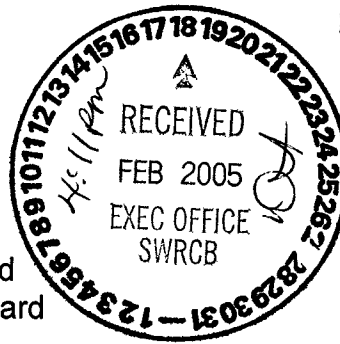


SPECIAL HEARING
2/3/05
cc: BD, DI, DWQ
e-cys: BD, CC, HMS, TH, CMW

**CALIFORNIA COUNCIL FOR ENVIRONMENTAL
AND ECONOMIC BALANCE**
100 Spear Street, Suite 805, San Francisco, CA 94105

VIA EMAIL AND U.S. MAIL

Ms. Debbie Irvin, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
P.O. Box 100
Sacramento CA 95812-0100
dirvin@waterboards.ca.gov



120. California Council for
environmental and economic
Balance

February 18, 2005

**Re: CCEEB Comments on the Draft of the National Pollutant Discharge
Elimination System General Permit for Discharges of Storm Water Associated
with Industrial Activities**

Dear Ms. Irvin:

The California Council for Environmental and Economic Balance (“CCEEB”) is a nonprofit, nonpartisan coalition of business, labor and public leaders that works to advance policies that protect the environment while also allowing for continued economic growth. The following are CCEEB’s comments regarding the December 15, 2004 proposed General Permit for Discharges of Storm Water Associated with Industrial Activities.

1. CCEEB supports the iterative BMP based approach. CCEEB will only consider supporting an iterative BMP approach with benchmarks when it is consistent with USEPA’s guidance.

CCEEB supports the approach of iterative BMPs and benchmarks, but only as applied in a manner consistent with USEPA’s guidelines to regulate industrial storm water discharges. The present approach of this draft permit is not consistent with USEPA and the State’s guidance on storm water. Storm water discharges are very different from traditional process wastewater discharges. It varies significantly in timing, duration, quality, quantity, and flow. It is difficult to monitor and its source is not subject to the control of the discharger.

CCEEB is concerned that the proposed General Permit implements the benchmarks as a trigger for an iterative BMP process based on single grab samples and single storm events (also what about the concerns for the increased paperwork and sampling requirements if the iterative process is triggered?). Storm water samples are very

difficult to monitor. Grab samples of storm water discharge vary an order of magnitude in concentrations of constituents due to factors such as variability within a storm, variability between storms, and variability in sampling locations. The proposed General Permit should be amended so that the use of benchmarks consider this variability and allow flexibility and consideration of other indicators, consistent with the USEPA guidelines.

2. Appropriate numeric limits are infeasible to calculate without further data collection and methodology development.

Because of the variability of storm water, appropriate, scientifically-based numeric limits are infeasible to calculate without further data collection and methodology development. Insertion of CTR numeric limits as “never to exceed limits” in this permit, as suggested by some proponents, would place a significant, potentially unattainable burden on many industrial facilities, without commensurate environmental benefit. Numeric limits should not be inserted until the data and scientifically defensible methodology to properly calculate numeric limits are collected and developed. CCEEB looks forward to working with you towards a solution that ensures an effective statewide storm water program.

3. Benchmarks as a BMP effectiveness monitor must be reasonable and recognize the variability of storm water.

Both USEPA and the State Board have recognized the difficulty of storm water monitoring. Compared to traditional wastewater discharges, storm water discharges vary significantly within storms and between storms, and in many cases, lack well-defined discharge points. Therefore, the use of benchmarks as a BMP effectiveness monitor must be reasonably tailored and account for these differences and variability. Use of the benchmark as part of the tool to determine whether to trigger the iterative process should be consistent with the USEPA guidelines. Details of how such a monitoring program would work, how many samples are required, and what other indicators should be considered, should be clarified and verified through scientific scrutiny in order to justify requiring the iterative process.

4. Handling of background concentrations should be considered and clarified.

In many cases, background concentrations and aerial deposition surrounding and on facilities may be the primary source of metals and other constituents in storm water runoff. In many cases, isolating the facilities from these natural or site/offsite sources is impossible. These are sources that are beyond the control of the discharger, and it is unreasonable, and impractical, to require compliance with conditions beyond the discharger’s control. The General Permit’s Fact Sheet acknowledges this problem and states that a discharger can certify that no new BMPs are necessary if there are pollutants that do not appear to be caused by facility operations. However, the text of Section V.6.c.iii and V.7.c.iii of the permit is not consistent with the Fact Sheet. These permit sections require certification that there are no sources of pollutants at the facility, rather than pollutants are not caused by facility operations or industrial activity, to prevent the triggering of new BMPs. These sections should be amended as follows:

Section V.6.c.iii. ~~There are no sources of the pollutants at the facility.~~ **The pollutants are not caused by facility operations or industrial activity.**

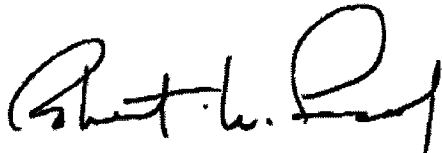
Section V.7.c.iii. ~~There are no sources of the pollutants at the facility.~~ **The pollutants are not caused by facility operations or industrial activity.**

5. Need for statewide storm water policy.

Many issues on storm water remain outstanding or vague, including guidance on when numeric limits should be developed, methodology for how to develop numeric limits, how to sample storm water, how to analyze whether the storm water discharge is impacting the receiving water, etc. State Board has initiated the development of the statewide storm water policy. This policy is crucial to ensure that storm water will be managed in a consistent and scientifically sound manner across the many different programs, including this General Permit, Ocean Plan, TMDLs, and NPDES permits. CCEEB urges the Board to adopt a General Permit for Industrial Activities based on the approach of iterative BMPs and benchmarks, only when applied in a manner consistent with USEPA's guidelines and proceed with a sense of urgency on the development of the storm water policy. It is strongly suggested that CCEEB and other industry organizations be invited to participate in the resolution of the concerns regarding this draft permit and the completion of the statewide storm water policy.

Thank you for your consideration of our comments. Please call me at 916-444-7337 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert W. Lucas". The signature is fluid and cursive, with a large initial "R" and "L".

Robert W. Lucas

cc: Chairman Baggett and Members of the State Water Resources Control Board
Victor Weisser, CCEEB
Cindy Tuck, CCEEB
Jackson Gualco, CCEEB