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April 28, 2011

Via E-Mail commentletters@waterboards.ca.gov

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

Re: Comment Letter: Draft Industrial General Permit

Dear Ms. Townsend:

Thank you for the opportunity to comment on the draft statewide General Permit for storm water discharges from industrial activities ("Draft Permit") issued for comment by the State Water Resources Control Board ("State Water Board") on January 28, 2011. These comments are submitted on behalf of our client, Verco Decking, Inc. ("Verco"). Verco supplies steel roof and floor decking and associated components to the construction industry and its materials are critical components in modern commercial building construction. Verco has two manufacturing facilities in California, one in Antioch and one in Fontana, which are subject to the current General Permit for industrial discharges. Verco is in compliance with that current General Permit, and is very concerned about the potential impacts, including costs, on Verco's operations that would arise out of compliance with the Draft Permit if it were adopted in its current form, and it seeks needed revisions to the General Permit that are described below.

Verco's operations include shaping large steel sheets into the proprietary forms of their floor and roof decking using large rollers. Rather than stockpiling large quantities of finished product, Verco maintains a supply of sheet steel at their facilities and forms it as orders are received, keeping only minimal finished product on hand at their facilities. Verco's operations utilize minimal amounts of materials that can become sources of pollutants to storm water. In fact, if a company were to construct a "storm-resistant shelter" to protect their site from storm water as described in Section XXI of the Draft Permit, it might well utilize the same roofing panels to construct the shelter as Verco stores at its facilities. However, Verco's two facilities require flat outside surface areas for storage of materials and finished product, which results in storm water runoff.

We provide below our comments on several provisions of the Draft Permit that are of most concern to Verco's facilities and which may greatly affect their ability to comply if the Draft Permit were implemented in its current form.

1. Exceedances of Numeric Action Levels ("NALs") [V.C, V.D, XVII.B, C & D]

One key unanswered question raised by the Draft Permit is how will "background" levels of pollutants that are not introduced into the storm water by the discharger's industrial activities be taken into account when samples exceed the NALs? For example, a discharger's facility may be located in an area where gravel and fill material comes from nearby quarries where the extracted material is known to contain elevated levels of certain metals, including zinc and iron. If zinc and iron are included in the additional storm water analytical parameters that would need to analyzed based on the facility's Standard Industrial Code ("SIC"), storm water samples will likely exceed the NALs without any contribution from the dischargers industrial operations, stored supply materials or finished product awaiting delivery. It would be a nonsensical result for the discharger to certify that the source of the pollutants was not related to the facility's industrial activities, yet find itself subject to more-restrictive corrective actions, including additional Best Management Practices ("BMPs") and, eventually, NELs. Therefore, the Draft Permit should be revised to clarify that NAL exceedances caused by non-operational sources are not, in fact, NAL exceedances and do not result in triggering increased corrective action levels or applicability of NELs.

Furthermore, Verco supports the comments made by the California Stormwater Quality Association and others at the March 29, 2011 public hearing that opposed the use of the NALs as effluent limits on the basis that NALs have not gone through the normal Water Board process for establishment of effluent limits. For many dischargers, the NALs will almost certainly become effluent limits after several iterations of exceedances. NALs should not be used as effluent limits when EPA did not establish them as effluent limits, nor have they been set through the Water Board's own procedures for establishing effluent limits.

2. Qualified SWPPP Developer ("QSD") [VII.B.1]

Verco shares the State Water Board's interest in ensuring that SWPPPs are prepared and implemented by individuals qualified to do so, but is concerned that the Draft Permit is too restrictive, thereby preventing highly-qualified professionals from preparing SWPPPs and unnecessarily increasing costs for compliance on small businesses. In particular, Verco does not agree with the requirement that a QSD must be a registered professional civil engineer, registered professional geologist or engineering geologist, registered landscape architect or professional hydrologist. Professionals in other engineering or technical fields may be highly qualified to develop a facility's SWPPP but will not be allowed to do so under the Draft Permit, even if they have written the facility's existing SWPPP and are much more familiar with the facility's operations than an outside consultant with one of the listed credentials. Verco believes that the Draft Permit should be revised to allow exceptions to the list of required professional registrations as qualifications for QSDs based on prior work experience with SWPPP development and technical expertise.

3. SWPPP Implementation [VII.B.3, VIII.D.2]

The Draft Permit requires that the SWPPP BMPs and monitoring requirements be implemented by a Qualified SWPPP Practitioner ("QSP")(see VII.B.3), but also indicates that others on a "Pollution Prevention Team" may be designated, individually or by position, to assist in the implementation and conduct the monitoring. See VIII.D.2. The term "implementation" should be clarified to allow the QSP to implement the SWPPP by delegating tasks to others as they determine to be necessary and appropriate.

4. Minimum BMPs [VIII.H.1]

The Draft Permit requires that dischargers implement a list of minimum BMPs unless they are clearly inapplicable to the facility. Dischargers may use alternative BMPs if the listed minimum BMPs cannot be implemented, but will have the burden of showing that the alternative BMPs are at least as effective as the listed minimum BMPs. It is not clear how this would be implemented. Will alternative BMPs be presumed acceptable if no objection is received to the SWPPP submitted as part of the Permit Registration Documents? Will the discharger utilizing alternative BMPs essentially be "at risk" of being found in violation of the General Permit at any time if the facility is inspected and the inspector disagrees that the alternative BMPs are at least as effective as the minimum BMPs? Verco believes that the Draft Permit should be clarified on this point by stating that alternative BMPs may be presumed at least as effective as the minimum BMPs until a Regional Water Quality Control Board inspector determines otherwise and that the Discharger should be given an opportunity to challenge or accept that determination before being found to be in noncompliance.

5. Storm water diversion [VIII.H.1.a]

Under the category of "Good Housekeeping," the Draft Permit requires diversion of storm water from non-industrial areas, such as employee parking, from contact with industrial areas of the facility. This BMP should be clarified because it could have potentially large and unwarranted impacts on many sites. If the intent of this BMP is to require retrofitting storm sewer systems so that storm water from employee parking is kept separate from storm water from industrial areas of the facility, this is an expensive requirement that goes well beyond "housekeeping." Verco believes this BMP should either be deleted or revised to make clear that measures to divert storm water from industrial areas do not include modifications to existing facility infrastructure or systems.

6. Spill Response [VIII.H.1.c]

The training required for spill response personnel is not specified. The Draft Permit should be revised to clarify that determination of what training is required is at the reasonable discretion of the QSD/QSP.

7. Storm water monitoring during non-operating hours [IX.C, X.F]

The Draft Permit states that certain storm water monitoring (visual monitoring and sample collection) during qualified storm events need only be performed during scheduled facility operating hours. Section IX.C.2 regarding visually observing storm water discharge during scheduled facility operating hours contains an annotation to footnote 2, presumably for clarification of this requirement, but there is no footnote 2 at the bottom of the page. Section X.F requiring collection of samples from storm water drainage areas within four hours after a qualified storm event also specifically states that it only applies during scheduled operating hours with a reference to footnote 3, which does provide guidance as to how that requirement works for a storm event during non-operating hours.

However, not all references to sampling state that the requirements apply only during scheduled operating hours or explain how storm events that occur during non-operating hours should be addressed. See X.A (for dischargers subject to Level 1 Corrective Actions), X.B (for dischargers subject to Level 2 Corrective Actions), X.C (for dischargers subject to Level 3 Corrective Actions and NELs). It would be a great hardship on small businesses that do not typically operate backshifts or weekends, such as Verco, to be required to send an employee to the facility to perform storm water monitoring, and in some case, could not be done without exceeding limitations on the number of hours employees can work. Based upon comments made by Water Board staff at the March 29, 2011 public hearing, it appears that their intent is that all sampling and inspections be performed only during scheduled facility operating hours. The Draft Permit should be revised to make that position explicit: that any and all monitoring for storm events during non-operating hours will be handled as described in Section X.F and footnote 3.

8. Burden of Increased Numbers of Inspections and Monitoring

As was noted during the March 29, 2011 public hearing, the Draft Permit will require a significant increase in the number of inspections and monitoring. It is difficult to calculate precisely how much additional work will be required, but the Draft Permit calls for weekly inspections of outdoor areas associated with industrial activity, storm water discharge locations, drainage areas, etc. It also calls for weekly inspections of all equipment and systems used outdoors that could spill or leak pollutants, daily inspections of outdoor material/waste handling equipment, as well as visual monitoring prior to any anticipated storm event and during any Qualified Storm Event. In addition, there are the stormwater sampling requirements, which vary depending upon the facility's SIC and whether the facility is in an advanced Corrective Action Level due to exceedances of NALs, requiring sampling of every Qualified Storm Event. This could result in an additional 50-100 samples to be collected and analyzed per year. The burden and cost of performing hundreds of additional inspections and visual monitoring per year, in addition to the cost of collecting and analyzing the additional samples, will be substantial. The Water Board should review and reduce the collective burden of these additional inspection and

monitoring requirements, taking into consideration the relative costs and benefits of performing the myriad new requirements.

Thank you for your consideration of these comments.

Sincerely,

John R. Epperson

JRE/af