



Del Monte Foods, Inc.

Research Center  
205 N. Wiget Lane  
Walnut Creek, CA 94598

March 4, 2014



Ms. Jeanine Townsend  
Clerk to the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814

**RE: Comment Letter – April 1, 2014 Board Meeting: Final Draft Industrial General Permit**

Dear Ms. Townsend:

Del Monte Foods, Inc. (Del Monte) has reviewed the Final Draft Statewide General National Pollutant Discharge Elimination System (NPDES) Permit for the Discharge of Storm Water Associated with Industrial Activities (Industrial General Permit) issued for public comment on February 19, 2014.

Before discussing individual items in the proposed Final Industrial General Permit, we want to thank you for your efforts in working closely with the various stakeholder groups in crafting the subject permit. We know that this has been a long process and not an easy job.

Nevertheless, we do remain somewhat concerned about the roll-out and implementation of many of the new regulatory requirements and how they may impact our company moving forward. However, we do appreciate that the time has come for the state to update the subject permit to comply with current national storm water protection standards/ rules.

Our comments on the Industrial General Permit follow for your consideration. For ease of review, we first list the permit condition/ section that concern us and follow the subject condition with our comments. We are most concerned about the recent changes that you have made to requirements for submitting SWPPP changes via SMARTS and for dischargers claiming “No Discharge” through Notice of Non-Applicability (NONA).

14.1

**PART X, SWPPP Implementation and Revisions, Condition B3, Page 25**

This condition states “With the exception of significant revisions, the Discharger is not required to certify and submit via SMARTS their SWPPP revisions more than once every three (3) months in the reporting year.”

**Comment**

Examples of “significant revisions” to SWPPPs that need to be certified and submitted via SMARTS in a more timely manner than quarterly should be footnoted and/or defined in the permit to avoid confusion and possible regulatory/ third party enforcement actions and disagreement on what needs and does not need to be reported and when.

14.2

**PART XX, SPECIAL CONDITIONS, Condition C.2.a., Draft Order Page 71**

**Requirements for Dischargers Claiming “No Discharge” through Notice of Non-Applicability**

This condition stipulates that facilities that discharge industrial storm water to groundwater that has a direct hydrologic connection to waters of the United States **are not** eligible to claim “No Discharge” through the Notice of Non-Applicability (NONA) process.

**Comment**

The legal/ regulatory basis/ background for not allowing facilities that may discharge storm water with a hydrologic connection to ground water from claiming “no discharge” is not articulated anywhere in the permit and/or fact sheet for the permit. We think that adding this overly restrictive proviso to the permit is not in the best interest of the state and **will not** encourage facilities located near surface water bodies to implement/ install proven low cost/ maintenance storm water management strategies that focus on evaporating, transpiring, and infiltrating storm water on-site through native soils, vegetation, and bioengineering applications (which state/ local permitting jurisdictions should be encouraging because these practices mimic natural drainage systems that enhance storm water quality as well as help maintain dry weather flows and cooler temperatures in surface waters in that in these types of systems storm water typically travels underground to surface waters).

We fully understand that some high risk industrial sites and/or in “hot spot” areas of sites that discharge storm water to ground waters that have a direct hydrologic connection to surface waters may not be advised (but even in these instances pre-treatment of the storm water before it is discharged and soil media used in bio-retention/bio-infiltration systems can be highly effective at removing hydrocarbons, heavy metals, nutrients, etc.). Accordingly, we suggest that Condition XX.C 2.a. be rewritten to read:

2. Entities who are claiming “No Discharge” through the NONA shall meet the following eligibility requirements:
  - a. The facility ~~shall is either be (1)~~ engineered and constructed to have contained the maximum historical precipitation event (or series of events) using the precipitation data collected from the National Oceanic and Atmospheric Agency’s website ~~(or other nearby precipitation data available from other government agencies); or~~ so that there will be no discharge of industrial storm water to waters of the United States, including no discharge to groundwater that has a direct hydrologic connection to waters of the United States (unless it is demonstrated that such discharges will enhance and/or not degrade waters of the United States); or

<sup>\*\*</sup>Alternatively, it would be more clear to regulatory entities if the verbiage “...including no discharge to groundwater that has a direct hydrologic connection to waters of the United States” is stricken/ deleted from the permit all together particularly given the fact that the State Water Resources Control Board has failed to clearly articulate the basis for inserting this problem proviso into the permit at this very late stage in the permit update process.

Further, we urge the state to develop specific/ scientifically based storm water management system criteria for sites that may discharge storm waters to ground waters with a hydrologic connection to surface water so they could properly design infiltration/ recharge systems without a significant amount of regulatory overview/scrutiny (statewide the goal **should not** be to bring more entities into the storm water permitting program but to encourage entities to **voluntarily** implement storm

water infiltration strategies where feasible no matter where they are physically located). Infiltration is an important/proven low tech storm water BMP that has been shown to reduce runoff and filter non-point sources of pollutants entrained in runoff and minimize adverse impacts of impervious surfaces.

14.3

**Fact Sheet, Special Conditions Requirements for Dischargers Claiming the “No Discharge” Option in the Notice of Non-Applicability, Item 3, Additional Considerations, Page 71**

This special condition reads “The “No Discharge” determination does not cover storm water containment systems that transfer industrial pollutants to ground water. Entities must determine whether designs that incorporate infiltration may discharge to and contaminate groundwater. If there is a threat to groundwater, Entities must contact the Regional Water Boards prior to construction of infiltration design elements.”

**Comment**

We commented on the above special condition previously through a California League of Food Processors letter submitted to the State Water Resources Control Board in September 2013 and our comments were not considered/ factored. We remain that the above Fact Sheet NONA additional consideration is poorly written. As written, it basically would exclude any and all industrial sites that may infiltrate storm water to ground water from being able to claim “No Discharge.” We hope that this is not the intention of the State Water Resources Control Board because infiltration of storm waters at sites must be encouraged if our ultimate statewide goal is to improve surface water quality. Storm water runoff at any and all industrial sites are going to contain some amounts of recognized pollutants (this is unavoidable). Accordingly, we suggest that the subject additional consideration be rewritten to read:

**3. Additional Considerations**

~~The “No Discharge” determination does not cover storm water containment systems that transfer industrial pollutants to groundwater~~ **will be subject to detailed regulatory review at any sites that may represent high risk (e.g., sites of known contamination, hot spots of hydrocarbon and trace metal contamination, etc.) and discharge facility storm water to containment systems that infiltrate to ground water.** Entities must determine whether designs that incorporate infiltration may discharge to and contaminate ground water. If there is a threat...

We appreciate your consideration of our comments. If you have any questions, please do not hesitate to contact me at [tim.ruby@delmonte.com](mailto:tim.ruby@delmonte.com) or at (925) 944-7318.

Sincerely,

**DEL MONTE FOODS, INC.**



Timothy P. Ruby  
Environmental Water Manager

cc: Trudi Hughes, California League of Food Processors