



March 4, 2014

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



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

Dear Ms. Townsend and Members of the Board:

The California League of Food Processors (CLFP) has reviewed the final draft of the Statewide General National Pollutant Discharge Elimination System (NPDES) Permit for the Discharge of Storm Water Associated with Industrial Activities (hereinafter referred to as “the final draft permit”) issued for public comment on February 19, 2014.

We appreciate all of the efforts by the State Water Resources Control Board (State Water Board) to revise the draft permit to make it more reasonable and workable.

As we have expressed in past iterations of the permit, we continue to have a general concern that this final draft permit is a significant departure from the existing permit and will result in increased time, energy, and costs to industry. We understand that the goal of this new permit is to improve water quality in California. We share this goal. However, we have to question why those who are already in compliance would be required to do more and incur additional costs.

CLFP shares the concerns of the California Stormwater Quality Association and the WATER Coalition regarding the abbreviated comment period. On February 19th the State Water Board posted more than 200 pages of documents and on February 24th the Response to Comments from the July 2013 draft was posted. The abbreviated comment period (less than 10 business days) was inadequate for a thorough review process, especially for the extent of the changes.

CLFP would like to provide specific comments on some issues of particular concern to our membership, including:



- Submission of the Storm Water Pollution Prevention Plans (SWPPP) through SMARTS
- Notice of Non-Applicability (NONA) “No Discharge” Eligibility Requirements
- Receiving Water Limitations

8.1

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.”

We believe that “significant revisions” to SWPPPs should be defined in the permit to avoid confusion and possible regulatory and/or third party enforcement actions and disagreement on what needs and does not need to be reported and when.

8.2

Section XX.C.2.a p. 71; Fact Sheet pp. 70-71

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.

We believe that this restriction is arbitrary and will not encourage facilities located near surface water bodies to implement storm water management strategies that focus on evaporating, transpiring, and infiltrating storm water on-site through native soils, vegetation, and bioengineering applications. We believe these practices should be encouraged as they 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. In addition, as now written, it would deter some facilities from implementing the BMPs that are supported elsewhere in the permit, that may cease discharges entirely to surface water.

Further, CLFP shares the concerns raised by the California Stormwater Quality Association (CASQA). We agree with CASQA that the proposed revisions to the NONA further confuses an area that is already difficult for many to understand. The proposed



language indicates that certain discharges to *groundwater* prevent a NONA filing, and thus inappropriately forces a facility into the only other choice -- to file an NOI under the General Permit. If read broadly, this would inappropriately expand the requirement for NPDES permit coverage.

According to the State Water Board's Legal Counsel, this section was not intended to broadly require NPDES permits for discharges to groundwater, or prevent facilities that have discharges to groundwater from filing an acceptable NONA. However, the proposed short phrase referring to groundwater in the NONA provisions is confusing and potentially misleading.

Therefore, CLFP agrees with CASQA's suggested language changes which would delete the new phrase "*including no discharge to groundwater that has a direct hydrologic connection to waters of the United States.*" This would simply leave in place the reference to "discharge to waters of the United States," which is wording appropriate under the federal Clean Water Act and which appears in many other key provisions in the permit.

If the State Water Board wishes to interpret federal law on the limited circumstances requiring NPDES coverage for discharges to groundwater, that should appear much earlier in the permit or Fact Sheet.

8.3

Receiving Water Limitations

CLFP continues to be very concerned about the potential misuse of receiving water limits as numeric effluent limits for water quality. We have issued comments on past iterations of the permit that question the appropriateness of numeric effluent limits in stormwater permits. We have argued that such limitations must be based on scientifically sound analysis, and not simply on end of pipe water quality objectives.

CLFP continues to advocate for including language similar to the existing General Permit, to clarify the process to be followed where a discharge is found to cause an in-stream exceedance of water quality objectives. The law allows best management practices to be used in lieu of numeric water-quality based effluent limits, so a defined process can be used as the receiving water limit itself. We urge that the language in the existing General Permit be continued, at least until conclusion of and any policy clarifications in the present SWRCB review of receiving water limits in the Los Angeles MS4 permit review proceeding.



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Thank you again for the opportunity to provide comments. Again, we thank the State Water Board members and staff for all of their efforts to improve this final draft permit.

We look forward to a continued dialogue on the issues. Please contact me with any questions.

Sincerely,

A handwritten signature in black ink that reads "Trudi E. Hughes". The signature is written in a cursive, flowing style.

Trudi Hughes
Director, Government Affairs