ECOLOGY AUTO PARTS

April 24, 2011

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

Re: Comment Letter – Draft Industrial General Permit

This is in regard to a number of issues in the Draft Industrial General Permit which have the potential to adversely affect our company's ability to stay in business. These comments are to alert you and the Board to the problems with each of these issues and offers some suggestions to change the draft permit.

These are listed in the order found within the Draft permit of January 2011.

Part 1.A. General Findings
Sec. E – Numeric Action levels

While a two tiered approach can be helpful, we question whether the criteria ("triggers") for NALs becoming an enforceable NEL is appropriate. Specifically, we are of the opinion that three exceedances of the NAL – which then becomes enforceable as a NEL – is the wrong approach. As an example, we reviewed electrical conductivity or specific conductance (SC) as a Benchmark pollutant and the impact on conductivity of sources beyond the control of a facility.

Conductivity measures the amount of dissolved salts in storm water runoff – regardless of the source. We are concerned with the contribution of other sources of dissolved salts in the discharged stormwater which are outside the control of the facility. These include atmospheric dustfall, run-on from other properties and previously contaminated soils existing on site.

A quick review of dustfall data (*see attached Table*) from around the world indicates that the amount of total settleable particulate matter ("dustfall") to vary from 40 – 800 lb/acre/month (South Africa, Brazil, Iran). With just one inch of rainfall in a month, this dustfall would be carried into an acre inch of stormwater resulting in a concentration of 270 to 5700 mg/L.

Historical data from Orange County, California) over a period of 15 years indicates that soluble dustfall levels will range up to 11 lb/acre/month. With an inch of rainfall, these soluble dustfall salts, when dissolved in 27,345 gallons of rainfall (one acre-inch), would result in soluble salt concentrations of 46 mg/L, or a conductivity of 77. If it did not rain for three months, the entire salt burden in an acre-inch of stormwater would result in concentrations of 138 mg/L with a resultant conductivity of 232. This would be a clear violation, even if the entire one acre facility was covered with Teflon!!!

For an industrial facility with no on-site activity, the stormwater discharge would subject the facility to the Mandatory Minimum Penalties of §47 with no contribution from industrial activity!! This would of course drive the business to shut down, regardless of any BMPs implemented.

We urge the Board to consider other alternatives to the three exceedance criteria; perhaps including an approach similar to the risk analysis and risk assessment approaches provided for in other NPDES permits where the degree of toxicity, etc. is evaluated prior to automatic violations being instituted.

Part 1.General Findings
Sec. G – Training and Part VII – Training Qualifications and Certification
Sec. B.1. - Qualified SWPPP Developer

First of all, in its existing draft form the QSD (Qualified SWPPP Developer) Certification is highly restrictive by being limited to California licensed civil engineers, with no allowance for other scientific or engineering disciplines with specific experience in analyzing storm water. its discharges, pollutant loads, sources, amelioration and removal processes for storm water.

Examples of such technical disciplines which have the potential to provide equal or superior registration and experience - directly pertaining to storm water discharges - include licensed chemical engineers, industrial engineers, mechanical engineers, chemists, or petroleum engineers.

In addition, we have serious concerns whether a landscape architect would be able to perform any of the critical functions analyzing storm water, its discharges, pollutant loads, sources, amelioration or removal processes for storm water.

Second, the QSD limitation in Section B.1.b. [to only licensed civil engineers, hydrologists] also unnecessarily limits the ability of qualified minority individuals to analyze, prepare, and write SWPPPs under this Draft permit.

We note that civil engineering projects relating to storm water "fixed works" or constructed projects such as load bearing structures, dams, diversion structures, impoundments, etc are rightly to be performed by licensed civil engineers, as noted under Part I, Section G of the draft permit. We believe that such structures must be performed under the responsible charge of licensed civil engineers.

We urge the State Board to change the registration requirement of Section B.1.b. to include those engineering and technical branches with more direct engineering experience and practice - such as licensed chemical or mechanical engineers – for the QSD qualification.

Part VIII – SWPPP Requirements, Sec. G.4. - Significant Spills and Leaks

Sec. G.4.a. speaks of "significant quantities" of materials which have spilled or leaded into storm water within the previous five year period, yet it does not define exactly what a significant quantity is!! This could be in gallons per event, pounds spilled, area of spill, etc.

We note that the 'reportable quantities' are referenced in that paragraph with respect to Hazardous substances, but that definition only applies to land discharges.

Part VIII – SWPPP Requirements, Sec. H.1.a.vii. - Diversion of storm water

This paragraph, as a mandatory BMP under 'Good Housekeeping', requires that storm water flows be diverted from contact with non-industrial areas (such as parking lots).

This would impose an enormous cost on every facility to begin diverting storm water flows around various parts of a facility (including the costs of civil engineering documents – as mandated by section 1.G. §5). During hard economic times, this may not be the most effective approach.

Part IX – Monitoring Requirements, Sec. C - Storm Water Visual Monitoring
§1 – Monthly discharge observation

Section 1 requires visual monitoring of a discharge sometime in the first four hours *after* it is determined that a given day's rainfall is a "qualifying event" - which is defined as 0.25" of rainfall as measured by an on-site rain gauge. For a company with more than one location, this mandates a nearly impossible requirement in that a qualified individual cannot meet this requirement especially when it occurs late in the day.

This would require essentially every single facility to hire and train qualified persons to meet this requirement which would impose an enormous cost burden on the company, particularly in difficult economic times.

§4 – Anticipated event observations of equipment and containment areas

This requirement does not specify exactly what qualifies as an "anticipated" storm event; which makes it impossible to satisfy the requirement! Does this mean a forecast storm?? Whose forecast?? Is there a "percent chance" which could qualify as the minimum??

Without an exact definition of 'anticipated' events, this section guarantees that a facility will be found in violation of the permit. Quite apart from the ambiguity, it imposes costs without known benefit – apart from extraneous inspections.

§6 – Anticipated event observations of stormwater drainage areas

The same concerns apply here as in §4 above – that is, this requirement does not specify exactly what qualifies as an "anticipated" storm event; which makes it impossible to satisfy the requirement! Does this mean a forecast storm?? Is there a "percent chance" which could qualify?? Who is qualified to give a forecast which could be upheld by the courts??

Without an exact definition of 'anticipated' events, this section guarantees that a facility will be found in violation of the permit. Quite apart from the ambiguity, it imposes costs without known benefit – apart from extraneous inspections/observations.

Part IX – Monitoring Requirements
Sec. F – Qualifying Event Sampling

The footnote to this section creates more confusion. Please clarify that footnote (regarding Monday conditions following a weekend of rain). It appears that the draft permit footnote is

saying that if it rained over the weekend (> 0.25" of rainfall), one must take a sample, even though it may or may not be raining on Monday!!

Please clarify this in order that there be no ambiguity.

Sec. H – Sampling Analytes/Pollutants

Table 1 to this section details the minimum chemical analytes for storm water discharge lab analyses.

We question why the methodology for organic materials dissolved in storm water using the 'Total Organic Compound' [TOC] method was dropped as an option?? We have found thatTOC is a simpler lab method than the older 'oil & grease' (O&G) method. Also, O&G costs about 45% more than the TOC method, which is again a concern in these difficult economic times.

We also note that Table 4 in that section specifically mentions the TOC method directly below the 'O&G' method, which is exceedingly confusing.

Accordingly we are urging the Board to reinstate the option for the TOC method in this section's Table 1.

Part XVII – Corrective Actions

Sec. B.2.c. - Operational Source Control for Sources exceeding NAL triggers

Does this section – which allows the facility to certify the cause of any NAL exceedance as being due to a non-industrial related source (similar to the the 'dustfall impact' mentioned earlier) - provide any legal 'shield' against enforcement action??

What 'proof' would the Board find to be acceptable?? Particularly in the case of run-on of stormwaters from nearby sources; dustfall or pre-existing soil contamination.

We are urging the Board to make such a defense specific under this section for the new Industrial Stormwater Permit.

Sec. E.1a – NAL Corrective Action Triggers

This section specifically mentions the 'Daily Average' as one of the triggers for Corrective Action.

Does mean that multiple stormwater samples are to be taken throughout the day in order to determine an average concentration??? If so, how many samples are to be taken in order to qualify for a representative average??

We are requesting that the Board specify what constitutes a proper 'average' in the text of permit in order to avoid costly litigation, enforcement action, etc. etc. Also, would the average be the log-mean average or the arithmetic average or the geometric mean???? Again clarity is preferred over confrontation.

Summary

Overall, we find that the following items associated with this draft permit:

- multiple mandatory reports,
- multiple inspections;
- multiple observations;
- purchase of rain gauges, pH meters, conductivity meters (with all of the requisite calibration solutions, documentation and QA/QC requirements);
- Multiplied lab analyses; and
- complicated corrective actions, etc.

are exceedingly burdensome, confusing and will cost every company, especially those with multiple locations subject to the statewide Industrial Permit on the order of $300,000 per year per facility over and above existing stormwater compliance costs.

We urge the Board to carefully review these cost impacts and eliminate the bulk of the items above.

CLOSURE

If you have any questions, please contact us at the above address, or by phone at (562) 921-9974 or by e-mail at:

Sincerely,

Roger Griffin, MS, P.E.
Director, Environmental Compliance

cc: C. Siroonian
R. Coffman

Table 1 - Atmospheric Dustfall* Particulate Matter Contributions to Stormwater Conductivity

Location		Totals - Gm/day/sq.m.	gm/ac/mo	lb/ac/mo	Solids mg/L	EC
Brazil	*Avg*		28329	62	270	*450*
Iran	*Avg*		26265	58	251	*418*
So. Africa	*Lo*	0.21	25496	56	243	*405*
	Hi	3	364230	802	3475	*5792*
Orange County, CA						
Totals	*Avg*	0.15	18212	40	174	290
Solubles	*Avg*	0.04	4856	11	46	77
		Soluble DF in three months, then 1" of rain.....				232

* = ASTM 1739