



February 13, 2018



Jeanine Townsend
Clerk to the Board State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

commentletters@waterboards.ca.gov.

Subject: “Comment Letter – Industrial General Permit Amendment.”

Dear Ms. Townsend:

TECS Environmental is pleased to submit for the State Board’s consideration comments in connection with the proposed Industrial General Stormwater Permit (GISP) amendment.

Comment #1

The proposed amended GISP is unnecessarily complicated. Beyond making it difficult for facility operators to understand them, the cost to comply is likely to be significantly higher. Further, there is no explanation for the need for such complexity. What is it about the current GISP that has not succeeded in meeting water quality standards/TMDLs that is contributing to beneficial use impairment. The water boards (Regional Board and State Board) need to conduct a source analysis to determine to what extent industrial discharges are responsible for impairing beneficial uses. In the 2016 303(d) list for Region 4, under “potential sources” or “source category,” industrial dischargers are not listed – only unknown sources, unspecified point sources, non-point sources, urban runoff, POTWs as specified point sources.

Recommendation: State Board should conduct a study to determine to what extent industrial facilities have exceeded water quality standards or total maximum daily loads. Regional Boards should also conduct a source analysis to be reported in the next 303(d) list update.

Comment #2

The real problem is not that industrial facilities are not subject to compliance benchmarks. The problem is that water boards have done little to notify non-filers (viz. subject facilities that have not obtained GISP coverage). The number of non-filers varies from region to region. Region 4 estimates about 60% of subject industrial facilities are non-filers. Since

MS4s have been conducting industrial inspections in California, thousands of non-filing industrial facilities have been identified to the water boards. In the case of the Los Angeles Board (Region 4), very few non-filers have been notified. The reason is unclear. It would make sense, therefore, for the water boards to enroll as many industrial facilities as possible and then consider notching-up GISP requirements. The newly enrolled facilities should only be required to implement standard best management practices (BMPs), such as source control and employee training before jumping to runoff retention controls. This should result in a reduction of pollutants in runoff from the industrial facility.

Recommendation: Require water boards to notify non-filers brought to their attention by MS4s or other sources of the need to obtain GISPs.

Comment #3

Translating TMDLs into Numeric Action Levels (TNALs) for GISP compliance is premature based on Comment #1. There is also the problem of mechanics. How are the subject GISP facilities going to take samples for TNAL compliance? Where will the point of discharge be? Will it be on site, say from a drop inlet catch basin or trench drain? If there is none will the facility be required to install a sampling box similar to ones that are part of oil/water separators?

Many of the TMDLs, which the TNALS presumably are to be based, are defective. Several Region 4 TMDLs are based on water quality standards that do not comply with the California Toxics Rule (metals, pesticides, PAHs, VOCs, etc.). CTR requires WQS to be based on sampling of ambient waters (the normal condition of receiving water), as opposed to taking samples of receiving waters during rain events. The ambient water quality standards are the references against which stormwater discharges from outfalls are measured. Measuring them instead against samples taken from a river or flood control channel that is conveying flowing stormwater runoff offers nothing meaningful because the runoff already will contain high levels of pollutants discharged from outfalls and non-point sources. Measuring outfalls discharges against the normal condition instead helps determine compliance and facilitates an evaluation of outfall discharge quality. Further, many Region 4 TMDLs do not comply with the State's 303(d) listing policy. This includes failing to use samples based on a required frequency taken during the ambient condition of the sampled water body.

Recommendation: Do not place TMDLs translated into TNALs into the GISP.

Comment #4

The State Board has discussed the possibility of requiring stormwater retention controls to comply with TMDLs/TNALs. The infiltration BMPs would be required to meet the 85th percentile design standard (basically to treat the first 1" or 1.5" of rainfall from a significant storm event). The design standard is the same one used in MS4 Permits to reduce stormwater runoff from subject developments. Requiring infiltration for subject industrial facilities is too premature as mentioned above. TMDLs must be validated first. Once

the TMDLs have been properly established the next step would be to determine if they are being exceeded in outfall discharges. The challenge, however, will be to disaggregate the TMDL waste load allocation specific to each industrial type. Then of course there will be the need to determine how to measure disaggregated WLAs at the point of industrial discharge.

Recommendation: Comply with the above recommendations.

Comment #5

What will it cost GISP facilities to comply with the proposed amended GISP?

Recommendation: Do a cost impact analysis for each type of industrial facility.

Comment #6

It is not clear who will be responsible for enforcing future GISP amendments. Current MS4 Permits for various Regional Boards require MS4 Permittees to conduct enforcement inspections of industrial facilities. This could change. The State Supreme Court has ruled that industrial inspections performed by municipalities are unfunded mandates because federal law neither explicitly nor expressly requires them. They are state-discretionary and, therefore, subject to reimbursement from the state.

Recommendation: Discuss.

Should you have any questions regarding this matter please feel free to contact me.

Sincerely,

Ray Tahir