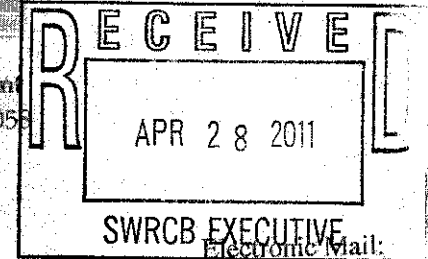




Health and Environmental Control Department
4305 Santa Fe Avenue, Vernon, California 90058
Telephone (323) 583-8811
April 28, 2011



commentletters@waterboards.ca.gov

California State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814
Attention: Jeanine Townsend, Clerk to the Board

Subject: Comment Letter – Draft General Industrial Activity Stormwater Permit

Dear Ms. Townsend and Members of the Board:

On behalf of the City of Vernon, we are providing comments relative to the Draft General Industrial Activity General Permit (GIASP). Our city appreciates the State Water Board's efforts in proceeding to revise and reissue the subject general permit. The draft permit proposes several significant improvements that are appropriate to protect water quality. However, based on our review, there are several concerns that we respectfully request the State Water Resources Control Board to reconsider;

1. This permit incorporates US EPA Benchmark Values as Numeric Action Limits and Numeric Effluent Limits. Given the findings of the Blue Ribbon Panel of Experts convened by the State Water Board in addition to the Best Available Technology, "defaulting" to the US EPA Benchmark Values as Numeric Action Limits and Numeric effluent limits is unduly onerous, without justification, and inappropriate at this time. The US EPA Benchmark Values were never intended to be compliance standards. We anticipate that this proposed permit action will not only require significant financial resources from businesses in an already stressed economy, but also make permit compliance marginally achievable. We suggest the State Water Board remove the US EPA Benchmark Values as NALs/NELs and to consider a more progressive and feasible approach.
2. Section I.L., titled Conditional Exclusion-No Discharge Certification, provides a Conditional Exclusion for all dischargers that certify that their facility does not discharge stormwater associated with industrial activity for up to a 100-year, 24-hour storm event. Section V.E., titled Compliance Storm Event, establishes a 10-year, 24-hour Compliance Storm Event. If permitted facilities are required to be in full permit compliance for up-to a 10-year intensity rain event, the 100-year intensity rain event requirement for a Conditional Exclusion-No Discharge Certification appears significantly excessive and incongruous. We suggest the Conditional Exclusion be revised to allow a No Discharge Certification for dischargers that certify that their facility does not discharge stormwater associated with industrial activity for up to the established Compliance Storm Event.
3. Section V.E, titled Compliance Storm Event, establishes a 10-year, 24-hour (expressed in inches of rainfall) Compliance Storm Event for Total Suspended Solids as well as for all treatment best management practices (BMPs) for other pollutants. The compliance storm event for a Risk Level 3 (the highest risk level) under the current General Construction Activity Stormwater Permit (GCASP) is a 5-

Exclusively Industrial

year, 24-hour storm event. The inconsistency of the span of storm events between general NPDES permits creates confusion. The standard to determine compliance should be consistent across all State issued NPDES permits. We suggest that the Compliance Storm Event be reduced to a 5-year, 24-hour storm event.

4. Section IV.A, titled Non-Stormwater Discharges, and identifies fire-hydrant and fire prevention or response system flushing as an authorized discharge under this permit. Unfortunately, this proposed authorized is not identified in the Los Angeles Municipal Stormwater Permit. Authorizing discharges in one NPDES permit while it would be a clear violation in another is irresponsible, unjustifiable and will likely create legal grid-lock. As it appears that the State Water Board has made a determination that fire-hydrant and fire prevention or response system flushing does not pose a threat to water quality, we suggest that all NPDES permits be consistent in terms of listed authorized discharges.
5. Section V., titled Effluent Limitations, indicates "stormwater discharges and authorized non-stormwater discharges regulated by this General Permit shall not contain a hazardous substance equal to or in excess of a reportable quantity listed in 40 C.F.R. Part 117 and/or CFR Part 302". We acknowledge that this statement is in other NPDES permits; however, neither 40 C.F.R. Part 117 nor Part 302 are intended to be used as a basis for an "allowable" environmental discharge standard. Both Part 117 and Part 302 are intended for reporting purposes only. The statement in Section V. is a gross misuse of a federal reference document. To clarify and for example, Section V. implies that an authorized non-stormwater discharge regulated by this permit can contain up to 99 pounds of hydrofluoric acid (a highly toxic and flammable liquid) in a 24 hour period without violating this permit. We suggest that Section V. be re-evaluated for editing. Please also note, that this "authorized discharge" definition is not reflected in the current Los Angeles County Municipal Stormwater Permit.
6. Section VI., titled Receiving Water Limitations, indicates that dischargers located within the watershed of a CWA Section 303(d) impaired water body, for which a TMDL has been approved by the U.S. EPA, shall comply with the approved TMDL if it identifies "industrial activity" or industrial-related activities as a source of the pollution. This language appears to be vague and diluted. Our concern is that in Los Angeles River Watershed, there are TMDLs for Trash, Metals, and Bacteria; however, the substantial requirements from these comprehensive TMDLs have not been adequately included in this general permit. We suggest that the Section VI. be revised to provide more effective and detailed language for compliance with local TMDLs.
7. Section VII., titled Training Qualifications and Certification, indicates all SWPPPs shall be developed, amended, and certified by a Qualified SWPPP Developer (QSD). This section further describes experience requirements for QSDs as: 1) A California Registered Professional Civil Engineer, 2) California Registered Professional Geologist or Engineering Geologist; 3) California Registered Landscape Architect, or 4) a Professional Hydrologist registered through the American Institute of Hydrology. These experience requirements implies that structural "treatment control" BMPs are the new preferred method for compliance. This is a very different direction from "source control as the primary BMP" that has been the major emphasis in recent years. All the BMPs required under this draft permit listed in Section VIII.H. generally do not require the evaluation, implementation, or oversight of a Registered Civil Engineer. We understand the importance of establishing a statewide training standard; however, the list of experience requirements appears to be too limiting. We suggest that the QSD experience requirements be expanded to include 1) a minimum number of years of verifiable stormwater compliance experience, 2) include QSD experience requirements under the current General Construction Activity Stormwater Permit, and 3) include California Registered Environmental Health Specialists (REHS).

REHSs are required to have a bachelors degree which focuses on water quality, air quality, wastewater, hazardous materials, human health & environmental risk, and environmental law. The following link is to California State University academic requirements to earn a bachelors degree in Environmental Health:

<http://www.csun.edu/hhd/eoh/eohbs.html>

The definition of Environmental Health is "the art and science of protecting against environmental factors that may adversely impact human health or the ecological balances essential to long-term human health and environmental quality, whether in the natural or human-made environment."

8. Section X., titled Sampling and Analysis Requirements, identifies a Qualifying Storm Event as a "storm event that has produced a minimum of ¼ inch of rainfall as measured by an on-site rainfall measurement device; however, under the GCASP, a Qualifying Storm Event is defined as a storm event that has produced a minimum of ½ inch of rainfall. These inconsistencies between two statewide NPDES permit definitions for Qualifying Storm Event creates confusion. We suggest that the definition for a Qualifying Storm Event be consistent with general NPDES permits.
9. Section XVII.C., titled Level 2 Structural and/or Treatment Corrective Actions, requires the installation of structural and/or treatment control stormwater BMPs for Level 2 permittees. No other option for corrective action has been provided in the draft GIASP. This proposed Corrective Action is particularly disturbing because it does not take into consideration that most facilities in metropolitan areas are structurally built-out. Additionally, this draft permit fails to provide any guidance as to which Structural and/or Treatment Control device(s) would provide a reasonable probability of obtaining compliance. This requirement will create a condition where a business may be required to cut-out a portion of their (or the property owner's) building specifically to provide space to install a Structural and/or Treatment Control BMP that may provide a negligible chance at reaching compliance with the GIASP. We suggest that a non-structural source control BMP option be provided if a company can provide proof that installing a structural BMP would be spatially infeasible.
10. Section XXI., titled Conditional Exclusion - No Exposure Certification Requirements, identifies drums, barrels, tanks, and similar containers that are tightly sealed and are exposed to rain qualify for this Conditional Exclusion. This section of the permit is of particular concern because, from our experience, there is a definite risk of spills for any drummed material being stored and/or handled outdoors. We feel that this section will excuse many industrial businesses from the permit without regard for the true risk from their day-to-day operations. We suggest that the State Water Board reevaluate Section XXI to exclude drums, barrels, tanks, and similar containers from Conditional Exclusions.
11. Section XXI. identifies any industrial activity and material that is protected within a secondary containment structure that does not discharge stormwater to waters of the United States are qualified for a Conditional Exclusion - No Exposure Certification. The exclusion appears to be appropriate; however, the minimum requirements or definition of secondary containment structure has not been provided. We would suggest that Section XXI. be amended to identify the secondary containment requirement to be equivalent to the established hazardous waste secondary containment sizing requirement.

12. Section XXI., describes several qualifiers to obtain a Conditional Exclusion from the GIASP requirement. This Permit also expands the eligible facility classifications to include all Phase I industrial facilities - not strictly "light industrial". We understand that the State and Regional Water Boards have limited resources and are understaffed to perform required inspections; however, we anticipate that these added qualifiers will substantially increase inspection time for both State Water Board inspectors and Los Angeles Municipal Stormwater Permittee (city) inspectors when evaluating facilities for Conditional Exclusion. Under the current Los Angeles Municipal Stormwater Permit, permittees are required to inspect and determine if industrial/commercial facilities are covered under the GIASP. As you know, under the current GIASP, light industrial facilities without any exposed industrial equipment, material, or activities are eligible for Notice of Non-Applicability approval by the local Regional Water Board. Although this task (under the current GIASP) was sometimes time consuming, it was fairly simple to make a definitive and defensible determination. Section XXI. of this draft GIASP would significantly increase the inspection time if Municipal Stormwater Permittees are required to effectively determine GIASP requirement by interpreting these additional qualifiers for every industrial facility. We suggest that the Conditional Exclusion qualifier be simplified to be consistent with the current GIASP Notice of Non-Applicability qualifier.

We appreciate this opportunity to comment on this statewide general NPDES permit.

Sincerely,



Samuel Kevin Wilson
Director

Community Services and Water Department



Lewis J. Pozzebon
Director / Health Officer

Health & Environmental Control Department