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

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SDGE Southern California Gas Company
Sempra Energy utilities

January 28, 2005

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

RE: Comments & Recommendations Regarding the Draft General Permit for Discharges of Storm Water Associated with Industrial Activities (General Industrial Permit, Order # 05-XX-DWQ)

Dear State Water Resources Control Board:

Sempra Utilities (Southern California Gas Company and San Diego Gas and Electric Company) will support the State Water Resources Control Board (SWRCB) staff in an effort to develop and implement a cost-effective and common sense approach to storm water management that accomplishes water quality objectives. We encourage the SWRCB to use a sensible combination of Storm Water Pollution Prevention Plans (SWPPPs), Best Management Practices (BMPs) and a Monitoring & Reporting Program that ensures a high degree of compliance and the most appropriate use of operational techniques and control technologies.

Sempra Utilities provides essential public services to over 20 million consumers and utility ratepayers in a total service area of over 25,000 square miles. In addition to providing essential public services to the communities they serve, they also provide services to governmental agencies and other entities that provide other essential public services such as fire protection, law enforcement, and emergency care (e.g., hospitals).

Sempra Utilities has nine facilities with coverage under the General Industrial Storm Water Permit. The proposed General Industrial Storm Water Permit revision would impose significant new requirements upon these facilities that would inhibit their ability to operate in a cost effective manner and keep utility rates in the state at a competitive level. Thus, Sempra Utilities and the State of California have a strong interest in ensuring that their ability to conduct business in a cost effective manner is not unreasonably affected by the proposed General Industrial Storm Water Permit. Sempra Utilities believes it must also represent the interests of its industrial customers.

Specific Comments and Recommendations

In this revised draft, we believe that the SWRCB staff have become overly prescriptive, intrusive and burdensome in many of the permit revisions. This level of regulatory burden is unnecessary and will lead to unnecessary and significantly increased costs to each facility that has an applicable industrial discharge without an increase in water quality protection.

General Summary of Sempra Utilities' Major Comments

1. Sempra Utilities believes that the U.S. EPA's Multi-Sector Industrial Storm Water Permit Benchmark concept is being misapplied. We have several facilities under the permit that are located in geographical and topographical areas that have natural background values upstream of the facilities (which cannot be segregated by any rational economic model), which is one of many such situations that this draft permit ignores. Natural Background and atmospheric deposition contributions should be included in the Benchmark values.
2. The draft permit's one time sampling and analysis that results in an exceedance of a benchmark and triggers a separate exhaustive formal evaluation and report to the RWQCB ignores basic scientific statistical methodology. Multi-storm sampling is required before there is a statistical basis for a reportable evaluation. This rationale is supported by the U.S. EPA Multi-Sector Storm Water General Permit Monitoring Guidance.
3. The above rationale also applies to the draft permit's one time pollutant scan. Multi-storm sampling is required before there is a statistical basis for establishing effluent limits in future permits (for any one facility). In addition, the difference between facilities, even within the same major SIC code (as evidence of the permits inclusion of secondary SIC codes), different personnel conducting sampling, and the variety of discharge conveyance systems involved in storm water effluents make effluent limits statistically irrelevant.
4. The draft permit also increases the already burdensome number of inspections required, when what is needed is a simplification and reduction in the number of inspections to the minimum required for water quality protection.
5. Industry has been inundated in the last five years with new water quality regulatory programs and requirements. It is time the state takes a step aside to evaluate the results of these new programs and regulations before imposing additional restrictive and cost prohibitive programs and regulations.

Sempra Utilities' Specific Comments

Please review the attached table for our specific comments to the draft revisions.

Should you have any questions or need any additional clarification, please contact me at (858) 637-3723.

Sincerely,

Fred Jacobsen

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Reference	Page/Section	Comment and Recommendations
Fact Sheet	VII	**Notification Requirements** (1) Modify and implement SWPPPs and Monitoring Programs in compliance with this General Permit no later than (insert effective date) *Since the draft permit is requiring significant changes to the SWPPP, it is recommended that modifications to the SWPPP and Monitoring Program be required no later than 180 days after the adoption of the permit.*
Fact Sheet	VIII	**General Permit Conditions** The third step is to implement the changes identified in the updated SWPPP. Dischargers shall revise the SWPPP and implement the appropriate BMPs in a timely manner but no later than 90 days after a determination that the SWPPP is in violation of any General Permit requirement. *If the discharger exceeds any of the USEPA established "benchmarks", the discharger is not in violation of the General Permit requirements. There are occurrences where the pollutants contained in storm water from natural areas (i.e., undeveloped areas) upstream of permitted facilities exceed the benchmark values. In situations where these storm waters run through or across a permitted facility, the permitted facility should not be held accountable for the naturally occurring pollutants. Also, in some urban areas, atmospheric deposition alone may also cause an exceedance of benchmark values. These situations can be adequately documented in the annual report. Therefore, it is recommended that the words,* ***"after a determination that the SWPPP is in violation of any General Permit requirement"*** *be deleted.*
Fact Sheet	X	**SWPPP** This General Permit's SWPPP requirements have been modified to better clarify the extent dischargers must describe their BMPs. Dischargers must not only describe a BMP in a generic sense, like for example "sweeping", but must describe who is responsible for sweeping, where and how often the sweeping will occur, what the pollutants of concern are, the type and location of sweeping equipment, how and where swept materials should be handled and disposed, etc. Similarly, a discharger's training program must identify who must receive training, what type of training to provide, how often training needs to be provided, and include a method to track whether the appropriate personnel have received the training. ***This requirement is too restrictive and opens facilities to violations by legally binding them to follow BMP descriptions precisely. The level of specificity required does not allow for flexibility in technological changes, personnel changes, or logistical issues. We recommend allowing the use of categories of BMPs, such as those identified in the new Linear Construction Storm Water Permit, the California Stormwater Quality Association (CASQA) BMP handbook, or any comparable or equivalent practice. The information required to***

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		describe each BMP should be general enough as to not require routine SWPPP revisions which are administratively burdensome without benefits to water quality. If a SWPPP amendment is required, certain "levels" of changes should not require immediate re-certification of the SWPPP, but may be indicated by a revision log. In addition, job functions rather than specific employees should be indicated due to potential personnel changes.
Fact Sheet	XXII	**Fact Sheet Figure 3** **Summary of Monitoring Activities Required by This General Permit** *This draft permit requires: quarterly inspections, an Annual Comprehensive Evaluation, monthly storm water visual observations, documentation of non-discharging storm events, drainage area inspections, and storm water storage and containment area inspections. Additionally, the new minimum BMP requirements include a weekly outdoor inspection of areas associated with industrial activity, a weekly inspection of equipment, and a daily inspection of any outdoor material/waste handling equipment or containers. Compliance with the conditions of the multitude of inspection requirements poses to be logistically difficult, confusing, and operationally burdensome. Furthermore, the mere increase of the required number of inspections in itself does not improve storm water quality. The acreage of some facilities makes the number and frequencies specified in the permit impractical. It is recommended that all inspection requirements be streamlined into a standardized monthly inspection to cover storm water and non-storm water discharges, stored materials, and all industrial activities in lieu of the currently proposed requirements.*
Permit	Page 2 Number 9	**The SWRCB finds that:** This permit contains benchmark criteria for the indicator parameters and facility specific pollutants, which, if exceeded, will require dischargers to identify and implement additional controls. *The USEPA did not mean for these benchmark values to be used in this manner. These benchmark values are not meant to be limits. They represent an average value for a particular industry over time, where at least four samples are identically collected and analyzed using established QA/QC procedures. A single sample exceeding the benchmark is not statistically representative of a facility storm water discharge. This requirement will cause an inordinate amount of evaluation time and expense for industry. It is recommended that the permit increase the number of storms and samples that exceed the benchmark values to be statistically relevant before triggering such additional requirements. For example, the U.S. EPA Multi-Sector Storm Water General Permit (from which the benchmarks originate) and the Multi-Sector Storm Water Permit Monitoring Guidance, Section 4.3, requires that the average analytical results from four storms exceed the benchmark before the permit requires revision of the SWPPP. As a strongly suggested compromise, we propose either one of the following two alternatives: 1) A facility that exceeds a benchmark value on any one sampling event based on the average of four samples, be required to conduct an internal*

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		evaluation, and then report the findings and corrective actions in their annual report. If the facility has an additional exceedance based on this methodology in a storm subsequent to these corrective actions the same year, or the next year if there is no storm the same year, then an evaluation must be conducted and reported to the RWQCB, as well as discussed in the annual report, or 2) the monitoring results from a minimum of four samples per event and four storm events (statically valid) exceed the benchmark values before the corrective action measures of section V.7 be required.
	Page 2 Number 11	**The SWRCB finds that:** This General Permit also includes one-time sampling and analysis for metals and semi-volatile organics to allow the SWRCB to build a database of pollutants in industrial storm water discharges. This database will be used to determine the monitoring requirements and compliance standards for the next permit. *A one-time sampling and analysis performed over the duration of the revised permit would not be scientific or statistically valid in determining compliance standards for the next permit. It is recommended that the sampling and analysis effort for industrial storm water parallel the sampling and analysis program and methodology the USEPA used and performed for setting effluent guideline limits for industry point sources in the mid to late 1970s. It would take the minimum of four samples for each of four storms to have an 80% confidence level, a minimum for setting regulatory requirements.*
Permit	Page 3 Number 18	**The SWRCB finds that:** This order is an NPDES General Permit in Compliance with Section 402 of the CWA and shall take effect 100 days after adoption by the SWRCB *This statement of "shall take effect 100 days after adoption by the SWRCB" is confusing due the multiple requirement due dates identified in the draft permit. It is recommend that the language that states the effective date of the permit is the adoption date. With modifications to the SWPPP and Monitoring Programs required no later than 180 days after the adoption of the permit.*
Permit	Page 3 Section III	**Receiving Water Limitations, Section C.3. Order 97-03-DWQ** A facility operator will not be in violation of receiving water limitations C.2 as long as the facility operator has implemented BMPs that achieve BAT/BCT and the following procedure is followed; a. b. *The elimination of this subsection from the current permit in this draft revision should be restricted to storm events with rainfall amounts and duration consistent with the capability of BAT/BCT control. It is unreasonable to expect BMPs designed for*

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		BAT/BCT to withstand abnormal deluges. It is recommended that the language above, including subsections a and b from the current permit, be added back to this draft permit for abnormal rainfall amounts/duration.
Permit	Page 6 Section V.7	**Provisions** When analytical results exceed the US EPA benchmark values in Table VIII.2 dischargers shall implement corrective actions that include: *The USEPA did not mean for these benchmark values to be used in this manner and they are not meant to be limits. They represent an average value for a particular industry over time and when at least four samples are collected per storm event over four storm events and analyzed using standard QA/QC procedures. A single sample exceeding the benchmark is not statistically representative of a facility storm water discharge. The actions identified in this section for exceeding the benchmark values will cause an inordinate amount of investigation time and expense for industry.* *It is recommended that either one of the following two alternatives be adopted: 1) A facility that exceeds a benchmark value on any one sampling event based on the average of four samples, be required to conduct an internal evaluation, and then report the findings and corrective actions in their annual report. If the facility has an additional exceedance based on this methodology in a storm subsequent to these corrective actions the same year (or the next year if there is no storm the same year), then an evaluation must be conducted and reported to the RWQCB, as well as discussed in the annual report, or 2) the monitoring results from a minimum of four samples per event and four storm events (statically valid) exceed the benchmark values before the corrective action measures of section V.7 be required.*
Permit	Page 6 Section V.7.c	**Provisions** A certification, based upon the facility evaluation and assessment required above, that either: i. Additional BMPs and/or SWPPP implementation measures have been identified and included in the SWPPP in compliance with BAT/BCT, or ii. No additional BMPs or SWPPP implementation measures are required to reduce or prevent pollutants in storm water discharges in compliance with BAT/BCT, or iii. There are no sources of the pollutants at the facility. *It is unclear how to certify that the discharger is in compliance with BAT/BCT and/or there are no sources of the pollutants at the facility. Benchmark values are essentially being used as a compliance level. It is recommended that the requirement be modified to use benchmarks as a goal and not as a compliance measure. Any exceedance of benchmark values should be reported and discussed in the Annual Report with an increase in BMP and/or revision to the SWPPPs.*
Permit	Page 6	**Provisions**

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	Section V.7.c.v.	If a certification states that no additional BMPs or SWPPP implementation measures are required to reduce or prevent pollutants in storm water discharges in compliance with BAT/BCT, the certification must show why the exceedance occurred and why it will not occur again under similar circumstance. *It is unclear how to certify that a future event will not happen again. It is recommended that this requirement be deleted.*
Permit	Page 7 Section V.7.e	**Provisions** Prepare and submit a report, within 30 days to the RWQCB that describes the facility evaluation and the BMPs and corrective actions that are currently being implemented to assure compliance with the benchmarks. *This is an unnecessary requirement. Benchmark values are being used as a compliance measure. Benchmark values should be a goal. It is recommended that exceedance of benchmark values, the evaluation report, additional BMPs and corrective actions be reported in the Annual Report. Also see comments above for Permit page 2, Finding 9 and Permit page 6, Section V.7.*
	Page 8 Section VII. 1.b.	**SWPPP Requirements** Dischargers who submitted a NOI pursuant to SWRCB Order No. 97-03-DWQ, shall continue to implement their existing SWPPP and shall implement any necessary revisions to their SWPPP no later than [insert date on adoption]. *The significant number of changes in the SWPPP requirements, including the requirement for minimum facility BMPs will take significant time to implement. The time includes the procurement of materials and equipment, the training materials for the new requirements, and performing training for proper implementation. This is especially true of businesses that have multiple separate facilities that have differing requirements.* *It is recommended that the effective date of the permit be 180 days from the date of adoption.*
Permit	Page 12 Section VII.8.a.i.(1)	**Minimum BMPs** Inspect weekly all outdoor areas associated with industrial activity… *An additional inspection required by this permit makes the requirements of the permit confusing and hard to comply with. It is recommend that streamlining all the inspections requirements be re-evaluated by the SWRCB. One solution maybe to require an all encompassing "once per month" inspection that covers ALL inspections*

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		and visual requirements and a requirement for proper housekeeping at all times.
Permit	Page 12 Section VII.8.a.i.(4)	**Minimum BMPs** Cover all stored industrial materials that can be readily mobilized by contact with storm water. *The SWRCB definition of "industrial materials" is unclear. It is recommended that the language be changed to "Cover all stored industrial materials that can contribute significant amounts of pollutants if in contact with storm water."*
Permit	Page 13 Section VII.8.a.ii.(3)	**Minimum BMPs** Establish a schedule to perform maintenance of identified equipment and systems. The schedule shall either be periodic or based upon more appropriate intervals such as hours or use, mileage, age, etc. *It is nearly impossible to document a schedule with the amount of equipment at most large facilities. Maintenance and/or a preventative maintenance program should not be dictated by the SWRCB. The required minimum BMP's at each facility should be identified within the facility's SWPPP (housekeeping, weekly inspections, etc.) and should be sufficient mitigation for any issues with equipment that poses a risk to storm water contamination. It is recommended that this section be deleted, as it is overly burdensome.*
Permit	Page 13 Section VII.8.a.iv.(3)	**Minimum BMPs** Cover waste disposal containers when not in use; *This requirement, when there is no rain anticipated, is unnecessary and overly burdensome. It is recommended that the language be revised to be applicable to: 1) the subset of all materials that may be subject to wind erosion, and 2) all other materials that can contribute to storm water pollution, only prior to a rain event.*
Permit	Page 14 Section VII.8.a.iv.(5)	**Minimum BMPs** Inspect and clean daily any outdoor material/waste handling equipment or containers that can be contaminated by contact with industrial material or wastes. *Implementation of "daily" cleaning is impractical. It is recommended that the language be changed to "Maintain proper housekeeping for any outdoor material/waste handling equipment or containers that can be contaminated by contact with industrial materials or wastes at all times."*

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	Page 18 Section VII.3.e	**Storm Water Discharge Visual Observations** Prior to completing each monthly visual observation required in Subsection 4.a, discharges shall record any storm events that occurred during operating hours that did not produce a discharge. *There is not a reasonable purpose for requiring a record of storm events that do not produce a discharge. It is recommended that this requirement be deleted.*
	Page 19 Section VIII.3.f	**Storm Water Discharge Visual Observations** Prior to anticipated storm events, discharges shall visually observe all storm water drainage areas during operating hours to identify any spills, leaks, or uncontrolled pollutant sources and implement appropriate corrective actions. Pre-storm inspections are only required during operation hours. Discharges are not required to conduct pre-storm visual observation within fourteen (14) days of a previous per-storm observation. *It is unclear what constitutes an anticipated storm event. This first sentence should be clarified to indicate an anticipated qualifying storm event. Even so, this will require each permitted facility (many dischargers have multiple facilities covered by the general Permit) to attempt to track and document meteorological forecasts in off hours in order to predict an anticipated qualifying storm event. An additional inspection requirement along with other visual requirements will make the permit more confusing and difficult to comply with. The requirement for visually observing anticipated storm events is not necessary, as long as the discharger is implementing their BMPs as required by the permit and the facility SWPPP. It is recommended that this section be deleted, and a streamlining of the visual observations be incorporated (i.e. a monthly inspection and a requirement for proper housekeeping at all times).*
	Page 19 Section VIII. 4.a	**Sampling and Analysis** Dischargers shall collect storm water samples during the first hour of discharge from the first two qualifying storm events of the wet season… *The reasoning for this new requirement and the increased environmental benefits to storm water quality are unclear. Most dischargers will sample the first and second qualifying storm event, just to complete the requirements of the existing permit early in the reporting period. However, actually requiring the discharger to sample the first and second qualifying storm events creates an unreasonable burden on the discharger, and could cause the discharger to be unnecessarily more likely to be in violation of the permit. It is recommended that the language in the current permit remain unchanged.*
	Page 19 Section	**Sampling and Analysis**

PROPRIETARY MESSAGE

Sempra Energy® Utilities

To: Ms Debbie Irwin From: ~~Debran Jones~~ Fred Jackson

Fax: Pages: 11

Phone: Date: 1/26/05

Re: CC:

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Per our discussion

☐ Thought you'd be interested ☐ FYI

• Comments:

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