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VIA ELECTRONIC MAIL
(commentletters@waterboards.ca.gov)

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000

RE: Comment Letter – Industrial General Permit Amendment

Dear Ms. Townsend:

The State Water Resources Control Board's ("State Board") proposed amendment to the Statewide Industrial General Storm Water Permit is of significant interest and concern to many permittees, including our client, the City of Burbank.

The City operates the Burbank Water and Power Campus, which includes the Magnolia Power Plant, a natural-gas combined-cycle unit, two steam boilers (Olive 1 and Olive 2), and one gas turbine peaking unit (Lake 1). The Burbank Water and Power Campus operates under the Industrial General Permit, and will be affected by the proposed revisions to the Industrial General Permit.

Enclosed please find comments from the Industrial General Permit Amendment. We look forward to your responses to our comments and appropriate revisions to the Industrial General Permit.

Sincerely,

Ryan R. Waterman

Enclosure

cc: Lincoln Bleveans (via electronic mail)
Frank Messineo (via electronic mail)
Christopher Chwang (via electronic mail)
Sean Kigerl (via electronic mail)
Claudia Fierro (via electronic mail)

Brownstein Hyatt Farber Schreck, LLP Comments on the Proposed Industrial General Permit Amendment filed on behalf of the City of Burbank

Document	Page	Paragraph	Section	Comment
Industrial General Permit	9	51	This General Permit's NALs found in Table 2 shall continue to apply to Responsible Dischargers in addition to the TNALs and NELs found in the General Permit TMDL Compliance Table.	Where TNALs are applicable and more stringent than the NALs, why is it necessary to be subject to both TNALs and NALs? Will this lead to redundant reporting requirements?
Industrial General Permit	9	54	All TNALs are applied as Instantaneous Maximum values as defined in Section XII.A.2; there are no Annual TNALs in this General Permit.	The TNAL values are generally very low. By only looking at the Instantaneous Maximum values, discharges may be penalized for concentration spikes that do not fully characterize the quality of storm water discharges. Pollutant concentrations will generally fluctuate around a mean. By only looking at instantaneous maximum values, the discharger is put in a situation where the concentration may be above, below or at the mean, and not accurately characterize the storm water discharge.
Industrial General Permit	9	55	All Numeric Effluent Limitations (NELs) are applied as Instantaneous Maximum values as defined in Section XII.A.2. There are no Annual NELs in this General Permit.	Same comment as previous.
Industrial General Permit				There should be more clarification on the differences and similarities of Discharge Prohibitions, Effluent Limitations and Receiving Water Limitations.
Industrial General Permit	13	76.b	For the instantaneous maximum NALs/TNALs, an exceedance occurs when two or more analytical results from samples taken for any parameter within a reporting year exceed the instantaneous maximum NAL/TNAL value (for Total Suspended Solids, and Oil and Grease), or are outside of the instantaneous maximum NAL/TNAL range (for pH) listed in Table 2 of this General Permit. For the purposes of this General Permit, the reporting year is July 1 through June 30.	This section should be reworded. As written, it seems that TNALs only apply for Total Suspended Solids and Oil and Grease.
Industrial General Permit	13	77	The NALs/TNALs are not intended to serve as technology-based or water quality-based numeric effluent limitations. The NALs/TNALs are not derived directly from either BAT/BCT requirements or receiving water objectives.	Are TNALs not derived from receiving water objectives?
Industrial General Permit	14	80	Exceedances of the NALs that are attributable solely to pollutants originating from non-industrial pollutant sources (such as run-on from adjacent facilities, non-industrial portions of the Discharger's property, or aerial deposition) are not a violation of this General Permit because the NALs are designed to provide feedback on industrial sources of pollutants. Dischargers may submit a Non-Industrial Source Pollutant Demonstration as part of their Level 2 ERA Technical Report to demonstrate that the precence of a pollutant causing an NAL/TNAL exceedance is attributable solely to pollutants originating from non-industrial pollutant sources.	Why are TNALs not included in the first sentence?
Industrial General Permit	25	VII.C.3	The Responsible Discharger is required to electronically calculate, track, and report its TNAL or NEL exceedances using SMARTS. SMARTS does not calculate a Responsible Discharger's Level Status when a TNAL is exceeded. The Responsible Discharger must calculate and report its Level Status and submit the information via SMARTS.	SMARTS should be able to identify TNAL or NEL exceedances to avoid errors and omissions.
Industrial General Permit	53	XII.A.2	Instantaneous maximum NAL/TNAL exceedance: The Discharger shall compare all sampling and analytical results from each distinct sample (individual or combined as authorized by XI.C.5) to the corresponding instantaneous maximum NAL/TNAL values in Table 2. An instantaneous maximum NAL/TNAL exceedance occurs when two (2) or more analytical results from samples taken for any single parameter within a reporting year exceed the instantaneous maximum NAL/TNAL value (for TSS and O&G) or are outside of the instantaneous maximum NAL/TNAL range for pH.	This section should be reworded. As written, it seems that TNALs only apply for Total Suspended Solids and Oil and Grease.
Fact Sheet	6	6.a	Additional BMPs required to eliminate NAL/TNAL exceedances are not technologically available or economically practicable and achievable;	How is economically practicable and achievable defined? This should be clearly defined, with a process for determination.

Document	Page	Paragraph	Section	Comment
Attachment I	1	II.A.	A Discharger may implement on-site BMP(s) for capture and use, infiltration, and/or evapotranspiration of storm water associated with industrial activities and authorized non-storm water discharges (NSWD)	Can the facility split the 85th percentile volume among different projects (%infiltration, %sewer, etc.)
Attachment I	2	II.E.2.c	Non-industrial run-on that comingles with the industrial storm water flowing into the BMP(s).	Requiring the discharger to include non-industrial run-on that comingles with industrial storm water flowing into the BMP(s), may prohibit the discharger from implementing BMPs due to sizing concerns. For example, BWP receives run-on from approximately 20 acres offsite, that comingles with BWPs storm water. Diverting or including this volume in the BMP would add enormous cost, and may affect the feasibility of the BMP.
Attachment I	2	II.E.3	Recover capacity within a 24-hour period (the 24-hour time-period is 12:00a.m. to 11:59p.m.) to capture and use, infiltrate, and/or evapotranspire runoff volumes generated up to and including the 85th percentile 24-hour storm event.	This concept should be clarified to include more information. For example, if there is continuous rain for seven days straight, what is the requirement for recovering capacity? Is this feasible/practicable and how is this demonstrated?
Attachment I	3	II.E.6.a.ii.	The Discharger implementing infiltration BMP(s) shall address possible groundwater contamination from the BMP(s) operation by using one or more of the following methods: Install groundwater monitoring devices (e.g. lysimeters) to collect monthly samples of the infiltrated water below the infiltration BMP(s) to demonstrate compliance with MCLs for pollutants associated with industrial activities in the influent of the infiltration BMP(s)	What happens if groundwater monitoring shows water quality above the MCL? Does that mean that Discharger needs to obtain an individual WDR, or would be required to stop infiltration, or would be liable for groundwater remediation? In addition, what happens if groundwater is already contaminated above the MCL before storm water infiltration begins? Or if the groundwater basin does not have any beneficial uses? In those scenarios, does the discharger still need to take water samples, and if so, what are the consequences of results above the MCL?
Attachment I	4	II.F.1.	A Discharger with Baseline Status as of (insert amendment effective date) intending to implement the On-Site Compliance Option shall notify the Water Boards via SMARTS no later than one year prior to the estimated date of the BMP(s) installation and operation. The Discharger shall submit the required implementation information and schedule in the facility's site specific Storm Water Pollution Prevention Plan (SWPPP) in accordance with Section II.H.3 below.	Why does it require one year prior notice? This should be a shorter time-period.
Attachment I	5	II.F.4	Upon implementation and operation of the BMP(s), and compliance with the On-Site Compliance Option requirements in this Attachment, the status of Baseline, Level 1, or Level 2 is no longer applicable.	How is this going to be implemented? Will the facility be notified that it is no longer applicable? Will the Water Board send a letter to each facility ? or Will SMARTS identify the facility new status?
Attachment I	6	II.H.2.b.	The Discharger complying with the On-site Compliance Option must submit the following sampling information in SMARTS within 30 days after obtaining analytical laboratory sampling results: . . . b. Monitoring and sampling of influent entering the BMP(s).	Why is this required for capture and use, where no storm water is being infiltrated to groudwater? This causes an unnecessary burden for facilities who are not discharging storm water. The bypass sampling will address any storm water that is discharged.