



Public Comment
Industrial General Permit
Deadline: 10/22/12 by 12 noon

Tamara Rasberry
Manager
State Regulatory Affairs

925 L Street, Suite 650
Sacramento, CA 95814

(916) 492-4252
trasberry@semprautilities.com



#84

October 18, 2012

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

VIA E-MAIL: commentletters@waterboards.ca.gov

RE: Comments and Recommendations Regarding the Third Draft of the National Pollution Discharge Elimination System (NPDES) General Permit for Discharges of Storm Water Associated with Industrial Activities (NPDES No. CAS000001)

Dear State Water Board Members:

The Sempra Utilities (Southern California Gas Company and San Diego Gas and Electric Company) provide essential public services to over 20 million consumers and utility ratepayers in a total service area of approximately 25,000 square miles. In addition to providing essential services to the communities that we serve, we also provide services to governmental agencies and other entities, which in turn, provide other essential public services such as fire protection, law enforcement, and emergency care (e.g., hospitals).

Sempra Utilities has 10 facilities that are subject to the Industrial General Permit (“IGP” or “Permit”). These facilities include gas storage fields, Treatment, Storage, and Disposal Facilities, and a Steam Electric Generating facility. The proposed IGP would impose significant new requirements upon these facilities and would inhibit our ability to operate in a cost effective manner and keep utility rates in the state at a competitive level.

While we commend the State Water Resources Control Board staff (“staff”) on the progress that has been made in refining the draft permits based on public comments, certain language in the current draft concerns us. Many of the sections of the draft Permit are overly complex and burdensome on the discharger without providing a benefit to water quality, while other sections lack clarity, causing the discharger to focus more on interpreting the regulations than on improving operations at their facilities, if necessary. Our comments are provided below.

Numeric Action Levels (“NALs”) and Exceedence Response Actions (“ERAs”)

- 1 Sempra Utilities is pleased that staff has removed Numeric Effluent Limitations (“NELs”) from the Permit; however, we caution that the Numeric Action Levels (“NALs”) listed in the Draft IGP cannot be converted into NELs in the future, as this was not the U.S. Environmental Protection’s (“EPAs”) intent in providing “benchmarks.” EPA guidance clearly states that benchmarks are but one of many tools for assessing the effectiveness of Best Management Practices (“BMPs”). NELs must be established as indicated in the Clean Water Act (“CWA”) and Sempra Utilities supports the development of sector-specific NELs.
- 2 We find that the ERA process is overly complex and difficult to understand. Most dischargers have been collecting data for years and as such, should be provided the opportunity to submit a Demonstration Technical Report (“DTR”) at Level 1 status when exceedences are known to be caused by natural background or non-industrial sources.
- 3 In addition to the inclusion of a design storm for treatment control BMPs, Sempra Utilities recommends specifying the same storm event in the ERA section of the Permit, which does not appear to reference a design storm event. In the

interest of consistency (and to avoid confusion), we would recommend that Section XII. also specify the same design storm event. The Permit should explicitly limit data used in assessing NAL exceedences to data collected from storm events that do not exceed the Design Storm event specified in the permit (i.e. the 85th percentile storm, or the initial portion (up to and equal to the volume of the 85th percentile storm) of larger storms). Without this clarifying language, there could be a mismatch between the event magnitude required for treatment controls, and that required to assess the need for additional controls in the ERA process.

- 4 Further, Level 1 status should be extended to a two year period in order to evaluate the effectiveness of the changes in operational BMPs prescribed by the DTR. Finally, there is no process defined in the IGP for Regional Water Quality Control Boards to concur or approve significant and costly structural BMPs prior to the discharger installing said BMPs. Sempra Utilities supports the use of a process similar to that described in EPA's Multi-Sector General Permit (MSGP), which is less prescriptive yet still benefits water quality.

6 **Total Maximum Daily Loads ("TMDLs")**

Sempra Utilities recommends that industrial stormwater-related TMDL-specific requirements first be incorporated into the permit before those requirements become enforceable against Dischargers. Language contained in Section V.C. exposes permittees to premature and inappropriate administrative or third party actions to enforce TMDL requirements before the TMDLs are clarified for application to specific industrial stormwater dischargers and before those refined requirements are incorporated into the Permit.

Qualified Industrial Storm Water Practitioner ("QISP") Requirements

- 7 Sempra Utilities believes that the three levels of QISP personnel included in the Draft IGP is overly burdensome and will not lead to a benefit in water quality. Sempra Utilities recommends that the State simplify this requirement and limit personnel to one or two QISP levels. Also, staff has indicated that there may not be sufficient time between when training becomes available and the Permit's effective date. The Permit should allow for the development of training and the certification process for QISPs and set a separate effective date for the QISP requirements. The permit should also be revised to state that California state certified lab personnel that conduct stormwater sampling for facilities covered by the IGP are not required to obtain QISP training.

10 **Design Storms**

Sempra Utilities agrees with the draft IGP's use of an 85th percentile, 24-hour storm event as a design storm for treatment control BMPs (Section X.H.7.a) given that this definition is consistent with guidance found in CASQA's BMP handbook. We also concur with the inclusion of the option to use local historical rainfall records to calculate the maximum water flow needed to be treated for flow-based treatment control BMPs (Section X.H.7.a). However, this option does not appear to be available for volume-based BMPs in the Section X.H.7.b. Sempra Utilities requests that the use of local historical rainfall records also be allowed as a basis to calculate water volume for volume-based BMPs.

Receiving Water Limitations

- 11 Section VI.A regarding receiving water limitations states that:

"Dischargers shall ensure that industrial storm water discharges and authorized non- storm water discharges ("NSWDs") do not cause or contribute to an exceedence of any applicable water quality standard ("WQS") in any affected receiving water."

In the interest of consistency, Sempra Utilities requests that the phrase "or contribute" be removed from Section VI.A. since this language is not found in the current version of EPA's MSGP and the CWA provisions related to

receiving waters. As with other NPDES permits, we believe that full compliance with the IGP and related provisions and BMPs implies that a Discharger will not be contributing to (or responsible for) violations in WQS of receiving waters.

- 12 The Water Quality Based Corrective Actions section of the draft IGP (Section XX.B.1.) outlines the measures that have to be taken when a determination is made by the Discharger or a written notification is provided by the Regional Board that industrial storm water discharges and/or authorized NSWDS contain pollutants that are “in violation” of a Receiving Water Limitation.

Sempra Utilities requests that the phrase “in violation” be removed from Section XX.B.1. and replaced with “may otherwise exceed.” Violations of receiving water limits are difficult to substantiate and/or attribute to a particular Discharger. The term “in violation” is an absolute term and gives the impression that an exceedence of receiving water limits is definitive and attributable to a sole Discharger. We believe the phrase “may otherwise exceed” is a more appropriate term.

Pre-Storm Inspections

- 13 Sempra Utilities understands the draft IGP’s use of the National Oceanic and Atmospheric Administration (NOAA) forecast for rain event predictions, as noted in Section X1.A.2. The Permit requires that visual observations of all storm water drainage and containment areas be conducted prior to an anticipated precipitation event to identify any spills, leaks, or improperly controlled pollutant sources, and to ensure implementation of appropriate BMPs prior to rainfall. Sempra Utilities is concerned about the personnel resources and efforts that will be needed to constantly monitor NOAA weather reports and document rain events. We recommend the removal of predicted rain event visual observations from the Permit and replacing them with regular monthly inspection. Sempra Utilities believe a routine monthly inspection regimen will be a more efficient and productive use of onsite personnel (instead of constant tracking of predicted rain events).

- 14 Section X1.A.1. of the Draft IGP also requires quarterly visual observations of NSWDS at each drainage area (for presence or indication of prior, current, or potential unauthorized NSWDS and their sources). In the interest of consistency, Sempra Utilities recommends changing the quarterly inspection regimen for NSWDS to monthly as well.

Minimum Best Management Practices

Sempra Utilities voiced its concerns about overly burdensome BMPs in comments we submitted for the second draft of the Permit. We reiterate two of those comments below:

- 15 Minimum BMPs/Good Housekeeping (Section H.2.a.iv.) states that Dischargers shall:

“Cover all stored industrial materials that can be readily mobilized by contact with storm water;”

This section should be rewritten to clarify that it does not apply to materials that are designed to be outdoors and exposed to environmental conditions.

- 16 Minimum BMPs/Material Handling and Waste Management (Section H.2.d.iii.) states that Dischargers shall:

“Cover waste disposal containers and material storage containers when not in use.”

This section should be rewritten to clarify that this requirement is imposed ONLY prior to a forecasted rain event for materials that cannot become wind-borne; and for materials that can become wind-borne, this condition is required at the end of the work day.

Sempra Utilities welcomes the opportunity to provide you and staff with these comments, which we hope that staff will consider prior to adopting the IGP. We also look forward to staff's response to these and all of the other comments put forth by other stakeholders.

Sincerely,

A handwritten signature in cursive script that reads "Amara Parly". The signature is written in black ink and is positioned below the word "Sincerely,".