

October 18, 2012

**Public Comment
Industrial General Permit
Deadline: 10/22/12 by 12 noon**

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814



Re: Comment Letter – Third Draft Industrial General Permit

Dear Ms. Townsend and Members of the Board:

Thank you for allowing us the opportunity to provide comments on the third draft Industrial General Permit (IGP). OC Waste & Recycling recognizes the importance of protecting water quality in the State of California and has been committed over the last two decades to reducing our facilities' potential contribution to stormwater pollution by significantly upgrading the Best Management Practices (BMPs) at our facilities and providing our employees with the resources and training to take steps to minimize stormwater pollution in their daily jobs. OC Waste & Recycling applauds the State Board for listening to the public's comments on the first draft IGP and addressing these comments in the third draft IGP. OC Waste & Recycling feels that the third draft IGP is significantly more reasonable and implementable for our facilities and has only a few comments on the third draft IGP as discussed below.

CLARIFICATION OF CGP APPLICABILITY TO LANDFILLS

OC Waste & Recycling manages one of the nation's premiere solid waste disposal systems serving residents and businesses in the Southern California area. On behalf of the 34 Orange County cities and over three million residents, OC Waste & Recycling operates a network of three active landfills and four household hazardous waste collection centers.

The Orange County community and surrounding counties generate millions of tons of waste each year—approximately 3.5 million tons of waste was disposed of in Orange County landfills in fiscal year 2009-10. Careful disposal of the County's waste is fundamental to preserving public health and safety and is regulated at the federal, state and local levels. OC Waste & Recycling is the entity charged with providing waste disposal services for the County.

California statutes governing solid waste handling and disposal are some of the most stringent standards in the nation. OC Waste & Recycling is responsible for complying with regulations that are enforced by such agencies as CalRecycle, the Local Enforcement Agency, the local Environmental Health Department, South Coast Air Quality Management District, Regional Water Quality Control Boards (RWQCBs), Army Corps of Engineers, United States Fish and

Wildlife Service, the California Department of Fish and Game, and local fire authorities and other County departments.

These regulations often overlap with one another, which makes compliance challenging. Even though regulators may have the same goals and purposes, each agency requires that their issues be addressed separately often at significant cost to the taxpayers and disposal rate payers of Orange County. In addition, the level of regulatory scrutiny has greatly increased with the heightened awareness and growing demand for environmental protection. Nevertheless, OC Waste & Recycling has always been committed to working with regulators and stakeholders to develop appropriate and reasonable regulations that provide protection to the environment while balancing the cost of compliance.

Working within this appropriate and reasonable protection principle, we request that the State Board specifically address the applicability of the Construction General Permit (CGP) to active landfill facilities in the final IGP. As the State Board is aware, there is much debate between landfill operators and RWQCBs as well as amongst individual RWQCBs within the State as to the applicability of the CGP to active landfills. Individual RWQCBs are currently responsible for clarifying the CGP applicability to active landfills. The stormwater regulatory approach to OC Waste & Recycling's facilities is a primary example of this inconsistency. We operate three active landfills under the jurisdiction to two RWQCBs (two landfills under the Santa Ana RWQCB and one landfill under the San Diego RWQCB). The Santa Ana RWQCB has determined that the CGP is not applicable to active landfills. Routine landfill operations as well as construction activities at active landfills under the Santa Ana RWQCB jurisdiction are covered by the IGP. However, the San Diego RWQCB requires CGP coverage for construction projects on active landfill facilities.

This inconsistent approach to stormwater permitting of landfill operations (including construction) causes confusion about applicable stormwater regulations. OC Waste & Recycling also believes that facility compliance with two stormwater permits, each having the same overall goal, does not yield any direct water quality benefit since we are already monitoring our stormwater effluent in compliance with the IGP.

OC Waste & Recycling does not feel that landfills should be required to comply with two stormwater permits which have the same overall goal and requests that the State Board include concise language in the final IGP clarifying that the CGP is not applicable to active landfill facilities covered under the IGP.

PREDICTED RAIN EVENT INSPECTION REQUIREMENT

Section XI.A.2.d of the third draft IGP requires that visual observations of all storm water drainage and containment areas be conducted prior to a rain event predicted to have a 50% or

greater probability of producing precipitation. In accordance with the third draft IGP, up to two pre-rain inspections could be required each month. For a large facility like a landfill (up to 1,500 acres for our facility operations), compliance with the predicted rain event inspection requirements will divert already limited employee resources and is unnecessary. OC Waste & Recycling proposes that the State Board eliminate the predicted rain event inspection requirement and allow the discharger to determine the appropriate BMP inspection frequencies for their specific facility to reduce stormwater pollution. The discharger is responsible for maintaining their facilities to meet the proposed numeric action levels (NALs) and avoid exceedance response actions (ERAs), therefore, it is reasonable to assume that the discharger will implement and maintain BMPs, as required, at their facility. Should the discharger underestimate the BMP requirements at their facility, their stormwater effluent samples will likely indicate that the discharger would need to enhance stormwater pollution prevention measures and face implementation of ERAs in accordance with the third draft IGP.

ERA TECHNICAL DEMONSTRATION REPORTS

Once the discharger has entered into ERA Level 2, the third draft IGP allows dischargers the option to prepare one of three technical demonstration reports based on a pollutant source assessment. The technical demonstration reports include:

- 1) BAT/BCT Compliance Technical Demonstration Report;
- 2) Non-Industrial Source Pollutant Technical Demonstration Report; or
- 3) Natural Background Technical Demonstration Report.

The technical demonstration reports are the mechanism which can return the discharger to baseline status.

Based on OC Waste & Recycling's understanding of the proposed ERA process, once an NAL is exceeded for the first time, the discharger enters Level 1 ERA status. The initial action once the discharger enters Level 1 is to conduct an evaluation of the facility pollutant sources, source control BMPs, and stormwater pollution prevention plan (SWPPP) implementation. It seems reasonable at this point in the ERA process that if BAT/BCT is already being implemented at the facility or the pollutant source is determined to be non-industrial or naturally occurring that the discharger be allowed the option to prepare and submit the applicable demonstration report and return to baseline status. Therefore, OC Waste & Recycling proposes that the State Board allow dischargers the option to prepare technical demonstration reports at ERA Level 1.

CONCLUSION

OC Waste & Recycling applauds the State Board's revision of the 2011 draft IGP and requests that the State Board include a statement in the final IGP that the CGP is not applicable to active landfill facilities. We are committed to maintaining our facilities as necessary to reduce

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pollutant impacts in our stormwater discharges and remain compliance with the IGP. OC Waste & Recycling requests that the State Board addresses our comments above so we can focus our efforts on achieving the proposed NALs. Thank you for considering our comments, and those of others within our industry sector, on this very important draft permit.

Sincerely,



Chip Monaco, Deputy Director
Government & Community Relations
OC Waste & Recycling, County of Orange