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Private and confidential

Ms. Jeanie Townsend, Clerk of the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

September 19, 2013

Subject: Draft Industrial General Permit comment package issued July 19, 2013

Dear Ms. Townsend,

The following comments on the Draft Industrial General Permit (IGP) for the Discharge of Storm Water Associated with Industrial Activities are submitted on behalf of Rio Tinto Minerals, Inc. the owner/operator of US Borax's (USB) industrial facilities in California, including; Boron, Owens Lake, and Wilmington Operations.

Comment No. 1: No Discharge Determination

The previous 2011 Draft of the IGP included the following No Discharge Certification conditional exclusion:

Dischargers who have facilities designed to contain a 100 year 24-hour storm event and three (3) consecutive 20 year 24 hour storm events in a month are not found to have a potential to discharge pollutants, and therefore pose no threat to water quality.

USB considers this numeric approach to be a reasonable design standard. However the 2013 draft IGP appears to put a far higher threshold that must be met to achieve such a determination:

At a minimum, Dischargers must ensure that the containment design addresses maximum 1-hour, 24-hour, weekly, monthly, and annual precipitation data for the duration of the exclusion.

USB considers this to be an unreasonable design standard because natural background levels occurring during this range could predict anomalously extreme storm events that are likely to be much higher than numeric action levels. A standard consistent with the 2011 Draft IGP would be much more appropriate. The State Board should reconsider returning to the more reasonable and straightforward language cited above from the 2011 draft.

Comment No. 2: Sediment Basin Design

USB requests that the IGP clarify that existing sediment basins do not need to be redesigned. Similar to treatment control design, USB requests that the IGP specify that:

- The design standard only apply to new sediment basins that are constructed after the effective date of the permit.
- Ensure compliance with the design storm standards in Section X.H.6. If a revised design standard is required for existing sediment basins, provide at least a 5-year compliance period and, if reconstruction to meet the design standards is not feasible allow a proposal for alternative compliance.

Comment No. 3: Returning to Baseline Status

Eligibility for Returning to Baseline Status (4)(b). Dischargers should not be ineligible to return to Baseline Status because they have:

- Submitted an industrial activity BMP demonstration;
- A non-industrial pollutant source demonstration; or
- A natural background pollutant source demonstration.

Inexplicably, Section XII. D.4.b precludes a discharger from returning to Baseline Status if any of the above listed items have occurred. USB fails to understand why the IGP includes this prohibition, especially if a facility has made either a non-industrial pollutant source demonstration or a natural background pollutant source demonstration. Presumably these demonstrations are intended to allow a facility to reduce its obligations under the IGP by demonstrating that any exceedances are the result of either non-industrial sources or natural background. Yet, by making these very demonstrations, the dischargers become ineligible to return to Baseline status. USB recommends that the State Board delete Section XII.D.4.b in its entirety, or, at a minimum provide a reasonable explanation as to why these demonstrations should preclude returning to Baseline Status.

Conclusion

USB appreciates the opportunity to offer these comments and applauds the State Board staff for its efforts to date. USB requests that the staff further revise the IGP and Fact Sheet to include the items described above prior to its adoption by the State Board.

Yours sincerely,



Rhys Jenkins
Global Environmental Manager

Rio Tinto Minerals

cc. Joe Brister, Director HSEQ, Rio Tinto Minerals
Derek West, Chief Counsel, Rio Tinto Minerals