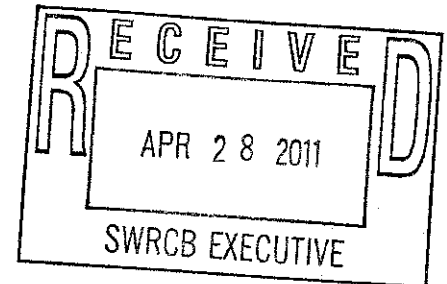


City of Downey

FUTURE UNLIMITED

April 28, 2011

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, Sacramento, CA 95814
E-mail: commentletters@waterboards.ca.gov



Subject: Comment Letter – Draft Industrial General Permit

Dear Ms. Townsend and Members of the Board:

The City of Downey appreciates this opportunity to convey our concerns regarding the January 28, 2011 Draft Industrial General Permit (DIGP). While the State Water Board staff has asserted that its objectives in re-issuing this Permit include: 1) improving data quality; 2) making the permit performance-based; and 3) providing incentives and flexibility; we are concerned that the staff is proposing a quantum leap in requirements to compensate for missing a full 5 year permit cycle. We believe it imprudent to impose excessive or unnecessary regulatory hurdles as industry and government attempt to recovery from a deep recession. Furthermore, the City is concerned about the imposition of faulty precedents that might be imposed in other permits.

Recognize Regional Atmospheric Deposition Iterative Source Control Implementation:

Like Municipal Separate Storm Sewer System Permittees (MS4Ps), Industrial General Permittees suffer the insult of atmospheric deposition of pollutants from anthropogenic and natural sources beyond their ability to control. Examples from our jurisdiction, that are prevalent statewide, include polynuclear aromatic hydrocarbons (PAHs) and nitrogen oxide combustion by-products, suspended solids (dust) from a variety of sources, lead from general aviation fuels, zinc from tires, and, most exemplary to this contention, copper from friction brake pads. Several studies identified that the most significant local source of copper is vehicular friction (brake) pads, resulting from federal decisions to require shorter braking distances and softer brake materials that resist squealing. While regulatory agencies or the legislature could have initiated the effort, (copper TMDL confronted) California municipalities diverted millions of dollars to scientific studies, manufacturer negotiations, and finally legislative lobbying to adopt SB 346 that will, over a few decades, reduce the copper content of friction pads and concentration in the environment. Like municipalities, industrial facilities should be accountable for the discharge of pollutants associated with processes materials present on their site and subject to their control, but given greater latitude in reducing the concentration of regional pollutants that other sources generate. As was asserted at the February 23, 2011 workshop in Irvine, atmospheric deposition is a source of pollutants over which Permittees have little control. While finding 46 of the DIGP asserts that stormwater polluted by atmospheric deposition from forest fires, or natural disasters, need not trigger numeric action level (NAL) determinations, it is too limited and, along with section XVII.D.2, should be rewritten to clarify that the industrial dischargers are responsible pollutants associated with their activities, not atmospheric deposition, background source conditions, or natural disaster. The Regional Water Boards should include similar findings in municipal NPDES permits. Furthermore, the State Air and Water Boards need to better coordinate their source control actions as was asserted by former Board member Wolfe.

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The DIGP Remains Onerous and Unnecessarily Complex:

The Staff Workshop presentation, suggested the existence of 24 significant permit changes, most of which appear to add complexity and increase Permittee compliance costs.

The Problems with Numeric Limits

The State Board Staff has proposed translating USEPA benchmarks into California State Numeric Action Limits (NALs) for industry in California. However, through the "Corrective Action Process", these federal benchmarks morph into Numeric Effluent Limits (NELs) that are not federal requirements and will drive industries to other states with less onerous permits.

Unaffordable and Unnecessary Monitoring/Inspections

The California Stormwater Quality Association (CASQA) has compiled a list of requirements, and has asserted that the DIGP contains 400 more documented inspections per year, than the current permit. This creates a significant additional Permittee burden that is unlikely to result in a commensurate water quality benefit. Daily and weekly inspections, during the dry season, are unnecessary and Staff has yet to rationally explain the benefit from these requirements. We encourage the Board to reduce the inspections to monthly intervals or when there exists a greater than 50% chance of greater than 0.05 inch of precipitation.

Inappropriate Design Storm

While the inclusion of a design or compliance storm event in the DIGP is an improvement over TMDLs with no forgiveness for the "act of god" or record storm event, the use of a 10-year, 24-hour storm event for sizing treatment best management practices (BMPs) remains extreme and assumes that no wash off effect is observed. In the Construction Permit, the 10-year, 24-hour compliance storm only applies when advanced treatment systems (ATS) are required and the vendors have yet to prove their claim that such an event could be reliably addressed. We encourage the Board to consider the exponential increase in treatment costs characterized in the October 1, 2007, Southern California Coastal Water Research Project (SCCWRP) Technical Report entitled, "Concept Development: Design Storm for Water Quality in the Los Angeles Region", a project partially funded by the Los Angeles Regional Water Quality Control Board. Furthermore, the DIGP should be modified to allow consideration of a storm event series that individually are modest, but collectively excessive. The DIGP could be revised to consider the depth or volume of runoff resulting from the design storm and then requiring that any overflows or exceedence resulting from BMP design constraints, be addressed in the annual report as an analysis of why the storm series "exceeded" the design event volume.

Arbitrary Requirement to Obtain GIP Coverage

Local municipalities have become increasing aware that the SIC and NAIC industry codes identified in the permit or on the Board website, do not automatically lead to these industries to obtain permits. State and Regional Board staff increasingly make what appear to be arbitrary decisions about what is a maintenance or covered industrial activity, a practice that is rife with opportunities to encourage corruption among increasing desperate Board staff confronted by unpaid furloughs, resource constraints and excessively demanding record keeping.

Requirement for SWPPP Certifications

If Board staff remain enamored with translating un-vetted construction QSD/P certifications to the GIP, we encourage you to consider the confusion that could result from overlapping designations. One potential, slightly less confusing approach, would be to use a C/IQSD/P certification, where C/I would reference either, or both, of the construction/industrial permits and the D/P could simultaneously reference either, or both, the developer/practitioner certifications.

Excessive DIGP Oversight Maybe Diverted Into Future MS4 Permits

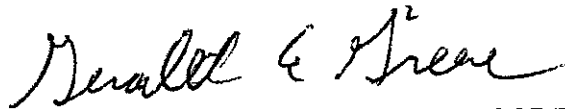
The City is concerned that the DIGP demands excessive regulatory oversight which in the absence of greater state support or excessive fees, will lead Regional Boards to unload the additional oversight responsibilities onto local MS4 Permittees. Such State mandates risk both local and state budgets, as well as stretching credibility during these times of fiscal constraints. Proposition 26 was adopted by California's electorate in November of 2010 and while it allows for reasonable license, permit and inspection fees, the fees cannot exceed the cost of the service provided. The Board must now contemplate the risk from including Cities in the oversight process and any "double fees" resulting from overlapping and wasteful regulatory duplication that causes industries to leave California.

Conclusions and Recommendations

We appreciate that the California Stormwater Quality Association (CASQA) has participated in review of the DIGP, provided significant input during the March 29, 2011 webcast, which we concur with, and will submit additional detailed comments. The City of Downey urges the State Water Board to carefully consider the regulated community's comments in revising and adopting the IGP. We strongly request that revised draft IGP be circulated for public comment, especially if the Board continues to be wedded to the most onerous requirements, such as the "Corrective Action Process" and excessive inspection and monitoring requirements.

Thank you for the opportunity to provide these comments and please feel free to contact me at 562.904.7112 or ggreene@downeyca.org for further clarification or our concerns.

Sincerely,



Gerald E. Greene, DEnv, PE, QEP, (C) QSD/P
Principal Civil Engineer/Water Resources Control Specialist