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Via U.S. Mail and E-Mail

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814
commentletters@waterboards.ca.gov

Re: Comment Letter – 2011 Draft Industrial General Permit

Dear Ms. Townsend and Members of the Board:

Our firm represents the Paper, Glass, and Plastic Recyclers Monitoring Group ("PGPRMG"). PGPRMG respectfully submits these comments on the 2011 Draft Industrial General Permit ("2011 IGP" or "Draft Permit"). PGPRMG is a State Water Resources Control Board ("SWRCB") approved monitoring group in good standing and has been operating under the provisions of the Industrial General Permit since 1992.

PGPRMG consists of over twenty facilities that operate within the jurisdictions of the Los Angeles, San Francisco Bay, Santa Ana, Central Valley, and San Diego Regional Water Quality Control Boards. PGPRMG participants primarily operate under the Standard Industrial Classification (SIC) Code 5093. The industrial activities conducted by PGPRMG participants are those typically associated with the scrap paper, plastic, and glass recycling industry and the participants are primarily engaged in the processing, breaking up, sorting, and wholesale distribution of scrap paper, plastic, glass, and aluminum cans.

As an approved monitoring group, in good standing, since 1992, PGPRMG's comments are submitted with the group members' desire to meet their compliance obligations in a manner that will result in protection of California's waters without placing unrealistic and arbitrary compliance burdens on industrial dischargers.

The 2011 IGP, however, contains several elements with which PGPRMG members have expressed deep concern:

- The 2011 IGP was issued as an incomplete draft without proper notification;
- Group monitoring was eliminated without sufficient justification;
- The 2011 IGP inappropriately relies on multi-sector general permit benchmark values and incorrectly implements Numeric Action Levels ("NALs") and Numeric Effluent Limits ("NELs");
- There is a failure to provide any economic analysis in the 2011 IGP's BAT/BCT discussion;
- The 2011 IGP eliminates receiving water provisions that are in the existing 1997 IGP that provide a safeguard from third party citizen suit litigation for industrial dischargers;
- The 2011 IGP fails to take into account background levels in the stormwater sampling scheme; and
- The 2011 IGP imposes onerous additional monitoring and reporting requirements that provide no assurance for greater water quality protection.

I. The 2011 IGP Was Issued as an Incomplete Draft Without Proper Notification

The 2011 IGP was issued as an incomplete draft without proper notification – for example, the SWRCB has embraced the industry group compliance option for over twenty years (which is an extension of the EPA's 1990 final stormwater application rule), yet, the SWRCB proposes to capriciously eliminate group monitoring after issuing an incomplete permit draft with three public workshops and one public hearing – all over a span of four months.

Not only was the 2011 IGP issued without proper notification, it was issued as an incomplete draft. By way of example, the 2011 IGP was issued with reference to the implementation of Total Maximum Daily Loads ("TMDLs"). 2011 Draft Industrial General Permit Order ("2011 IGP") at 7 ("Regional Boards may impose more stringent water quality

based effluent limitations through the implementation of TMDLs or through other Regional Board actions"); id. at 8 ("Dischargers located within the watershed of a 303(d) impaired water body, for which a Total Maximum Daily Load (TMDL) had been adopted by the Regional Water Board or US EPA . . . Attachment G of this General Permit provides links to the applicable TMDLs.") However, Attachment G is incomplete. Id. at Attachment G ("The below list is not a final or complete list of the TMDL segments possibly applicable to dischargers, but illustrates what the final Attachment will contain for all industrial related TMDLs. More work is needed with TMDL staff to develop final list") (emphasis added). The idea that the Regional Boards may impose more stringent water quality based effluent limitations through the implementation of TMDLs – without a final or complete list – is wholly unfair and unreasonable.

To achieve a more transparent and less arbitrary permit issuance process, PGPRMG requests that the SWRCB record and provide a recording or transcript for future question and answer sessions (workshops) pertaining to drafts of the industrial general permit and make these transcripts available online.

In addition to logistical issues related to the process, PGPRMG has concerns with how its members' permit fees are being spent. PGPRMG, thus, requests that the SWRCB, in its next draft of the industrial general permit, provide a budget illustrating the allocation of resources dedicated to the following: enforcement of non-filers who are wholly not complying with the general industrial permit, site reviews/inspections of industrial dischargers who have filed notices of intent ("NOI"), and industrial dischargers who seek the assistance of the regional water boards through the 1997 IGP's C.3 mechanism. PGPRMG believes that the SWRCB should focus its resources on the facilities that have not filed an NOI and/or facilities that are obviously and visibly in non-compliance with general permit requirements.

II. The 2011 IGP Proposes Elimination of Storm Water Monitoring Groups Without Sufficient Justification

Since the 1990s, group stormwater monitoring has served numerous functions – that of which was initially to bring facilities into industrial permit coverage. Throughout the years, group monitoring has evolved into not only ensuring industrial permit coverage but being able to provide reliable monitoring data on an industry-by-industry basis and providing tailored best management practices ("BMPs"). Not to mention, groups prepare and submit Annual Group Evaluation Reports ("AGERs") that provide the SWRCB and regional water boards with a snapshot of the facilities on an annual basis. Furthermore, the majority of group leaders, who provide guidance and oversight, are licensed professional engineers or working under professional engineers. It is thus evident that the monitoring groups have benefitted SWRCB and California's water quality in general. Therefore, eliminating storm water monitoring groups without sufficient justification and notice, is wholly unfair to the group members who have steadfastly complied with the industrial general permit since its inception.

The 2011 IGP makes only ***one*** reference to the elimination of group monitoring – that of which is not sufficient to eliminate group monitoring after industries have relied on group monitoring for twenty years. The 2011 IGP fails to acknowledge the benefits of group monitoring including: industry-specific compliance and the development of group quantitative and narrative data developed under professional and experienced guidance.

A. Group Monitoring Regulatory History

1. The United States Environmental Protection Agency

Group monitoring originated from the Environmental Protection Agency's ("EPA") two-part group application process in its 1990 final stormwater application rule. EPA's rule required regulated facilities to submit an individual permit application, to submit a "group" permit application, or to seek coverage under a general permit. Thus, EPA allowed groups of regulated facilities with similar operations to organize and form groups for purposes of generating and negotiating industry specific permits. Part 1 involved collecting narrative data to submit to EPA to demonstrate that the group applicants were sufficiently similar. See 55 Fed. Reg. 47990 (November 16, 1990). Part 2 involved submitting sampling data to EPA. See id. Instead of taking sampling data from the entire group, only 10% of group applicants were required to submit data. See id. The group application procedure was challenged—and upheld—in 1992. See *NRDC v. EPA*, 966 F.2d 1292 (9th Cir. 1992).

In 1995, EPA used the group application data to promulgate the multi sector general permits ("MSGP") and to assist EPA in determining which of the 29 industrial sectors should be required to conduct any sampling. Nine of the 29 industrial sectors were categorically eliminated from sampling—either because of lack of data or because the data did not support targeting those sectors. Of the remaining 20 sectors, eight exempted some subsectors from storm water sampling.

2. The State Water Resources Control Board

Over twenty years ago, the SWRCB embraced the industry group compliance option. Initially, the SWRCB allowed "monitoring groups" of similarly situated industries to conduct monitoring at only 20% of the facilities in the group on a Regional Board by Regional Board basis. Under that proposal, groups could form and over the five year permit term a fixed subgroup (20%) of "representative" facilities would sample. See 1992 IGP at 13. When the permit was adopted in 1991 and revised in 1992, the SWRCB allowed groups to form statewide. These permits adhered to EPA's model of allowing a fixed subgroup – thus increasing it to 20% – of the "representative" facilities to conduct twice per year sampling. In 1997, the SWRCB modified this option to require rotation of monitoring such that the group as a whole would still receive the 80% sample reduction but each group member would have to sample twice every five year permit term. The 1997 Permit also introduced mandatory site visits (twice per permit term) by the group leader. The SWRCB reasoned in its Response to Comments on the 1997 Permit:

> Group monitoring was intended to result in (1) better group member understanding of their storm water management program, (2) better compliance from group members, and (3) self-developed, self-tested, and group specific BMPs that are appropriate and effective in reducing or preventing pollutants in storm water discharges and authorized non-storm water discharges. Response to Comments at 40.

Despite this twenty year history, in 2011, the SWRCB proposed an industrial storm water permit that eliminates group monitoring with ***only one*** reference to monitoring groups:

> This General Permit requires an improved training baseline, similar to that required in the Construction General Permit, which includes the requirement for the discharger to have a QSD and a QSP. The previous permit had no baseline training although it was arguable that the group leader performed some of the QSD functions. *This permit emphasizes sampling and analysis as a means to determine compliance with BAT/BCT. Reduced sampling of the magnitude provided to group participants interferes with that goal.* 2011 IGP Fact Sheet at 6 (emphasis added).

B. <u>There is No Evidence Presented to Support the Elimination of Monitoring Groups</u>

The Fact Sheet to the SWRCB permit is bereft of any justification for elimination of monitoring groups – even though they have existed in some form or another in California for the past twenty years. The State proposes to eliminate them only because "[r]educed sampling of the magnitude provided to group participants interferes with . . . [the] goal" of emphasizing sampling and analysis as a means of determining compliance with BAT/BCT. 2011 IGP Fact Sheet at 6. Instead of requiring increased sampling, increased site inspections or more stringent group leader requirements, the State simply takes the easy way out and eliminates the compliance option that approximately 2,000 dischargers have come to rely upon. Moreover, the State assumes sampling and analysis are a "means of determining BAT/BCT." As PGPRMG notes in other sections of these comments, sampling and analysis (as envisioned by the State in the 2011 IGP) cannot be linked to BAT/BCT industrial stormwater permit compliance.

Any inequity was resolved when the monitoring group provision was tightened and reorganized in 1997 when 80% of group members were no longer exempted from sampling. Instead, the total number of samples to be collected was reduced by 80% – from 10 to 2 – over the five year permit term.

C. The Monitoring Group Model Leads to Better Data Collection

The SWRCB infers that group monitoring, because of its reduced sampling, will ultimately impede the end result – better water quality. However, what the SWRCB fails to note is that group members are subject to more scrutiny (from regulator and group leader site inspections) than similarly situated individual discharges. These site visits take up valuable time and resources for each group member facility. In fact, PGPRMG group members have received twice (or more) as many Regional Water Board inspections as have individual dischargers. This additional scrutiny, PGPRMG believes, can generate more accurate data collection because at the time of the site visits – sampling protocol may be discussed, discharge points may be reviewed, and an overall review of the industrial activities at the site are evaluated to determine storm water compliance.

On a related note, the Santa Ana Regional Quality Water Board ("SARWQCB") has recently endorsed the group monitoring concept in its proposed metal recycling permit for exactly these reasons – to produce better quality monitoring data.[1] In addition, the SARWQCB Permit provides that "[a]ll [p]ermitees are encouraged to participate in the GMP [Group Monitoring Program] for the following reasons: [t]o reduce administrative and technical costs; [t]o develop reliable data; [and] [t]o ease the regulatory burden. SARWQCB at 55.

D. Group Data Can be Utilized to Develop Industry Specific Permits

By the State's own acknowledgement, collection of data on an industry specific basis provides utility. In fact, the SWRCB notes that it does not have the resources to collect such industry specific data under a permit that covers so many industrial sectors:

> Because of the diverse industries covered by this General Permit, the development of a more comprehensive list of minimum BMPs,

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[1] The SARWQCB recently endorsed the group monitoring concept in its proposed sector specific permit for metal scrap recyclers:

> The Permit encourages all Permittees under this Order to participate in a group monitoring program approved by the Regional Board. This is critical for appropriate quality control and quality assurance and to produce quality monitoring data. Individual monitoring is also an option; however, those opting to develop an individual monitoring program are required to undergo appropriate training programs and follow strict quality control protocols. SARWQCB Permit at p. 12, II., K., 43.

PGPRMG has not endorsed the SARWQCB Scrap Permit but supports the statements it makes in support of group monitoring. It should also be noted that the PGPRMG opposed its inclusion in this Region 8 Scrap Metal Permit. This Scrap Metal Permit inadvertently includes facilities that are members of the PGPRMG. Even though the PGPRMG facilities operate under SIC Code 5093, their operations are significantly different than metal recyclers, e.g., the processing and baling of scrap paper, plastic, glass, and aluminum cans is simply not comparable to the processing and baling of ferrous and non-ferrous metals.

> that would constitute full compliance with BAT/BCT for all dischargers, is not currently feasible. 2011 IGP Fact Sheet at 18.

PGPRMG believes group monitoring confers a fundamental, but misunderstood, benefit: industry-specific institutional knowledge developed by group leaders and transmitted to the group members. It is through Group Monitoring that the intimate operational and empirical knowledge of a specific industrial activity can come together in a proactive and cooperative forum with the level of stormwater quality expertise that is fundamental and mandatory to develop and evaluate effective BMPs, specific to that industrial activity's operations and resources.

Simply put, group data can be used to accelerate "the development of a more comprehensive list of minimum BMPs" which the State has presently deemed "infeasible." 2011 IGP Fact Sheet at 18. There are many options that may be utilized to increase the reliability and quality of group sampling data while preserving some type of reduction in sampling for group members. PGPRMG recommends convening a stakeholder group to consider feasible and effective options that can be proposed as part of the next IGP draft.

E. The SWRCB Should Reinstate Monitoring Groups Because They Reduce the Inspection Burden on Regional Water Boards and Play a Critical Role in Developing Industrial Group BMPs

Group stormwater monitoring offers industrial dischargers access to cost effective/resource efficient permit compliance support that is specific to the discharger's industrial activities. This translates to more direct oversight by experienced professionals with intimate knowledge of the industry. Regional Water Boards should be able to reduce their inspection burden by relying on monitoring group leaders to supplement the Regional Water Board site visits.

In addition, the State acknowledges that more effective BMPs can be developed by industrial groups in the Fact Sheet to the 2011 IGP:

> The State Water Board recognizes that industrial activities and operating conditions at many facilities change over time. In addition, *new and more effective BMPs are being developed* by various Dischargers and *by industrial groups*. 2011 IGP Fact Sheet at 34 (emphasis added).

In conclusion, the SWRCB, has capriciously and arbitrarily eliminated group monitoring without balancing the additional benefits that monitoring groups provide to California's stormwater program – including increased, more reliable stormwater quality data that is centered on a specific industrial activity and reduction of inspections which relieves resource-strained regional water boards and MS4s.

III. The 2011 IGP's Use of the Multi-Sector General Permit Benchmark Levels as Numeric Effluent Limits ("NELs") or Numeric Action Levels ("NALs") is Misapplied and Misinterpreted[2]

The 2011 IGP's use and reliance of the benchmark values in the EPA's Multi-Sector General Permit for Stormwater Discharges Associated With Industrial Activity ("MSGP")[3] as NELs/NALs is inappropriate given the fact that the EPA never intended that the MSGP benchmarks be effluent limitations. In fact, the MSGP and its Response to Comments state clearly and unequivocally ***twice*** that benchmarks are not effluent limitations:

> The **benchmark concentrations are not effluent limitations**; a benchmark exceedance, therefore, is not a permit violation. Benchmark monitoring data are primarily for your use to determine the overall effectiveness of your control measures and to assist you in knowing when additional corrective action(s) may be necessary to comply with the effluent limitations in Part 2. MSGP at Part 6.2.1 (emphasis added).
>
> EPA notes that Part 6.2.1 emphasizes that the benchmark thresholds used for monitoring **are not effluent limits**, but rather information that is primarily for the use of the industrial facility to determine the overall effectiveness of the control measures and to assist in understanding when corrective action(s) may be necessary.[4]

Despite these clear and unequivocal statements, finding 42 in the 2011 IGP states that "The State Board finds that the USEPA benchmarks serve as an appropriate set of technology based effluent limitations that demonstrate compliance with BAT/BCT." Moreover, the United States Central District federal court held in *Santa Monica Baykeeper v. Kramer Metals* (C.D. Cal. 2009) 619 F.Supp.2d 914, 924 that:

> "[a]lthough the Benchmark levels are useful objective guidelines, the Court is not persuaded it would be appropriate to hold that samples showing concentrations in excess of the Benchmark levels constitute a violation of Effluent Limitation B(3) simply by virtue of exceeding those Benchmark levels. Doing so would effectively – and inappropriately – turn these Benchmarks into numeric effluent limitations."

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[2] The legal arguments in section III are drawn from the legal comments made by the California Stormwater Quality Association (CASQA) Industrial Permit Subcommittee.

[3] 73 Fed. Reg. 56572 (September 29, 2008).

[4] 73 Fed. Reg., 56572, 56574.

Given the express intent of the EPA in drafting the MSGP, in conjunction with *Kramer Metals*, relying on the EPA benchmarks is clearly a whimsical, misapplied, and misinterpreted attempt to apply effluent limitations without any evidentiary support.

A. The 2011 IGP's Use of NALs/NELs May Not be Imposed Without Complying with Due Process and Regulatory Requirements

As mentioned above, introducing an incomplete draft permit with only three public workshops and one public hearing, over a four month period, that imposes more stringent obligations and opens up the flood gates to third party citizen suits, violates the group members' due process rights. In addition, the 2011 IGP fails to provide any evidentiary support as to the adoption of the NELs as technology-based effluent limitations.

In addition, the 2011 IGP has not discussed with specificity the factors set forth in the Clean Water Act, section 304 or the regulations pursuant to 40 C.F.R. 122.44(a)(1) and 125.3. Although the 2011 IGP states that "[e]xceedances of an NAL are not a violation of this General Permit" – an NAL exceedance may very well lead to a violation of the General Permit and may subject the discharger to mandatory minimum penalties. 2011 IGP at 14-15. More specifically, "[d]ischargers in Corrective Action Level 3 . . . are subject to a numeric effluent limitation (NEL) that will be the same numeric value as the applicable pollutant NAL. A daily average exceedance of the NEL is *a violation* of this General Permit and may subject the discharger to mandatory minimum penalties." Id. at 15 (emphasis added). As such, imposing NALs/NELs without proper and sufficient notice and satisfactory compliance with the applicable regulations in mandating these NALs/NELs, constitutes a violation of the group members' due process rights.

B. The 2011 IGP Fails to Provide Any Economic Analysis in the BAT/BCT Discussion and the SWCRB Should Consider Industry-Specific NALs/NELs

Moreover, the 2011 IGP's common theme is that industrial discharges should achieve BAT/BCT compliance. See, e.g., 2011 IGP at 18 ("BMPs shall be selected to achieve BAT/BCT"); 2011 Fact Sheet at 7 ("[a]ll dischargers subject to Baseline Compliance and Level 1 and Level 2 corrective actions are subject to the narrative, technology-based effluent limitations or BAT/BCT.") However, the IGP fails to provide any economic analysis as to what constitutes BAT/BCT – let alone of what constitutes BAT/BCT on an industry-specific basis.

PGPRMG thus suggests, consistent with the Blue Ribbon Panel report, that the SWRCB establish NALs/NELs based on the technology that is available and particular to industry types. Simply put, BAT/BCT differs for various industry sectors. Similarly, the NALs/NELs are based on a one-size-fits-all approach – meaning some (if not all) NALs/NELs are set far below of what is attainable for industries – thus, placing a disproportionate burden on industrial dischargers at a time when California can least afford it. Group monitoring, however, provides the SWRCB with the necessary and accurate data it needs to establish NALs/NELs on a sector by sector basis.

IV. Receiving Water Provisions Should be Retained From the Existing 1997 IGP

The 2011 IGP contains a standard provision that prohibits discharges that cause or contribute to a water quality exceedance. 2011 IGP at 15. The Fact Sheet to the 2011 Draft Permit appears to refer to a process regarding potential receiving water quality exceedances (observed by the Regional Water Board or discharger) that is identified in Section V.6 of the Draft Permit. 2011 IGP Fact Sheet at 8-9. Section V.6 does not exist.

The 1997 IGP analogue is Receiving Water Quality Limitation in Section C.2. 1997 IGP at 4. During the 1997 permit proceedings there were significant concerns over the interpretation of what "cause or contribute" means.[5] The State Water Board established a process, codified in Section C.3-4 of the 1997 IGP to allow the Regional Water Board or a discharger, upon identifying a potential water quality limitation exceedance. It involved the submittal and approval of a Report with additional BMPs to be implemented at the facility. As noted in the State Water Board's Response to Comments on the General Industrial Stormwater Permit April 17, 1997:

> Implementation of BMPs that achieve BAT/BCT involves (1) considering economics and (2) the BMPs generally adequate for treatment or source control of storm water discharges. The procedure in Section C.3. requires taking additional steps necessary to achieve water quality standards. These steps go beyond the standard BMPs that would be adequate at most sites because of the impact on receiving waters. Examples of BMPs might include treatment or no longer using a material that is causing the impact.

Furthermore, in *Kramer Metals*, 619 F.Supp.2d at 927, 929 although the court wrongly held that the "CTR criteria apply end of the discharge pipe" – the court also held that section C.3 provides a "safe harbor" for industrial dischargers who cause or contribute to an exceedance of a water quality standard such as the CTR. Thus, a facility operator "will not be in violation of Receiving Water Limitation C(2) as long as the facility operator has implemented BMPs that achieve BAT/BCT and follows a reporting procedure." Id. (internal quotation marks omitted).

[5] It is PGPRMG's belief that there is no bright line standard for "exceeding a water quality standard." As is outlined in other sections of PGPRMG's comments, receiving water quality standards are not, and should never be, applied as numeric, end of pipe limitations.

The 1997 IGP C.3 provision, that was upheld by the *Kramer Metals* Court, is necessary to protect the industrial dischargers from the influx of third party citizen suits. More importantly, it provides a mechanism for the regional water board to decide compliance – rather than allowing the citizen groups, in effect, to become the judge and the jury as to what constitutes stormwater compliance. Third party citizen suits typically result in significant costs to the industrial dischargers – anywhere from $100,000 to $300,000 after attorneys' fees and environmental project costs are paid. Thus, in order to allow the industrial dischargers to focus on the end-game – better water quality in California – it is necessary for the 2011 IGP to include the 1997 IGP's C.3 provision.

Thus, to be consistent with the 1997 IGP and in light of the *Kramer Metals* decision, it is PGPRMG's recommendation that Section VI. be amended to include a new section E. as follows:

> New Section VI.E.1. A facility operator will not be in violation of Receiving Water Limitation Section VI.A. as long as the facility operator has implemented BMPs that achieve BAT/BCT and the following procedure is followed:
>
> a. The facility operator shall submit a report to the appropriate Regional Water Board that describes the BMPs that are currently being implemented and additional BMPs that will be implemented to prevent or reduce any pollutants that are causing or contributing to the exceedance of water quality standards. The report shall include an implementation schedule. The Regional Water Board may require modifications to the report.
>
> b. Following approval of the report described above by the Regional Water Board, the facility operator shall revise its SWPPP and monitoring program to incorporate the additional BMPs that have been and will be implemented, the implementation schedule, and any additional monitoring required.
>
> 2. A facility operator shall be in violation of this General Permit if he/she fails to do any of the following:
>
> a. Submit the report described above within 60 days after either the facility operator or the Regional Water Board determines that discharges are causing or contributing to an exceedance of an applicable water quality standard;
>
> b. Submit a report that is approved by the Regional Water Board; or

c. Revise its SWPPP and monitoring program as required by the approved report.

In addition, PGPRMG requests that the 2011 IGP add an unequivocal, clear statement that CTRs are not end of pipe numeric limitations.

V. Background Levels Must Be Taken Into Account in Any Stormwater Sampling Program

Furthermore, the NALs/NELs (as discussed above) do not take into account background levels and natural occurrence of many regulated constituents such as metals or their prevalence in our cities in the form of common building construction materials, vehicles, and day-to-day human activities. For example, aluminum in the form of aluminum oxides is present on painted buildings and zinc is common in buildings with galvanized metal siding or roofs, cyclone fences, and automobile tires and undercoating. In fact, it is almost certain that facilities not falling into an SIC Code regulated by the IGP could not achieve the NALs/NELs if they were required to conduct storm water sampling and analysis. Thus, it is simply inequitable to place an unfair burden on industrial dischargers – that of which is beyond their practical ability to control – while other businesses in non-regulated SIC Codes with similar infrastructure are not required to employ any storm water management practices.

VI. PGPRMG Opposes the Onerous Monitoring Requirements that the 2011 IGP Imposes

The 2011 IGP requires significantly more monitoring requirements than the current 1997 IGP. By way of example, the IGP requires that dischargers "collect water samples from the first qualifying storm event of each calendar quarter." 2011 IGP at 30. Moreover, dischargers subject to level 2 corrective actions must "collect samples from the first 2 qualifying storm events each quarter" and dischargers subject to level 3 corrective actions must "collect samples from each and every qualifying storm event in a quarter." Id. In addition, the IGP eliminates the option to reduce the number of sampling locations based on representative substantially identical drainage areas. This increase in sampling is quite arbitrary – not only does it increase costs for the individual facilities but it does nothing to ensure water quality is more protected.

In addition, there is significantly more documentation required in the 2011 IGP – including (but not limited to) various pre-storm event inspections, inspection of outdoor areas and equipment that come into contact with industrial materials or wastes, equipment inspections, and weekly inspections (for outdoor/exposed areas, BMPs for controlling material tracking and rinse/wash water activities, covering and containing stored industrial materials, and diverting stormwater from industrial process areas). Id. at 23-24, 29-30.

Although PGPRMG takes its environmental stewardship seriously, it believes these exhausting requirements to conduct repetitive sampling and reporting will result in a waste of human and financial resources without very little assurance that water quality will be

more protected. Not only will these additional requirements increase the cost of business when California can certainly not afford to, there is little guarantee that environmental quality will actually improve.

VII. Conclusion

In conclusion, PGPRMG strongly advocates for the retention of the group monitoring provisions and the C.3 safe harbor provision in the current industrial general permit and the inclusion of further evaluated, properly noticed, and justified NALs/NELs that are formulated on an industry-by-industry basis, rather than an arbitrary number. The PGPRMG also requests that the SWRCB review the onerous monitoring and reporting requirements and design a program that will not only improve water quality but will also not cause a significant burden on California businesses.

We appreciate the opportunity to present these comments. If you have any questions or comments, please feel free to call.

Very Truly Yours,

William W. Funderburk, Jr.
Anna L. Cole

cc: Los Angeles Regional Water Quality Control Board
Central Valley Regional Water Quality Control Board
San Diego Regional Water Quality Control Board
Santa Ana Regional Water Quality Control Board
Lahontan Regional Water Quality Control Board