BLYMYER
ENGINEERS, INC.

February 15, 2005

Ms. Debbie Irvin, Clerk to the Board
State Water Resources Board Control Board
1001 I Street, 24th Floor [95814]
P.O. Box 100
Sacramento, CA 95812-0100

SPECIAL HEARING
2/3/05
cc: BD, DI, DWQ
e-cys: BD, CC, HMS, TH, CMW

Subject: **Comments for the Draft National Pollutant Discharge Elimination System General Permit for Discharges of Storm Water Associated with Industrial Activity**

Dear Ms. Irvin:

Thank you for the opportunity to comment on the Draft National Pollutant Discharge Elimination System General Permit for Discharges of Storm Water Associated with Industrial Activity (Industrial General Permit). Blymyer Engineers has been assisting industrial facilities with storm water permitting, Storm Water Pollution Prevention Plans (SWPPPs), storm water training, and general management of their storm water programs nationwide for approximately 12 years. We work primarily with transportation and manufacturing facilities. Blymyer Engineers is submitting these comments to explain potential problems we foresee and to provide recommendations of changes to make.

Sampling, Benchmarks, and Related BMP Evaluation/Reporting

1. **Issue:** There have been statements by Board staff that the benchmarks are not effluent limits, but it appears that the requirement that EPA benchmarks be met constitutes de facto effluent limits. The previous intent in the permit was not to apply benchmarks as effluent limits, but to use them to determine the effectiveness of and improve BMPs.
   Recommendation: Benchmarks should be a performance guide. Interpret multiple exceedances as a compliance problem, but not a one-time exceedance.

2. **Issue:** The requirement to collect two additional samples if a parameter is over a benchmark needs to be clarified. If one parameter is over a benchmark in the sample collected from the first storm event, the second analysis will be included in the sample collected during the second storm event. Is the next sample (the second sample subsequent to a parameter that is over the benchmark) required to be analyzed for all parameters, or just for the parameter that is over the benchmark? This is not stated in the permit. Additionally, if there is not enough rain to collect a sample, does this requirement carry over to the next rainy season? We are very concerned that many sites will be above the benchmarks on one or more parameters and this is going to be a significant burden that does not dramatically improve storm water quality.
   Recommendation: It is our belief that the Board is assuming that only a small number of sites will be over one or more benchmarks. We estimate that almost half of the facilities that

we manage could be over the benchmarks. Currently, we do follow-up calls when sites have questionable sampling results. We suggest revising or improving BMPs but a site that is gravel, for example, is always going to have a difficult time meeting the 100 mg/L TSS benchmark, unless major structural changes are made. Requiring facilities to sample until they have met the benchmarks is not the only measure of storm water quality. If facilities are over benchmarks regularly, it would be more beneficial for the RWQCB to provide additional guidance on cost effective BMPs and good housekeeping practices. If the present requirement for two additional samples if a parameter is over a benchmark remains in the permit, the permit needs to be clarified to address the issues described above.

3. **Issue:** There is no provision for a reduction in sampling if sample results are under benchmarks for a series of samples. There is a penalty for exceeding benchmarks in the form of the requirement for additional sampling but no reward for meeting benchmarks.
   Recommendation: Explore the idea of also having a reward for meeting the benchmarks over time. Some states look at the average concentrations for a pollutant over time and allow sampling to be reduced if the analytical results are within the acceptable concentration. For example, West Virginia requires facilities to sample four consecutive times and then does not require additional monitoring if the average concentration is less than their corresponding benchmark. North Carolina and Oregon have similar provisions for reduced monitoring.

4. **Concern:** The issue of background contaminants and contaminants that are outside the control of the facility (e.g., aerial deposition, zinc originating from a nearby galvanized fence, etc.) is not addressed. The permit does not acknowledge that storm water dischargers do not have the control over their effluent that point-source dischargers have, due to the inherent nature of storm water.

5. **Issue:** The type and quality of the data being collected is not appropriate for use in determining effluent limits industry wide. The Board seems to intend to use the data to determine the need for effluent limits or establish effluent limits, but the data, particularly the 2008-2009 one-time scan, will not be representative or of the quality necessary on which to base effluent limit determinations. It appears that the Board is collecting data to then determine if it is usable, but is requiring industry to pay for the collection process.
   Recommendation: We recommend that the Board design and fund a scientific and statistically valid research study to ensure that it is data and conclusions will be meaningful.

6. **Issue:** The requirement for additional parameter testing based on pollutant source assessment is too broad.
   Recommendation: More specific testing should be outlined if additional testing is required. It is much more useful to test for additional parameters based on the type of industry and the Regional Boards' experience with their watershed and industry in different regions or based on identifying pollutants causing or contributing to an exceedance of WQS with respect to a facility's receiving water.

7. **Issue:** Having dischargers sample from the first qualified storm event of the season makes sense. However, having facilities sample from the first two qualifying storm events of the wet season could be problematic if the second storm is within the same week or two. Facilities are asked to evaluate the effectiveness of BMPs based on the sample results; however if the samples are collected within a week of each other, the facility will not have a chance to look at the results of the first sample and improve site management practices before collecting the second sample.
Recommendation: Keep the current sampling protocol. It is effective enough for the purpose of sampling.

8. **Issue:** The new permit does not allow sampling of representative locations. Since sampling is one way to evaluate the effectiveness of site BMPs, using representative locations is adequate. Additionally it is very costly to sample from multiple sampling locations.
Recommendation: Allow representative sampling.

9. **Issue:** Section V.7 of the permit, Provisions, requires that if analytical results exceed the USEPA benchmarks or Receiving Water Limitations III.2, the discharger shall implement corrective actions that include, among other requirements, preparing and submitting a report to the RWQCB describing the facility evaluation, BMPs, and corrective actions currently being implemented, as well as additional BMPs and corrective actions that will be implemented. The report must include an implementation schedule that is not to exceed 90 days from the date of determination of exceedance of the benchmark. "Within 14 days following approval of the report…by the RWQCB" the SWPPP must be revised. This needs clarification - do the RWQCBs have sufficient staff to approve reports and respond to the discharger in a timely fashion so the discharger will have the board's reply within the 90-day implementation schedule? If there is no limit on the time a RWQCB can take to reply, should the discharger still update the SWPPP within the 90-day implementation schedule, or should it wait until the RWQCB approves the report?
Recommendation: Establish a time limit for the RWQCB to respond to reports and clarify the implementation schedule and board approval requirement.

10. **Concern:** The permit lays out requirements to submit corrective information to the Regional Board if violating Receiving Water limitations. Permittees will expect a response to documents submitted. However, while the process is taking place, the permit says that the RWQCB can still take enforcement action. If a discharger is trying to comply with the permit by performing the reporting and corrective actions, it is punitive for the RWQCB to pursue enforcement action.

SWPPP, Inspections and Documentation

11. **Issue:** The state is requiring several submittals without the guarantee that the submittals will be reviewed and a response returned, as appropriate.
Recommendation: Have the staff necessary to review and respond appropriately.

12. **Issue:** The inspection and recordkeeping requirements are onerous. Annual, quarterly NSWD, quarterly facility, monthly, weekly, and pre-storm inspections and recording of

storm events will necessitate some facilities to hire a full-time storm water staff person. For many facility storm water contacts, this is just one small aspect of their job. The inspections are already confusing for trained personnel. Additional inspection requirements will make it even more confusing and frustrating as well as more difficult to explain to alternate personnel and will not result in improved storm water quality.

Recommendation: Consolidate the inspections. Require a weekly inspection, a quarterly inspection and a monthly wet inspection during the rainy season. The weekly inspection would verify the implementation of best management practices, the maintenance of equipment, and observations of potential problems, in the event that it rains. The quarterly inspection would combine a non-storm water discharge inspection and a comprehensive inspection of the site and verification that the SWPPP is up-to-date. The monthly inspection, as in the current permit, would consist of the monthly inspection during a rain event.

13. **Issue:** The permit includes substantial changes to the SWPPP that will take time to implement. The permit will take effect 100 days after adoption by the SWRCB. Will facilities be required to have revised and be implementing a revised SWPPP by the end of the 100 days? Particularly for larger companies with multiple sites, it will take more time to prepare the SWPPP, train facility contacts and other personnel and implement, especially if it coincides with Annual Report Completion.

    Recommendation: Clarify the effective date, SWPPP revision and SWPPP implementation dates. We recommend allowing at least 180 days to implement the new SWPPP.

14. **Issue:** The permit has many recordkeeping requirements but no guidance as to how inspections should be documented.

    Recommendation: If the proposed permit is adopted it would be helpful for the state to provide forms for dischargers to document inspections. The permit is written as if the state has a clear idea on how inspections should be documented. This information should be passed on to facilities as soon as possible.

15. **Issue:** Company personnel and managers spend a lot of time and money completing Annual Reports but they do not appear to be reviewed.

    Recommendation: Review the Annual Reports and provide constructive criticism.

Group Monitoring Program

16. **Comment:** The Group Monitoring Program (GMP) is an effective program. Opponents of the program believe that group participants "get away" with not having to sample two times per year. Group participants may not sample twice per year, however they are inspected twice during the term of the permit. Inspecting a facility is an incredibly effective and efficient method of making sure a discharger is in compliance with the permit. Storm water sampling is also useful, but is only one part of complying with the permit. Having a Group Leader inspect a facility means that there is someone on-site with expertise who can walk the yard, making suggestions on how to improve Best Management Practices and Good Housekeeping. Paperwork is reviewed and questions answered. For many group participants, if they were not part of a Group they would not

have the resources to obtain additional insight and assistance from a storm water professional.

17. **Issue:** For Group Leaders, it is a scramble to complete the Annual Group Evaluation Report (AGER) and Group Monitoring Report (GMP) by August 1 (especially with the Annual Report due date changed to July 15). Also, the AGER and GMP due date falls in the summer when people are on vacation for periods of time.
    Recommendation: Change the due date for the AGER and GMP to August 30.

18. **Issue:** The AGER and GMP are significant works and do not seemed to be reviewed by the Regional Boards, with the exception of one, even when comments or guidelines are requested.
    Recommendation: Review the reports and provide constructive criticism where problems are noted.

Group Leader Inspections

19. **Issue:** The current storm water permit addresses group leader inspections, including corrective actions. The inspections are included in the AGER so the RWQCB is already notified of the inspection findings. Additionally, it appears that the group facilities are being singled out by having to submit inspection reports and corrective actions to the boards within timelines. The focus should be on all permittees, not just facilities in a group.
    Recommendation: Do not require an additional submittal of inspection reports with all the back-and-forth paperwork between facilities and RWQCBs. The permit is written as if the Group Leader should be the permit "enforcer" however this is the job of the RWQCBs, not the Group Leaders. Review the AGERs and GMPS and provide constructive criticism.

We appreciate your consideration of our comments. If you have questions, please contact Michele Mancuso at 800-753-3773 or mmancuso@blymyer.com or Nina Schittli at 805-569-6992 or nschittli@blymyer.com.

Regards,

Blymyer Engineers, Inc.

By: _____
Michele Mancuso
Manager, Storm Water Services