



October 19, 2012



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

Re: Comments to Draft Industrial General Permit

Dear Ms. Townsend:

Pacific Coast Producers (PCP) submits these comments on the Draft Statewide General National Pollutant Discharge Elimination System (NPDES) Permit for the Discharge of Storm Water Associated with Industrial Activities (the "Draft Permit") issued for public comment July 18, 2012.

The current Draft Permit is a revision to a draft issued in January of 2011, and represents a much improved version, however, there are still significant issues with the new burdens and costs imposed on Dischargers in the Draft Permit. Most of these issues were discussed with staff in the series of stakeholder meetings, and we thank the Board and the staff for participating in those meetings and allowing us a forum to provide input. With that said, PCP would like to highlight what we believe are still the most significant issues.

As an overall matter, the impression that we have is that those Dischargers who already have a program in place are working towards diligently adhering to that program, monitoring results and implementing BMPs. It is the Dischargers who are either not aware of, or disregard, the program, that warrant the increased monitoring, testing and program requirements. The Draft Permit, however, imposes increased requirements on all Dischargers, thus increasing costs and burdens even on those who have complied, and continue to comply with the current permit (and the Draft Permit standards for sampling parameters).

The timing in the Draft Permit is of concern. The Draft Permit requires the filing of a NOI and a SWPPP, which comply with the Draft Permit requirements, on the *same day that the Draft Permit takes effect*. A typical regulatory program becomes effective, and requires compliance after the date of effectiveness. This will require Dischargers to fashion a SWPPP based on a not-yet-implemented regulation. Additionally, given that it is currently October, and the Draft Permit may still change, there may be insufficient time

to prepare a fully considered SWPPP by July 2013. We request the SWRCB allow more time to file the NOI and to prepare the SWPPP, and as noted below, that the SWPPP be prepared, but not filed.

A significant concern that PCP has, as a member of the regulated food processing industry, are the provisions for filing the SWPPP and supporting documents in SMARTS. Under the Bioterrorism rules, and the Homeland Security laws, we are required to maintain security of the nation's food supply. Posting a SWPPP which identifies locations, amounts and types of chemicals used at the facility, is in direct contradiction to the policies and protections of those rules. The federal Multi Sector General Permit, which allows a facility to retain the SWPPP, and to provide a redacted copy to a member of the public who so requests, is a much preferable model. We request the SWRCB adopt that model.

On another timing issue, we request that the SWRCB allow more time for filing of water quality test data. There are occasionally issues with lab test results, and allowing 45 days instead of 30 days for the reporting of those results would give us time to resolve those issues prior to filing incorrect data. As we understand it, there would be no provision to "remove" incorrect data, Dischargers would only be allowed to enter more data to correct errors. This will complicate not only the reporters record, but seemingly any accurate statistical analysis by the SWRCB staff with respect to results.

Personnel who would be reporting those results have other duties, and, as seasonal processors, spend at least one quarter of the year with duties that require full time attention to processing raw product. Because of this, adding a set of new tasks to the stormwater permit responsibilities is problematic, and there are several. Dischargers are required to "watch the weather" and conduct pre-storm observations; reporting samples in SMARTS, increased observations and monitoring, all of these will require increased staffing. As noted at the outset, if a Discharger can comply with the stormwater parameters continuing to perform the program as it currently is framed, then there seems that there should be no need to impose additional tasks. If a Discharger begins to show exceedences, then those additional duties can be imposed to achieve a true improvement. However, if these additional duties are required, then we request more time for recordkeeping and more flexibility in monitoring and observations so that those tasks can be accomplished in a meaningful way, rather than in strict observance of requirements that may make no difference in stormwater discharges.

The Draft Permit now makes reference to the 303(d) list, and raises the concern of "contributing" to impairment of receiving waters. We request that the "receiving waters" be defined so that a Discharger has knowledge of what impairments are at issue. Additionally, given that the staff currently takes the position that a "non detect" be reported at half the TMDL, rather than at zero, there is a risk that a Discharger could be found to be contributing to impairment, even though there is no scientific evidence of such. As a side note, Dischargers should also be allowed to use the zero value to average parameters to determine exceedences, otherwise the data will be inaccurate, as more fully

set forth in the comments submitted by the California League of Food Processors (CLFP).

As a seasonal processor, we also concur with the comments by CLFP with respect to allowing more time to design and implement BMPs in the event NALs are exceeded. The analysis of capital expenditures, and the implementation of those expenditures, are quite different in a facility that only operates seasonally. We may not have had enough time to analyze whether a particular set of BMPs is working properly if only one processing season is used as determinative. We request that the SWRCB provide extensions as requested by CLFP.

PCP understands the need for training on storm water discharge programs, and has no objection to the overall concept, but finds that the program as stated in the Draft Permit is overly complex and not easily manageable by facilities. PCP requests that these training levels and designation of tasks be minimized so that only one training level be required of facility staff, and those tasks that require a "higher" level of training be accomplished by an engineer or geologist. That way, confusion and mistakes over what level of personnel can do what tasks would be eliminated.

PCP concurs with, and incorporates herein, the comments of the CLFP as representative of PCP's concerns.

Thank you for the opportunity to provide comments.

Very truly yours,



Mona Shulman
General Counsel