



February 12, 2018

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100, Sacramento, CA 95812-2000
Attention: Chairperson Ms. Felicia Marcus:

*Also sent electronically
commentletters@waterboards.ca.gov*

Subject: Comments to Tentative Order No. 20XX-XXXX9-DWQ Modifying Order No. 2015-0122-DWQ

Dear Ms. Marcus:

The opportunity to comment on the TMDL reopener of Order No 2015-0122-DWQ is greatly appreciated. Brash Industries (BI) represents more than 250 auto recyclers (SIC Code 5015) and 100 scrap recyclers (SIC Code 5093) and is the Compliance Group Leader for Compliance Groups for the afore mentioned SIC Codes. BI serves the needs of small to mid-size Permittees. BI works closely with the 5015 Permittees and represents their trade associations; California Auto Dismantling and Recyclers Alliance (CADRA), Automotive Dismantlers Association of Southern California, (ADASC), Inland Automotive Dismantlers Association (IADA), San Diego County Auto Recyclers Association (SDCARA), and Valley Auto Dismantlers Association (VADA). With the State issuing approximately 13,000 Industrial Permits of which approximately 1,000 Permits are issued to auto recycling facilities the issues brought forth in this comment letter represent the concerns and perspectives of a significant number of the Permittees.

The undersigned is a State Licensed Professional Engineer, has earned Masters degrees in both Environmental Engineering and Industrial Engineering, is a member of the State Waterboard's Industrial General Permit's Training Team (IGPTT), is a ToR for both the IGP and CGP, and is a certified instructor for EnviroCert's certification programs of; Certified Professional in Storm Water Quality (CPSWQ), Certified Professional in Erosion and Sediment Control (CPESC), and Certified Erosion Sediment and Storm Water Inspector.

There are many concerns regarding the Permit and it is recognized that the State's Permit writers have an important and extremely challenging task of balancing the Permit's requirements with numerous entities with disparate perspectives. All responsible Permittees are concerned about water quality. Most have families and wish to make life better for their succeeding generations. There is a concern that over

costly compliance without significant environmental improvement becomes a disincentive to compliance, which forces less responsible business operators to disappear from the regulated world. These unregulated operators receive tremendous cost advantages over complying facilities by not investing in the BMPs and Permit fees. It is hoped that the resources of the State are directed more toward increased levels of enforcement toward detection and elimination of non complying facilities than toward facilities that have expended resources and energy for compliance, but occasionally have minor non compliance issues.

The undersigned collaborates with several entities that are also preparing comments on the TMDL Reopener and in order to avoid repetition of the same issues is confining this letter's comments to the major issues of concern.

1) Responsible Discharger

A Discharger with Notice of Intent (NOI) coverage under this General Permit who discharges storm water [**that has been in contact with material**] associated with industrial activities (and Authorized NSWDS) to impaired water bodies or to an upstream reach or tributary to impaired water bodies either directly or through a municipal separate storm sewer system (MS4) included in a U.S. EPA approved TMDL.

The enclosed text establishes that storm water contact with a TMDL listed parameter is required for a facility to be classified as a Responsible Discharger, and sample for TMDL constituents. This point was emphasized by the State Water Board Chief Deputy Director, Jonathan Bishop, at the December 21, 2017, Los Angeles Industrial General Storm Water Permit Workshop, that the TMDL constituents not only had to be present in the SWPPP potential pollutant inventory, but there also had to be contact between the discharge water and the TMDL constituent. If there were to be no contact between the TMDL constituent and the storm water discharge then no sampling would be required. If no sampling is required then there is no need to classify the facility as a Responsible Discharger.

Moreover, a facility that is classified as an NEC facility may have TMDL listed constituents on site, but if these constituents are not exposed to rain water or snow melt the Permittee is not required to test for their presence. Therefore, it would seem appropriate that the same "non-contact" aspect would apply to an NOI Permittee.

2) VII.F. Responsible Dischargers in compliance with an NEL for a TMDL in Attachment E are in compliance with the receiving water limitations for the water body-pollutant combination addressed by the TMDL.

It has been established through previous sampling results that some TMDL Instantaneous NELs and TNALs may never be attainable even with the use of a storm water treatment system. In as much as the technical issues preclude TNAL/NEL attainment of some of the more restrictive TMDL limits it is proposed that the SWB consider that compliance is established with the use of a percentage reduction in the contaminant as opposed to the imposition of an NAL/NEL limit. Moreover, this would be more consistent with the Waste Load Allocation of the TMDL Program, where each facility can contribute a small portion of the TMDL. The TMDL NELs will expose numerous facilities to the expense of a treatment system, which in many cases, will not sufficiently remediate the water, or to expensive and counter productive litigation and fines. The physio-chemical properties of storm water discharged from a facility, in most non direct discharges, has significantly different physio-chemical properties after it has commingled with other storm water discharges, prior to entering the receiving water.

3) Attachment I

BI recognizes the importance of both the On-Site compliance Option and the Off-Site Compliance Option. The On-Site Compliance Option requirement to clean the water to be discharged through percolation appears to have several draw backs for it to be a practical alternative to discharging to Waters of the United States. Storm water discharges that are sufficiently cleaned to comply with drinking water standards could, in most cases, be sufficiently clean to be discharged to Waters of the United States without the additional costs of creating retention basins, evaluating the porosity of the soil and performing additional soil testing to determine if the water being percolated to and through the soil could be contaminated by the soil.

In many cases the close proximity to ground water or drinking water sources could preclude the on site compliance option.

The Off-Site compliance option is recognized as an extremely desirable option and encourages the Waterboards to work toward implementing this compliance option. It obviously will require significant modifications to the municipal infrastructure but would probably result in improved water stewardship, lower overall compliance costs per discharger, and improved discharge water quality. It is not suggested

that individual dischargers abandon the installation of BMPs but the off-site compliance option be considered an adjunct to the storm water program. As this is an attractive discharge option, it is suggested that the Water Board establish a subcommittee comprising IGP Permittees, CGP Permittees, NGOs, and representatives from municipalities to review and further develop the Off-Site compliance option.

The Permit Writers have a herculean task in implementing the TMDL program into the IGP and have done an excellent job in the creation of this first inclusive Permit. It is hoped that the foregoing comments will be accepted in the spirit of providing a well balanced and readily implementable Permit.

Sincerely,



Marvin H. Sachse, P.E., ToR, QSD/P, CPESC, CPSWQ, CESSWI
Principal

CC: ADASC
CADRA
IADA
SDCARA
VADA