April 28, 2011

California State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814
Attention: Jeanine Townsend, Clerk to the Board

Electronic Mail:
commentletters@waterboards.ca.gov

Subject: Comment Letter – Draft General Industrial Activity Stormwater Permit

Dear Ms. Townsend and Members of the Board:

On behalf of Valley Fruit & Produce, we are providing comments relative to the Draft General Industrial Activity General Permit (GIASP). Our business has a facility located at 2043 Ross St, Vernon, California, 90058. Our business appreciates the State Water Board's efforts in proceeding to revise and reissue the GIASP. As residents of California we understand the importance of water quality and the role of the GIASP. However, based on our review, we clearly foresee that this permit will have detrimental affects on the business community statewide. As you may already know, operating a business in California is a delicate regulatory balancing act which is why we find it critical for our company to provide comments for the draft GIASP. As the draft permit is written, conducting business in California may no longer be feasible for our company. We have several concerns that we request the State Water Resources Control Board to reconsider;

1. This permit incorporates US EPA Benchmark Values as Numeric Action Limits (NAL) and Numeric Effluent Limits (NEL). Given the inconclusive findings of the Blue Ribbon Panel that was convened by the State Water Board in addition to the Best Available Technology, "defaulting" to the US EPA Benchmark Values as NALs and NELs is unduly onerous, without justification, and inappropriate at this time. The US EPA Benchmark Values were never intended to be used as a compliance standard. We anticipate that this particular proposed permit action will not only require significant financial resources from our businesses in an already stressed economy, but also make permit compliance marginally achievable. In addition, implementing the US EPA Benchmark Values as NELs will be potentially destructive to a company with no identified relief in sight. As it is written in the draft GIASP, triggering an NEL could potentially cause a business to be subject to fines of $37,500 per calendar day with no ceiling. We suggest the State Water Board remove the US EPA Benchmark Values as NALs/NELs and to consider a more progressive and feasible approach.

2. Section XVII.C., titled Level 2 Structural and/or Treatment Corrective Actions, requires the installation of structural and/or treatment control stormwater BMPs for Level 2 permittees. No other option for corrective action has been provided in the draft GIASP. This proposed Corrective Action is particularly disturbing because it does not take into consideration that most facilities in metropolitan areas are structurally built-out. Additionally, this draft permit fails to provide any guidance as to which Structural and/or Treatment Control device(s) would

provide a reasonable probability of obtaining compliance. This requirement will create a condition where a business may be required to cut-out a portion of their (or the property owner's) building specifically to provide space to install a structural and/or treatment control BMP that may provide a negligible chance at reaching compliance with the GIASP. This proposed permit action would also be potentially destructive to a business. We suggest that a non-structural source control option be provided if a company can provide proof that installing a structural BMP would be spatially infeasible.

3. Section I.L., titled Conditional Exclusion - No Discharge Certification, provides a Conditional Exclusion for all dischargers that certify that their facility does not discharge stormwater associated with industrial activity for up to a 100-year, 24-hour storm event. Section V.E., Titled Compliance Storm Event, establishes a 10-year, 24-hour Compliance Storm Event. If permitted facilities are required to be in full permit compliance for up-to a 10-year intensity rain event, the 100-year intensity rain event requirement for a Conditional Exclusion-No Discharge Certification appears significantly excessive and incongruous. We suggest the Conditional Exclusion reflect rain events with intensities beyond the established Compliance Storm Event.

4. Section V.E, titled Compliance Storm Event, establishes a 10-year, 24-hour (expressed in inches of rainfall) Compliance Storm Event for Total Suspended Solids as well as for all treatment best management practices (BMPs) for other pollutants. The compliance storm event for a Risk Level 3 (the highest risk level) under the current General Construction Activity Stormwater Permit (GCASP) is a 5-year, 24-hour storm event. The inconsistency of the span of storm events between general NPDES permits creates confusion. The standard to determine compliance should be consistent across all State issued NPDES permits. We suggest that the Compliance Storm Event be reduced to a 5-year, 24-hour storm event.

5. Section V., titled Effluent Limitations, indicates "stormwater discharges and authorized non-stormwater discharges regulated by this General Permit shall not contain a hazardous substance equal to or in excess of a reportable quantity listed in 40 C.F.R. Part 117 and/or CFR Part 302". We acknowledge that this statement is in other NPDES permits; however, neither 40 C.F.R. Part 117 nor Part 302 are intended to be used as a basis for an "allowable" environmental discharge standard. Both Part 117 and Part 302 are intended for reporting purposes only. The statement in Section V. is a gross misuse of a federal reference document. To clarify and for example, Section V. implies that an authorized non-stormwater discharge regulated by this permit can contain up to 99 pounds of hydrofluoric acid (a highly toxic and flammable material) in a 24 hour period without violating this permit. We suggest that Section V. be re-evaluated and modified.

6. Section VII, titled Training qualifications and certification, indicates all SWPPPs shall be developed, amended, and certified by a Qualified SWPPP Developer (QSD). This section further describes experience requirements for QSDs as: 1) A California Registered Professional Civil engineer, 2) California Registered Professional Geologist or Engineering Geologist; 3) California Registered Landscape Architect, or 4) a Professional Hydrologist registered through the American Institute of Hydrology. Not only do these highly specialized experience requirements imply that SWPPPs development, revision not be developed in-house but also implies that structural "treatment control" BMPs are the new preferred method for compliance. This is a very different direction from "source control" as the primary BMP that has been the major emphasis in recent years. All the BMPs required under this draft permit listed in Section VIII.H. generally do not require the evaluation, implementation, or oversight of a Registered Civil Engineer. We understand the importance of establishing a statewide training standard; however, the list of experience requirements appears to be too limiting. We suggest that the experience requirements be expanded to be consistent with the QSD experience requirements under the current General Construction Activity Stormwater Permit. We also suggest the inclusion of a California Registered Environmental Health Specialist (REHS) as an acceptable experience requirement.

7. Section X., titled Sampling and Analysis Requirements, identifies a Qualifying Storm Event as a "storm event that has produced a minimum of ¼ inch of rainfall as measured by an on-site rainfall measurement device; however, under the GCASP, a Qualifying Storm Event is defined as a storm event that has produced a minimum of ½ inch of rainfall. These inconsistencies between two statewide NPDES permit definitions for Qualifying Storm Event creates confusion. We suggest that the definition for a Qualifying Storm Event be consistent with general NPDES permits.

8. Section XXI., titled Conditional Exclusion - No Exposure Certification, indicates that the No Exposure Certification (NEC) shall be submitted to the Regional Water Board on an annual basis. In addition, the draft GIASP suggests that the annual NEC fee will be a minimum of $200. Compared to the current submittal requirements for a Notice of Non-Applicability (NNA), this proposed requirement for an NEC is clearly excessive. We suggest that the NEC requirement be revised to reflect the current submittal requirements for an NNA which is 1) Required to be submitted once (unless there is a change in industrial activity), and 2) No fee required with NEC submittal.

9. Section IX, titled Monitoring Requirements, provides a complicated and unwarranted schedule for non-stormwater discharge visual monitoring, stormwater discharge visual monitoring, sampling and analysis requirements, and sampling/analysis reporting. The proposed requirements are a momentous

increase from the current requirements identified in the current GIASP. Please note that the Blue Ribbon Panel of Experts that was convened by the State Water Board to address the feasibility of NEL recognized that under the current GIASP, the monitoring data sets were inadequate. The data was identified as inadequate because of the lack of a standardized monitoring method, not because there was an insufficient amount of samples collected. Increasing the frequency of monitoring will needlessly increase our business's operating cost. We strongly support the inclusion of Section XII, titled Monitoring Methods, which should result in a more qualitative data set. Therefore, we suggest that the monitoring and reporting frequency be consistent with the current GIASP.

We appreciate this opportunity to comment on statewide general NPDES permit.

Regards,

Bob Davis