



September 19, 2013

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

RE: Comment Letter – Draft Final Industrial General Permit

Dear Ms. Townsend:

On behalf of Granite Rock Company (Graniterock), we appreciate the opportunity to submit comments on the Draft Final Industrial General Permit (Permit). Graniterock is a mining and infrastructure-based construction company founded in Watsonville in 1900. Since then, our family-owned business has been steadfastly involved in all the communities which we serve. One component of this commitment is protection of our natural resources, especially water quality. We would like to commend the board for writing a Draft Permit that minimizes the administrative burden while maintaining focus on the overall objective of improved water quality. We also appreciate that the Board has made this permit consistent with other regulations already in place, such as the MSGP, to aid in clarity of compliance requirements. We offer these comments as a voice from a regulated industry to help guide an effective, practicable regulation.

This Draft Permit seems to be a significant improvement over previous drafts. While we agree with most of the requirements set forth by this Permit, there are a few areas which we are concerned will make compliance unreasonably difficult, or where requirements are unclear. We hope these comments will bring to light these issues and offer reasonable solutions. The timing of certain aspects of this Permit pose functional challenges, specifically the effective date of the Permit, and the January 1st implementation date for Level 1 or 2 ERA Action Plans. We feel that more clarity is needed in some areas as well in order to facilitate compliance; for example, expanding the definition of a qualified storm event. The following comments will outline where we believe improvements are needed. Once again, we thank the Board for your consideration.

Section X.H Best Management Practices

We are concerned that two areas of the BMPs section are unclear regarding the implementation requirements. We suggest changes which we believe would make a significant difference in improving a discharger's ability to comply with this permit. Section X.H.1.(a) states *"The discharger shall, to the extent feasible, implement and maintain all of the following minimum BMPs to reduce or prevent*

pollutants in industrial storm water discharges." Footnote 11 elaborates on these. The requirement regarding which BMPs to implement leaves out an important aspect which we believe is essential to compliance with this permit. We understand the MSGP was used to help shape this section, and we agree with linking the two regulations. However, we believe there was a key omission in Footnote 11 of the BMP section of the Draft Permit. In defining "to the extent feasible," the Draft Permit states that dischargers are required to "implement BMPs... in a manner that reflects best industry practice considering technological availability and economic achievability." We request that the Board add "practicability" to the definition, in order to maintain consistency with the Federal MSGP. Section 2.1 of the Federal MSGP refers to control measures, BMPs, "that are technologically achievable and economically practicable in light of best industry practice." This addition would serve to eliminate some of the grey area in terms of which BMPs are required. Our proposed change would not take away any requirements, but would add clarity and increase industry's ability to comply. The new definition would read as follows: "For the purposes of this General Permit, the requirement to implement BMPs 'to the extent feasible' requires Dischargers to select, design, install and implement BMPs that reduce or prevent discharges of pollutants in their storm water discharge in a manner that reflects best industry practice considering technological availability and economic achievability and practicability."

We are also concerned about Section X.H.2 Advanced BMPs. Reading the Draft Permit, it seems that advanced BMPs are always required to be implemented. The BMPs described in Section X.H.2 are advanced BMPs in that they are highly-involved engineered controls, and would be both time consuming and expensive to implement. The permit reads "In addition to minimum BMPs described in Section X.H.1, the Discharger shall, to the extent feasible, implement and maintain any BMPs necessary to reduce or prevent discharges of pollutants in its storm water discharge in a manner that reflects best industry practice considering technological availability and economic achievability." The implementation requirement has the same language as the minimum BMPs, which leads us to believe that the advanced BMPs would be required without respect to the efficacy of the minimum BMPs in place at our facilities. This poses issues as it would seem under the current language that practices such as Exposure Minimization BMPs are required. This practice would be very costly and would have the added effect of increasing runoff significantly. Conversely, practices such as containment or reuse, if implemented universally, could reduce runoff to the point that natural flows would be substantially changed. Our first suggestion would be to link the Advanced BMP requirements with a Discharger achieving Level 1 status, the discharger would be required to evaluate the need for and implement advanced BMPs. However, in the interest of simplicity, we suggest the following change to the language in Section X.H.2: "**When minimum BMPs are not effective in reducing or eliminating pollutants in industrial storm water discharges, the Discharger shall, in addition to minimum BMPs described in Section X.H.1 and to the extent feasible, implement and maintain any advanced BMPs necessary to reduce or prevent discharges of pollutants in its storm water discharge in a manner that reflects best industry practice considering technological availability and economic achievability and practicability.**" We believe this change maintains focus on the overall objective of the Draft Permit, water quality, while eliminating a potential source of burdensome and unclear compliance requirements. A facility which has effective minimum BMPs in place, (for example, effective management practices such that no discharge of Oil and Grease has occurred during the life of the current Permit) should not be required to construct advanced BMPs

simply to comply with this requirement if there had been no issues with quality of the storm water discharge in the first place.

Effective Date

We understand that the Board desires to implement this Permit in a timely fashion. We appreciate that the effective date is set far enough out to give Dischargers enough time to prepare to meet the compliance requirements of the new Permit. However, we are concerned that the January 1, 2015 effective date causes undue administrative burden for the industry in the middle of storm season. The timing of this Draft Permit is different than the current Permit in that the storm season is effectively split in two following the calendar year. Accommodating this change will not be an issue when the Permit is already in place, but the functional aspects of changing the requirements between permits mid-season are unreasonably difficult. The administrative burden of reporting results to the same system for two separate sets of requirements will put strain on the SMARTS system as well as the industry professionals preparing the reports. Also, as a company with multiple facilities, serving a large geographic area, the training burden required will be substantial. Further adding to the burden, these changes will need to be prepared for, and will take effect, over the holiday season. It is for these reasons we request that the Board change the effective date of the Permit to **July 1, 2015**. This simple change will result in a smoother transition process as Dischargers will have time to turn in the final report for the current Permit, revise all the SWPPP elements necessary, re-train personnel, implement BMPs which better conform to the new Permit, cover record-keeping requirements, and generally prepare for the adoption of the new Permit.

Qualifying Storm Event

For this Permit, the definition of a QSE has been expanded to facilitate more frequent and higher quality storm water testing. We agree with this change as under the current Permit several opportunities to sample each year were missed due to discharge starting before business hours. There are still two areas which we think could be changed to benefit the clarity of a QSE and therefore our ability to take representative samples from all drainages at our facilities. The language in the Fact Sheet currently reads: *"1. A Qualifying Storm Event (QSE) is a precipitation event that: (a) produces discharge from at least one drainage point; and (b) Preceded by 48 hours with no discharge from any drainage."* This is concerning in that many of our facilities, especially aggregate mines, have large areas of pervious surfaces, which require much more rain to produce a discharge than an impervious area, for example a paved access road. If the access road were to drain at the beginning of a series of large storm events, with several inches of rain falling, but a day or two of dry weather in between, it would seem that we are precluded from sampling larger discharge point by virtue of the access road point having discharged too recently. Our suggestion is to treat each drainage point as a watershed unto itself and separate the sampling requirements so that we are able to take a sample when a specific point begins to discharge and still be in compliance with the Permit. Our suggested change would still retain the goal of sampling water which exhibits the "first flush" effect, meaning we would get a representative sample of

constituents present. We suggest that the language be changed to: *"1. A Qualifying Storm Event (QSE) is a precipitation event that: (a) Produces a discharge for at least one drainage area; and (b) Preceded by 48 hours with no discharge from that drainage area."* We believe this will eliminate confusion as to whether a QSE is truly a qualifying storm event and will allow us better opportunity to collect complete and representative samples from our facilities.

Another aspect of the current Permit that has historically caused several storm events per year to escape sampling is that the discharge began overnight, where the current Permit requires a sample to be taken when discharge began during facility operating hours. We commend the Board on expanding the definition of a QSE in this respect, allowing facilities to take samples when a facility opens, even when discharge has started during the night. We suggest that the Board expand the hours further to facilitate compliance. The Draft Permit currently reads: *"This General Permit requires Dischargers to collect samples, during facility operating hours, from each drainage location within four hours of... (2) the start of scheduled facility operating hours if the QSE occurred within the previous twelve (12) hours."* We agree with the expansion of the requirement; however we think it should go further. Many of our facilities are open 8 hours per day, as necessary to serve the construction industry. This means that a discharge could begin within 16 hours of our facility operating hours, our personnel would not know whether it was within 12 hours of scheduled operation or not. Our concern is that if we take a sample when the discharge occurred 14 hours prior to scheduled operation we are out of compliance; also, if we did not take a sample because we believed the discharge began more than 12 hours prior, we would again be out of compliance. In order to alleviate this confusion we suggest the requirement be changed to encompass all 24 hours during which a discharge could begin. Our suggested change to the language is as follows: *"This General Permit requires Dischargers to collect samples, during facility operating hours, from each drainage location within four hours of... (2) the start of scheduled facility operating hours if the QSE occurred within the previous sixteen (16) hours."*

Authorized Non-Storm Water Discharge

In the BMPs section of the Permit, dust controls are required as a minimum BMP. The industry standard for this practice is to use a water truck to spray down roads as a dust suppressant. We believe this to be one of the most necessary and effective BMPs and we agree with its placement as a minimum BMP. Graniterock utilizes this practice at many of our facilities. We are concerned that water used as dust suppressant is not included in the list of Authorized Non-Storm Water Discharges. We suggest the addition of this to the list outlined in the Order, Section IV. We note that this is not to say that it should be appropriate that a facility use enough water to create a sheet flow and discharge significant amounts of water from a facility. This request stems from the fact that our drain inlets are often times flush with the ground surface and as a water truck passes, small amounts of water could be incidentally sprayed into the drain inlet. This would constitute an illicit discharge if water used as dust suppressant were not authorized by the Draft Permit. The 2009 Construction General Permit (CGP) in Section E of the Fact Sheet states: *"Authorized non-storm water discharges may include those from... water to control dust,"* We suggest language consistent with the CGP be added to Section IV of the Draft Permit. We suggest

the following addition to the list of Authorized Non-Storm Water Discharges: ***“Clean water used specifically as dust control which discharges in small amounts as a result of the application of this water to surfaces.”*** It behooves us to repeat that this exemption is not intended to encourage the over-use of water, nor the intentional discharge of water from a water truck. Its sole intent is to alleviate the possibility of incidental amounts of water causing us to be in violation of this Permit.

Level 1 versus Level 2 Reporting and Triggers

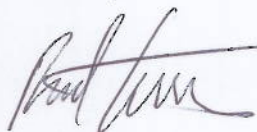
We are concerned that the timeline for the ERA reports causes overlap of requirements and could open up the possibility of Level 2 triggers to supersede Level 1 without allowing the discharger sufficient time to implement Level 1 response actions. Section XII.D outlines how a discharger will change to Level 2 status: ***“A Discharger’s Level 1 status for any parameter shall change to Level 2 status if sampling results indicate an NAL exceedance in any subsequent reporting year for the same parameter.”*** This causes concern in that the Level 1 requirements indicate that four consecutive sampling events are required to return the Discharger to Baseline status. In other words, Dischargers are required one full storm season to evaluate the efficacy of their response to achieving Level 1 status. The timing of jumping to Level 2 status does not give enough opportunity for a Discharger to show that the changes they implemented as a result of moving to Level 1 status were effective. That is to say, you would jump to Level 2 status from Level 1 without having the opportunity to review four sample results. We suggest that the language be changed to allow Dischargers the opportunity to evaluate their Level 1 changes before moving to Level 2 status. ***“A Discharger’s Level 1 status for any parameter shall change to Level 2 status if sampling results indicate an NAL exceedance in any subsequent reporting year for the same parameter **after the Level 1 ERA Report has been submitted and samples taken with improvements in place.**”*** We note that adding or improving BMPs is not precluded by achieving Level 1 or Level 2 status, if we feel an improvement is necessary we do not wait to have an exceedance before the improvement is made. We believe this request allows much needed time for a Discharger to see if the changes were effective or not before being penalized.

303 (d) Listed Impaired Water Bodies

The Draft Permit discusses requirements for new dischargers applying for coverage near impaired water bodies in Section VII.B. We believe there was a significant omission from this section and reference to the 303(d) list should be included in the definition of impaired water bodies. In the Fact Sheet Section D.7 of the Draft Permit reference is made to the list: ***“This General Permit requires Dischargers to monitor additional parameters if the discharge(s) from their facility contributes pollutants to receiving waters that are listed as impaired for those pollutants (303(d) listings)”*** We believe it is an important qualifier to add to Section VII.B of the order that New Dischargers applying for coverage in the watershed of impaired water bodies are to use the 303(d) list as guidance for determining an impaired water body. This will lessen the chance for confusion and refer to a reliable and complete list of impaired water bodies.

Once again, on behalf of Graniterock, we sincerely thank you for providing this opportunity to be involved in this important process. We look forward to seeing your changes and working with the Board in the future to improve water quality and protect California's natural resources.

Sincerely,

A handwritten signature in black ink, appearing to read "Reed Carter", with a long horizontal line extending to the right.

Reed Carter
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