in the middle of the wet weather season is a better indicator of the quality of storm water discharged throughout the season, and provides more useful information to support design of the BMP program. MAC supports continuing the approach of the existing General Permit, which requires the first qualifying storm to be sampled, and any other qualifying sample. This allows the discharger more flexibility and would allow for sampling at a time when the discharge is most representative of the storm water discharges throughout the year.

Section VIII.7.d allows for the analysis of a combined sample of equal aliquots from up to four separate discharge locations. MAC supports this change as it allows for a more cost effective analysis while and obtains the average result for up to four discharge locations.

10. One Time Pollutant Scan, VIII.6; Fact Sheet IV, Third Complete Paragraph

MAC urges the State Board to keep in mind, as it implements the revised permit, that any interpretation of data collected in the one-time pollutant scan consider other ambient background pollutants in stormwater. For example, according to the Fact Sheet, the requirement for one-time sampling and analysis of storm water for semi volatile organic chemicals (SVOC), along with other listed constituents, is to provide data from industrial facilities statewide in support of identifying numeric effluent limitations. SVOCs originate from both natural processes and the activities of man. See, for example, U.S. Department of Health and Human Services Public Health Service, Agency for Toxic Substances Disease Registry (1990), "Toxicological Profile for Polycyclic Aromatic Hydrocarbons" (PAH is another name used for SVOC). For example, SVOC are generated by combustion of fuels in automobiles and by burning of vegetation. SVOCs from ambient sources may accumulate on the surface through dry deposition and in rainfall. The concentrations detected in runoff will therefore contain SVOCs from ambient sources and will not necessarily be representative of a particular industrial facility or process. Thus, any attempt to identify numeric effluent limitations must consider ambient sources such as personal automobiles and forest fires.

11. Submission Due Date for Annual Report

Section VIII.13.a requires the Annual Report to be submitted by July 15 of each year. MAC supports the extension of the due date for the Annual Report from the current July 1 date that is currently entirely unworkable. However, it takes substantially more time than is allowed even by

the July 15 deadline to prepare an accurate, thoughtful and complete Annual Report. We therefore request that the due date be changed to September 1.

Please do not hesitate to contact us to discuss the requests for revisions or if you have any other questions. Thank you for your work on updating the permit and for your consideration of MAC's comments.

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