



September 10, 2013



Ms. Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
1001 I Street,  
Sacramento, CA 95814

### Re: Comment Letter – 2013 Draft General Industrial Stormwater Permit

Gentlemen:

We wish to compliment the staff of the Board for the great deal of work they put into the 2013 Draft Permit. It is a significant improvement over the previous version. We understand the need for high quality data and applaud the Board for its ideas on improving surface discharge water quality. We applaud the time and effort your staff put into this Draft Permit.

There are a number of general comments presented by this writer at the August 21 Board meeting. As we stated at that meeting, we believe that *“clarity is preferable to agreement.”* Accordingly we are presenting some general and specific comments which we believe will greatly improve the proposed Permit. Our guiding principle is that regulatory standards be both **reasonable** and **attainable**, otherwise we have chaos.

1 First of all we are requesting that this **new permit specifically include in Section IV a clearer legal definition of non-storm water to include the sentence: “Storm water which is containerized prior to treatment is specifically excluded from the definition of non-storm water.”** This is due to our experience with overzealous inspectors operating without specific definitions of terms. It would also bring this Permit in line with the Sector specific Permit recently adopted by the Santa Ana Regional Board (Region 8).

2 Second, regarding deadlines, we are requesting that **specific dates** be in the Permit rather than statements such as **“... 60 days after...,”** or **“.. 6 months after...”** etc. etc. Having a **calendar date** specified for each requirement will allow everyone to know exactly what is required by that given date.

3 Third, the next item is related to the above. **Throughout the permit, industrial facilities are required to meet specific deadlines (report submissions, evaluations of advanced BMP’s, etc), yet there is no requirement - such as “within 30 days,” “within 90 days,” etc. - that board staff meet any deadline with respect to its actions on submitted documents, studies, analyses, etc. This leaves companies in ‘limbo’ with respect to submittals, literally forever! This comment pertains to issues such as the State Water Board-sponsored/approved QISP training course [pg. 23], NEC [pg. 12] and NONA submittals [pg. 18], and other regulatory actions and decisions. We are, therefore, requesting that regional board staff also be required - in the permit – to take action on all submittals within 90 days to enable dischargers to know where they stand.**

4 Fourth, regarding pH measurements, we are reminding the Board that 10-15% of the adult population is **color blind**, so relying on a **color change** via litmus paper likely defeats the purpose of good quality data for monitoring surface discharges. Accordingly we are in favor of retaining the requirement to use calibrated hand held pH meters for field measurements.

5 Lastly, there is reference to “non-industrial pollutants” (page 11), and by inference, “natural background” and “external sources...” as they pertain to contributions to surface storm water discharges. However, there is **no guidance whatsoever** on how one is to determine scientifically how to separate such ‘naturally occurring’ contaminant levels from industrial contributions. This is particularly the case if one is to determine contributions of ‘background’ to surface storm water discharges!

As indicated by the undersigned on August 21 a one square foot sample of surface soil from a residential neighborhood in Region 8 showed the following concentrations of metallic elements in a ‘pseudo-storm water.’ The soil sample was mixed with 3 liters of de-ionized water (not acid rain). The resultant water solution, a ‘naturally occurring’ pseudo-storm water, was decanted into a Method 6010B sample container. The following analyses were performed by a state certified analytical chemistry lab.

**Table 1 – Pseudo-storm water analysis**  
(Residential soil mixed with Deionized Water)

<u>Analyte</u>	<u>Sample Concentration, mg/L</u>	<u>Factor exceeding Proposed NAL</u>
Aluminum	17	22.7 x
Copper	0.20	6.0 x
Iron	19	19 x
Lead	0.39	1.49 x
Zinc	1.4	5.3 x

As can be seen, these residential soil pseudo-stormwater levels are significantly above the proposed NALs for industrial storm water surface discharges, yet this was from a residential neighborhood! Any geology text will show that the ‘natural background’ of crustal elements, including the above metals, is also extremely high. Is this to be considered a natural background contribution?

Accordingly we are very concerned when we see a Permit section apparently referring to some ‘credit (?)’ for *natural background* or other sources **without a single guidance as to how it is to be determined!!**

**Specific Comments**

With respect to specific issues about which we have concerns, the following is offered.

- 6 1. There are statements in the draft permit requiring industrial facilities to “...demonstrate...” or provide a “..demonstration..” of a condition, influence, proposed approach or result, etc. [NONA’s, NISPD’s, Natural Background, etc.]. Yet there is not a single listing or definition of the **evaluation criteria** for such a demonstration for any of these. How is one able to demonstrate anything without reference to a standard or a criteria by which to judge the submission? We encourage the Board to require its staff to provide such criteria in the permit in order that a lot of time and resources not be wasted!

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2. With respect to 'qualified persons' [QISP's] being in charge of certain activities, we encourage the Board to include some type of *grandfather clause* for previously existing experience/education or existing Certifications such as Region 8's Qualified SWPPP Developer (QSD). Otherwise there will again be needless duplication of standards and requirements for persons who, in all likelihood, already have the requisite skills, experience and certifications to provide quality data.
  3. Definitions: **Well defined** standards are the key to clearly determining and demonstrating compliance with the permit.
    - 8 a. We are requesting that the Board specifically define "**Significant**" inasmuch as it is used numerous times in the permit. The permit does not define exactly what a *significant quantity* is!! This could be in gallons per event, pounds spilled, area of spill, mg/day, or some other quantifiable unit. *We do note that the County of Riverside specifically refers to a gallon or less oil spill as **NOT** being significant.*
    - b. We prefer the definition of "**annual average**" to be the same as in the Sector specific Permit recently adopted by the Santa Ana Regional Board (Region 8). This definition specifically defines an annual average – with the exception of pH measurement values – as the geometric mean value. This would be consistent across the state and would avoid the problems with outliers frequently encountered with measurements of stream flows and water bodies.
    - c. Define "**industrial and non-industrial pollutants.**" They are used throughout the Permit and have given rise to a great deal of concern due to lack of specificity. All elements and compounds are fungible (i.e. *behave the same; are interchangeable*). It makes no difference if a zinc atom comes from run-on to one's property, falls out of the sky or is an integral part of the tires on a vehicle – it is the same element and has the same toxicity and/or benefit in water!
    - d. Define "**residual industrial materials**" (page 58). Incomplete or inadequate definitions are the biggest source of contention in enforcement! Please make the definition *quantifiable*, not visual – i.e. use grams, pounds, or other units in order that overzealous inspectors not go beyond the intent of the Permit.
  4. Deletions:
    - 9 a. Delete the word "solely" and "entirely" from sections throughout the permit (as in Section XII, D, 2, b. 1 and c. 1. and Section XVII A). Living in a 'universe,' nothing is **solely or entirely** responsible for anything, particularly in the natural world. To be scientific, any demonstration must be quantifiable. If a measure of proof is required, make the action quantifiable such as adding the phrase "...by more than 10%..." or some similar quantifiable unit or amount.
    - b. We further believe that deleting all references to "professional judgment" would provide a more sound scientific basis for the regulation. One engineer's 'professional judgement' may be significantly different than another's judgement. It would be most beneficial to all parties that the Board specifically fund a full scale demonstration of competing stormwater treatment technologies [*particularly in lieu of "professional judgment" statements*], at an reference flow of at least 100 gpm to demonstrate that NAL's can be met on a consistent basis!
  5. Numeric compliance/action values based on concentration.
    - 10 a. Under recent court cases, merging flows of stormwater use concentration units to determine compliance with standards. However, it is well known that **mass discharges** are the preferred technique for determining **impacts** of analytes discharged into stream flows; particularly in dispersion modeling of fluid flows.
    - b. Changing from a concentration based standard (*which tells you nothing*) to a mass discharge standard would have the benefit of allowing easy calculations of a water body's ability to absorb additional contaminants and would make future calculations of mass loading allowances much easier.

11. 6. Effective date: We prefer that a July 1, 2015 date be specified in the permit rather than in the middle of the 'wet season' [January 1] for obvious reasons.
7. We urge the Board to clarify language regarding BMPs (particularly treatment BMP's) to include: "...economic practicability and achievability" or "...where economically feasible."
12. **These latter terms must be defined using a "\$ cost/pound of contaminant removed" basis or other similar criteria.** This will avoid overzealous application of ill- or non-defined terms which can lead to extreme litigation costs. It would also give a clear standard for reasonableness and achievability.

We urge the Board to carefully review these items and change the Permit as indicated above.

### CLOSURE

These comments and requests have referred only to the draft Permit itself.

We are requesting that the 'Fact Sheet' also be revised to reflect these comments and requests. If you have any questions, please contact us by phone at (562) 921-9974 or e-mail at: rgriffin@ecoparts.com.

Sincerely,



Roger Griffin, MS, P.E., QSD  
Director, Environmental Compliance  
cc: C. Siroonian  
R. Coffman