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October 19, 2012

*Sent Electronically Via Email*

Ms. Jeanine Townsend  
Clerk of the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814



**Subject: Comment Letter - Industrial General Permit, Issued July 16, 2012**

Dear Ms. Townsend and Members of the Board:

The attached comments are submitted by Marvin H. Sachse, a California State Professional Industrial Engineer, I 2688, Master's degrees in Industrial Engineering and Environmental Engineering, a CASQA Trainer of Record and QSD/P for the Construction Permit, a Certified Professional in Storm Water Quality - and Course Instructor, Certified Professional in Erosion and Sediment Control, Certified Erosion and Sediment Storm Water Inspector-and Course Instructor.

These comments represent those of the California Auto Dismantler and Recyclers Alliance (CADRA), Auto Dismantlers Association of Southern California (ADASC), Valley Auto Dismantlers and Recyclers Association (VADRA), Inland Auto Dismantlers Association (IADA), and Southern California Storm Water Group Monitoring Program (SoCal GMP), in total representing more than 300 Auto Recyclers and an additional 100 Industrial Permittees.

It should be noted that of the 10,000 active Industrial Permits, Auto Recyclers represent close to 10% of the State's Industrial Permittees, with over 1,000 permits issued to SIC code 5015, Auto Recyclers.

Auto Recyclers demographically represent a large number of the State's IGP Permittees. Businesses range from Mom and Pop businesses — barely making ends meet, to large more successful operations, some of whom are native born and others that may not be native born with English as a second language or third language.

**ISSUES:**

**1 One Permit fee fits all:**

Several years ago when the Permit fees were \$200.00, fee cost was not a big issue. The present Permit fee is \$1,359.00, regardless of business size or potential to pollute storm water. If a business operates on a 10% profit margin, that requires an additional \$13,000 in gross sales to produce sufficient revenue to pay the Permit fees.

We would propose that the fees not be based on a one size fits all model, but on a scaling program such as used by the State of Arizona. \$350.00 for sites less than one acre, \$500.00 for sites greater than one acre but less than 40 acres, and \$1,000.00 for sites greater than 40 acres. The rates are not proposed just the scaling factor. Also, it should be noted that the State of Washington Permit fees, if they exceed \$500.00, can be paid

off in two semi annual payments, without penalty.

2 One unanticipated consequence of high permit costs is the relationship between higher costs and the number of business that choose not to comply. Non compliers not only raise program costs, and lower revenues, they also represent businesses that could be significant sources of pollution.

3 **BAT/BCT**

1.E. 32 - Indicates that TBELs for discharges are not covered by this Permit. If implementation of a specific BMP that achieves BAT/BCT and complies with the requirements of this General Permit can a list of these appropriate BMPs achieving BAT/BCT be established and maintained by the SWB?

4 **Discharge storm water quality versus Receiving Water Limitation**

1.F.36 - Further clarification and definition of the this complex legal issue would facilitate consistent Permit implementation and overall compliance and eliminate numerous needless CWA litigations. The cost of these litigations have done little to improve water quality discharge but have done immense damage to the State's economy. These law suits have forced numerous facilities to cease operations because of the cost of litigation. The Permit has never addressed the issue that discharge water that is not a direct discharge to a receiving water is a point source of discharge water, and by the time it reaches the receiving water it has been commingled with multiple sources and has gone through numerous perturbations of dilution, pollutant contributions, and physio chemical alterations and changes. Water quality standards for discharge water and receiving water must be clarified before more businesses are forced from the State.

5 **TMDL**

1.G.37 - The same discussions between point source, commingled water, and non direct discharges apply to TMDLs, as above. Discharge water being held to a receiving water standard, when the discharge water has been significantly altered and commingled with other more polluted or less polluted water, prior to reaching the receiving water seems inappropriate.

6 **QISP Training**

1.I.54 - Which QISP level, 1 or 2 or all training levels, will a Professional Engineer be exempted from QISP Training?

7 **Sampling and Reporting**

1.K. 58 - Will self reported discharge violations constitute a Permit violation exposing the reporting Permittee to fines, penalties, and litigation, or will the reporting of the exceedance or violation be accorded a safe harbor while the necessary site modifications are being implemented.

8 **NAL and Exceedance Response Actions (ERAs)**

1.N.64 - Again, the issue of accurate and reliable data reporting exposes conscientious Permittees to potential CWA litigation, fines and penalties, without a safe harbor for the self incriminating reporting of Exceedance, or a statement to the fact that ERAs do not constitute a receiving water violation. Paragraph 66 states that, "NAL exceedances defined in this General Permit are not, in and of themselves, violations of this General Permit," but it does not address the issue of Receiving Water standards, which is frequently used as the basis of a CWA Citizen Suit.

**9 Background, aerial deposition, and other non industrial pollutant sources (Comment only)**

I.N.70&71 - Provides an **appropriate** consideration of facilities that have non industrial activity related to potential sources of pollution which could be naturally occurring. This perspective is particularly significant for facilities that have storm water discharging from a site that is not paved and have soil with high background level of minerals, salts in the soil.

**10 Facilities Handling Plastic Materials**

I.Q - States that facilities with plastic materials including dust and scrap are sources of storm water gross pollutants. Fiberglass is known in the generic form as “FRP” fiber reinforced plastic. Please clarify if the scrap or dust resulting from the grinding of fiberglass catalyst activated materials are also considered as a storm water gross pollutant.

**11 Training Qualifications**

IX.A Table I and Table - Identifies that only a Professional Civil Engineer can provide SWPPPs for inactive mining facilities. It is not clear as to why only a Professional Civil Engineer can write these SWPPPs, since Professional Mining Engineers, Industrial and Chemical Engineers would also have the necessary qualifications, controls, and experience to prepare a comprehensive SWPPP.

**12 Significant Spills and Leaks**

X.G.1.d - “.....*description of materials that have spilled or leaked in significant quantities....*” Clarification as to the term significant would be helpful.

**13 Assessment of Potential Pollutant Sources**

X.G.2.a.iv - States the degree to which the pollutant associated with those materials may be exposed to and mobilized by contact with storm water — requires clarification as to the application of the term degree.

**14 Qualifying Storm Event**

XI.B.2 - A Qualifying Storm Event is defined as 0.1 inches in the IGP. In the CGP, a QSE (QRE) is identified as 0.5 inches of rainfall, which the EPA considers the amount of rainfall necessary for a discharge to occur. The accurate measurement of 0.1 inch is beyond the accuracy of most inexpensive, non laboratory grade, rain gauges. A more realistic value would 0.2 inches of rainfall, which is proposed for consideration as the amount of rainfall necessary to define a QSE under the IGP.

**Sample Frequency Reduction (SFR)**

**15 [Paragraph D is missing. The Permit goes from Paragraph C. To Paragraph E.]**

**16** XI.C.6.A.i. - Southern California does not receive year-round storm events and it is highly unlikely that 8 consecutive storm events would be achievable. Would sampling reduction be available if sampling occurred on all sampleable QSEs?

**NALs and NAL Exceedances**

**17** XII.A.b - States that an instantaneous maximum NAL exceedance occurs when two or more analytical results.....taken within a reporting year exceed the instantaneous maximum NAL. Paragraph XI. C. 1. States that in the event that sampling results indicate an NAL exceedance, the Discharger’s Baseline status immediately and automatically changes to a Level 1. Should that not read as two instantaneous maximum exceedances to avoid inconsistency in number of NAL exceedances?

### Compliance Groups

- 18 XIV - In general, the Compliance groups are based upon compliance levels, in addition to industry sectors, alone. As a good deal of movement may be occurring between different CG's as remediation is implemented at the site, it would appear burdensome to have different CG based upon Level status. A CG based solely upon SIC code would also eliminate the questionable requirement of only one CG2 for an industry sector.

### Annual Report

- 19 XVI.B1&.2. - States that Checklists are to be submitted in the Annual Report. This seems to be an unnecessary collection of paper work, as the Check list forms will be included in the SWPPPs and the Annual Report is purported to be for the purposes of data collection. The uploading of numerous Checklists appears to be an unnecessary transfer of repetitive information.

### Duly Authorized Representative

- 20 II.G - States that information is to be submitted by the LRP, it is assumed that the Duly Authorized Representative or a data entry person can also submit the information, recognizing that only the LRP or the Duly Authorized Representative can certify the data.
- 21 The LRP is required to have computer access and to complete necessary paperwork. Unfortunately, many small business operators are not native born, and do not have English language reading proficiency nor internet access. Recognizing that internet access is available at a public library does not assure that non native born business operators would be familiar with a computer's internet operating procedures.
- 22 XII.K.6.b -States the DAR is to be someone responsible for environmental matters for the company. Would that include a consultant or a Compliance Group Leader (CGL)?

The time afforded at the Board's hearing on the IGP is greatly appreciated, as is the time spent in reviewing the attached comments.

If additional information can be provided please to do not hesitate to contact the undersigned.

Sincerely,



Marvin H. Sachse, P.E., CPSWQ, CPESC, CESSWI, ToR, QSD/QSP

Principal