



DEPARTMENT OF ENVIRONMENTAL RESOURCES  
Administration

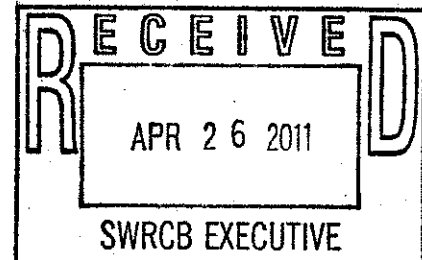
Sonya K. Harrigfeld  
Director

Jami Aggers  
Assistant Director

3600 Cornucopia Way, Suite C, Modesto, CA 95358-9494  
Phone: 209.525.6700 Fax: 209.525.6773

April 26, 2011

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



Via USPS and Email: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

RE: Comment Letter -- Draft Industrial Stormwater Permit

Dear Board Members:

Thank you for extending the opportunity until April 29, 2011, to submit comments regarding the draft Statewide General National Pollutant Discharge Elimination System (NPDES) Permit for the Discharge of Storm Water Associated with Industrial Activities (Industrial General Permit or IGP). Stanislaus County supports the implementation of stormwater quality improvement measures that are cost-effective and practical. We are concerned, however, that the January 28, 2011, proposed IGP does not meet these objectives. In addition, it would place an undue hardship on the financial and technical resources of local governments at a time when they can least afford it.

Our specific comments for your consideration are as follows:

- A. The draft proposed permit fails to determine the cost of compliance with its provisions; costs which may amount to several thousand dollars per facility per year. Given this, the County suggests the proposed IGP be modified as follows:
1. An analysis should be performed of the cost to comply with the proposed administrative and monitoring requirements for all affected California industries.
  2. Include at least a 1-year delay between the effective date of the final revised permit and the date that operators are required to be in compliance with the administrative and monitoring provisions.
  3. For organizations with multiple facilities, implementation should be staggered over a several year period before full compliance with basic monitoring and administrative requirements becomes necessary.

B. A cost-benefit analysis has not been done. The potential economic impact of this proposed permit is unknown, but likely is quite high. Given this, we suggest that the SWRCB direct staff to prepare an analysis to explain the projected cost of the anticipated water quality benefits associated with the proposed permit. There should be no further development of a new or revised IGP until this is completed.

C. The regulatory status of "landfill activities" is not clear in the proposed permit. Specifically, it raises the issue that certain aspects of landfill activities are under the IGP while others may be under the Construction General Permit (CGP). The IGP leaves this matter to be resolved by individual Regional Water Quality Control Boards (RWQCB) which is simply not appropriate. It leaves open the prospect that one type of operation may be subject to the IGP while others may be subject to the CGP -- all at the same facility at the same time. This will inevitably lead to confusion on both the part of the regulator and the regulated.

The IGP should clearly define the manner in which landfills are to be regulated under the proposed permit. A statement is needed that only the construction of new landfills is covered by the construction permit, while the construction of new or expanded landfill cells at existing landfills will not need coverage under the construction permit. Operations at all existing landfill facilities are subject to the provisions of the IGP.

Similarly, the issue of how closed landfills are regulated is left unaddressed. In the proposed permit, it is unclear whether a closed landfill is an industrial activity or not. This too, should be clarified. Once a closure plan has been implemented and post-closure activities have commenced, the landfill should no longer be considered an industrial activity.

Finally, the SWRCB should consider taking landfills out of the IGP altogether or creating a specific landfill subcategory in the revised IGP. Landfills are unique essential public services that should be subject to their own set of realistic, landfill-specific stormwater provisions. Application of the proposed Numeric Action Levels (NAL) and Numeric Effluent Limits (NEL) in the IGP, which are not based on representative stormwater quality observed at landfills, may not be achievable practically speaking.

D. There is no provision in the IGP for evaluating background levels that are higher than NALs/NELs, other than to appeal to a RWQCB. In addition, the NALs/NELs in the IGP were developed as benchmarks -- not strictly enforceable limits or

action levels. Finally, there is also concern that these limits are not California-specific levels which may result in impractical apples-to-oranges comparisons. The IGP should be revised to address these issues.

- E. The proposed three levels of corrective action tiers are not workable as proposed. A regulated facility may be forced into the most restrictive corrective action tier within just two years after the permit is adopted. Specifically, a regulated facility is provided only one year to demonstrate compliance within the first tier. If compliance is not demonstrated within one year, the regulated facility is moved up to the second tier. If compliance is not demonstrated within one year for the second tier, the regulated facility is moved to the third tier. One year is too short a timeline to demonstrate compliance with the requirements of each tier. A multi-year period would be a more practical approach to demonstrating compliance within each of the 3 tiers.

Another concern is that once a regulated facility is forced into tier 3, there may be no way to get out regardless of the improvements that are made to protect water quality. The proposed IGP should be revised to allow a 3<sup>rd</sup> tier facility to return to tier 2 and, ultimately, to tier 1.

- F. The draft IGP places an undue strain on the technical resources of local governments because of the burdensome new requirements it proposes. Examples include the following: appointing both a Qualified SWPPP Developer and a Qualified SWPPP Practitioner – both of whom must obtain appropriate training and take an exam to demonstrate competency, requirements for pre-storm inspections, visual monitoring of stormwater discharges during the first four hours of a qualifying storm event, and increased sampling frequencies including sampling all drainage areas within four hours, among other requirements.

Over the past few years, Stanislaus County has lost nearly one-quarter of its workforce due to the recession. Staffing resources are already stretched desperately thin, programs are being cut, and costly new requirements such as these would increase costs and stretch our scarce technical resources even further potentially without a corresponding increased benefit to stormwater quality. We would urge a reconsideration of these extensive new requirements as well as the consideration of a de minimus category for landfills with little or no annual discharge.

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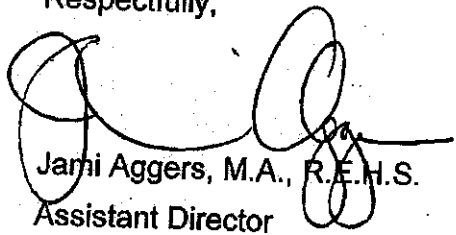
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In conclusion, local governments are financially strapped and cannot raise fees to pay for the proposed new requirements. Like most landfills in the State, the waste volume (and revenue) at Stanislaus County's Fink Road Landfill is down 25-30% for the third year running because of the depressed economy, yet the cost of environmental compliance continues to rise.

As stated above, Stanislaus County supports the implementation of stormwater quality improvement measures that are cost-effective and practical and urges the SWRCB to substantially modify the proposed IGP to accomplish this objective. Thank you again for the opportunity to submit these comments for consideration. Please do not hesitate to contact me if you have questions or require further information.

Respectfully,



Jami Aggers, M.A., R.E.H.S.  
Assistant Director