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Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1101 I Street
Sacramento, CA 95814

Comments on the Draft of NPDES General Permit for Discharges of Storm Water
Associated with Industrial Activities



Dear Ms. Townsend and Board Members:

Granite Rock Company appreciates the opportunity to comment on this Draft Industrial General Permit (DIGP). As a mining and infrastructure construction company, we have multiple facilities that will be affected by the new permit. We appreciate all of the work the Board and staff have done to consider the previous round of comments as well as all of the workshops that staff have put on to clarify aspects of the DIGP. Our concerns with the permit lie in various areas that we feel will negatively impact our potential for compliance and do not have significant benefit to water quality.

We have expanded on our concerns below and have offered some suggestions for meeting the goals of the DIGP, while staying within the framework set by the EPA Multi-Sector General Permit (MSGP).

1 Section II.D Existing Dischargers

The implementation timeline of the DIGP is very concerning as it does not seem realistic based on QISP training guidelines, allow adequate time for SWPPP revisions, or training for the Pollution Prevention Team members.

Section II.D.3 states: *Existing Dischargers shall implement necessary revisions to the SWPPP and Monitoring Program in accordance with Sections X and XI no later than the July 1, 2013. Dischargers may either continue to implement the existing SWPPP in compliance with State Water Board Order No. 97-03-DWQ until June 30, 2013, or may implement a SWPPP revised in accordance with Section X prior to July, 1 2013.*

This is concerning because the training for QISP is not developed when paired with other provisions, such as QISP III requirements, the time table becomes truly unrealistic. As the DIGIP is currently written, only a California licensed professional civil engineer, registered geologist, or certified engineering geologist qualify as a QISP III and are therefore capable of writing the SWPPP. Based on current SWPPP drafting fees associated with the Construction General Permit (CGP) that range from \$2500-3500, it is conceivable that our 15 facilities would cost a minimum of \$37,500 to meet the implementation timeline proposed in the DIGP. Those professionals would have to train the Pollution Prevention Teams at every facility, further increasing compliance costs while the QISP training

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program is being developed. They would also need to complete all of the annual reporting if the QISP training was not available by June 2014.

Our concern with the QISP training requirement timeframe is based on experience from the implementation of Construction General Permit (CGP). The CGP Training Team took 26 months to develop and offer the training and to date, we are not aware of the IGP Steering Committee being selected or meeting.

Section II.G.1 states: *Annual Monitoring Reports and SWPPPs (other than for Inactive Mining): by July 1, 2014, or seven (7) days prior to commencement of industrial activities, whichever comes last, all Annual Monitoring Reports and new or revised SWPPPs shall be:*

The DIGP outline requirements for various documents and which QISP level is required to complete them. This directly conflicts with Section II.D.

We believe the 2014 guideline is more realistic only if the QISP training is made available by July 2013, giving dischargers one year to obtain training and implement all required changes. Existing dischargers should not have to rely on costly licensed professionals to meet the proposed implementation timeline. The QISP training availability should be explicitly stated in the permit or by the board and reflect the need to give dischargers sufficient time to be certified prior to the SWPPP, Annual Reporting, and Pollution Prevention Team training timelines.

2 Section II.G.9 Certification and Preparation Requirements for Inactive Mines and Section XIII Inactive Mining Operation Certification

SWPPPs and Annual Monitoring Reports for inactive mines are currently specified by the DIGP as being prepared and certified by a California licensed professional civil engineer (PE). We recognize that some aspects of inactive mine SWPPPs may need to be calculated by a PE, however, a PE should not be required to complete SWPPPs and Annual Monitoring Reports. Appropriately leveled QISPs are qualified to write and certify SWPPPs and Annual Monitoring Reports at Inactive Mining Operations the same way they would at any other facility.

Ultimately, the LRP is responsible for their sites and the same should be true for Inactive Mining Operations. The inactive status of a mining facility should be certified by the LRP directly, as a PE license should not be necessary to certify that a facility has not operated. The DIGP extensively describes the responsibilities of an LRP and the Inactive Mining Operation Certification clearly lies within the definition provided.

3 Section IX. Training Qualifications

California licensed professional civil engineers, registered geologists, and certified engineering geologists will be QISP level I, II, or III and do not need to complete the Water Board sponsored or approved QISP training course according to this section of the



DIGP. We believe that a Certified Professional in Storm Water Quality (CPSWQ) should also be included in this list, due to the extensive work experience and certification process they have completed.

A CPSWQ must have comprehensive knowledge in industrial, construction, and municipal storm water programs. Also required is an extensive knowledge of NPDES regulations for permitting storm discharges from industrial sites. The certification process covers NOI and NOTs, site inspections, SWPPP preparations and implementation, BMP applicability, monitoring requirements, analytical methods, and reporting requirements.

To be certified the applicant must complete a comprehensive application detailing educational and work experience totaling the equivalent to 7 years of professional experience. After approval an applicant must pass a comprehensive examination. Once certified, a CPSWQ must complete a minimum of 60 professional development units every three years.

The CPSWQ certification is currently recognized by the Board in the CGP as one of the certifications applicable to QSDs. We believe that the CPSWQ is the most relevant professional certification to the QISP training and should be included in the permit.

4 Section X.G.1.d.i Significant Spills and Leaks

The second sentence in this section states: *Unauthorized NSWDS within the previous five-year period that have been discharged through the storm water conveyance system shall also be identified.* This sentence is concerning due to the complex design of many of our industrial facilities. At many of our facilities, the “storm water conveyances” are driveways. In the rare case that we have a NSWDS, we do everything possible to prevent it from entering a storm drain. According to this section, NSWDS that do not reach a storm drain and are below reportable quantities (as defined by the CWA) would have to be reported as a significant spill. This directly contradicts the definition provided in Attachment H of the Permit, and the CWA.

That definition states that a significant spill: *Includes, but are not limited to, releases of oil or hazardous substances in excess of reportable quantities under Section 311 of the CWA, 33 U.S.C. § 1311 (see also 40 C.F.R. §§110.10 and 117.21), or Section 102 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §9602 (see also 40 C.F.R. § 302.4).*

The second sentence in Section X.G.1.d.i should be removed so that NSWDS that do not meet the definition as provided in Attachment H are not inappropriately listed in SWPPP’s as Significant Spills and Leaks. The DIGP states that NSWDS must be described in the SWPPP so this information will still be available in the SWPPP and described in the Annual Report, but should not be miscategorized as significant.

5 Section X.H.2.e.v Best Management Practices-Employee Training Program



The Employee Training Program is necessary for compliance with the DIGP and all documentation of training should be made available to the board at any time as is the current IGP requirement. Subsection v. states: *Maintain documentation of all completed training classes and the personnel that received training in the SWPPP.*

We believe that documentation of training should be maintained on site but should be excluded from the SWPPP so that it is not publicly available information. To protect the safety and wellbeing of our personal. We understand that some facility personnel do not want people to be able to find them for reasons of personal security. With safety and security of our staff in mind we ask the board to remove the requirement to include facility personnel information in the SWPPP under the Employee Training Program.

6 Section X.H.3 Periodic SWPPP Updates

The term “*when revised significantly*” is used to describe when a SWPPP must be updated, submitted, and certified via SMARTS. We agree with the Board that minor changes shouldn’t require full updates to the SWPPP. We are concerned with the lack of clarity associated with this term significantly as it is truly a subjective term, we ask the board to better define this term so that dischargers can ensure they are complying with the Permit.

7 Section X.H.7 Design Storm Standards for Treatment Control BMPs

This section of the DIGP does an excellent job of thoroughly describing the design standards for treatment control BMPs. However we have a concern that there is no clause for existing treatment control BMPs that were designed prior to the requirements described in the DIGP. We currently employ structural treatment controls which may not meet the design standard specified in this section but, have a multi-year track record of compliance, and even exceeding benchmark standards.

The prescriptive treatment control BMPs are costly for individual sites and without a clause recognizing the already effective treatment controls, an unnecessary redesign would easily cost our company in excess of \$25,000 per site to update/increase the size of treatment controls.

The cost associated with complying with the new standard for existing treatment control BMPs is not warranted if the existing treatment control BMPs meet the DIGP standards. These unnecessary costs are prohibitively expensive and without a direct link to increased water quality, the requirement is not justified. We would like to suggest the addition of the word “new” to the initial text in this section so that existing effective treatment controls can be retained, and updated as per the regular process of monitoring and inspections of the new permit. The text would be modified to read: *All new treatment control BMPs employed by Dischargers shall be designed to comply with design storm standards as follows:*



8 Section XI.A.2.d Storm Water Discharge Visual Observations

Subsection d. describes visual observations required prior to anticipated precipitation events. These events are defined as: [...] *any weather pattern that is forecasted by the National Weather Service Forecast Office to have a 50% or greater probability of producing precipitation in the facilities weather zone.* This brings up several potential problems for dischargers.

This condition will create an untenable amount of unnecessary data. Requiring a print out for every day of NOAA forecast data and to have that generated by the QISP (as the DIGP defines this as a QISP responsibility) has no obvious benefit to water quality. Rather, by moving rain watch process from the person on the ground to elsewhere will likely also remove the sense of job ownership on the ground to improve storm water quality.

Retaining this requirement will burden the annual report as well. When the annual report is due at the end of the year all of the forecast data along with the anticipated precipitation event visual observations also need to be submitted. This is equivalent to 260 additional PDF documents to ensure compliance. As a test we saved a few of these and they averaged 170Kb each, at year's end we have 0.43Gb of additional data to submit via SMARTS per site. That data would be necessary to ensure compliance and prove that the weather forecast, at the time we checked it, substantiated our actions

The monthly QSE inspections are sufficient documentation to indicate that a facility is monitoring its storm water drainage and containment areas. It is a best practice to inspect our sites prior to any potential storm event to ensure our BMPs are in place and in proper working condition. By adding this paperwork and forecast monitoring the DIGP will create multiple opportunities to violate the permit and open the door to potentially costly litigation, while detracting from the real purpose of pre storm inspections, which is source control, BMP maintenance and other water quality controls. The paperwork burden does not benefit water quality and directly puts it in jeopardy by shifting the focus away from the field and into paperwork.

We are not aware if SMARTS is capable of large data uploads, that would be necessary due to this subsection. We feel documentation of the anticipated precipitation event visual observations and monitoring of the National Weather Service Forecast are unnecessary and should be removed from the DIGP.

If this requirement were to be retained, there are more specifications about timing that would be required. There is no defined time period in the definition. The CGP has a similar "likely precipitation event" inspection guideline that determines the time period the forecast must be obtained, as 48 hours. One way to ensure compliance with this requirement is to complete a pre-storm inspection every 14 days, obviously inspecting just to inspect would not lead to an improvement in water quality and would send a message to



the regulated that we are just checking the box, and not looking for improvements in water quality.

Section XI.B.2 and 3 Sampling and Analysis

9 The definition of a QSE in subsection 2 states:

- a. *From a storm event that has produced a minimum of 1/10 inch of rainfall within the preceding 24 hour period as measured by an onsite rainfall measurement device:*
and
- b. *From a storm event that was preceded by 72 hours of dry weather. Dry weather shall be defined as 72 hours of combined rainfall of less than 1/10 inch as measured by an on-site rainfall measurement device.*

Our concern lies with b. This requirement appears to require over time work. We suggest that the definition be modified so that facility personnel are not required to come in on the weekends to inspect on-site rainfall measurement devices. Currently, union contracts for operating engineers on our sites require that any Saturday work must have a minimum of four hours worth of pay at time and a half and any Sunday work must have a minimum of eight hours worth of pay at double time. Further if done on the end of a busy week, then safety regulations could be triggered further restricting the staffs ability for storm water work later in the week when the facility is actually operating.

If the DIGP remains as written, average Saturday personnel cost could be \$260 (\$65/hour overtime fully burden employee cost guaranteed 4 hours worth of pay) for 15 active sites totaling \$3,900 per Saturday to inspect on-site rain gauges. Average Sunday personnel cost would be \$640 (\$80/hour double time fully burden employee cost guaranteed 8 hours worth of pay) for 15 active sites totaling \$9,600 per Sunday to inspect on-site rain gauges. We feel subsection b. could be revised so that personnel are not required to inspect on-site rain gauges outside of facility operating hours. As noted above this costs is unnecessary and actually hinders storm water management during normal production, when such attention is most needed to protect water quality.

10 The Definition in subsection 3 adds to the definition in Attachment H of the DIGP. The additional information in subsection 3 states: *Samples shall be collected from each drainage location within four (4) hours of:*

- a. *The start of discharge, or*
- b. *The start of facility operations if the QSE occurs within the previous 12 hour period (storms that begin the previous night). Sample collection is required during scheduled operating hours and when sampling conditions are safe.*

This definition is troubling because of the 12 hour guideline. Our facilities are not always open 12 hours a day, therefore to ensure compliance we would have to keep someone on site an additional three to five hours to monitor for precipitation. Many industrial facilities are open less than 12 hours a day. We feel that subsection b. should be changed to say 16 hours to prevent facilities from having staff onsite solely to monitor for precipitation.



11 Section XI.B.8 Sampling and Analysis

Table three and subsection 8 define that dischargers must use calibrated portable instruments or laboratory analysis in accordance with 40 CFR part 136. The laboratory analysis is not practical for pH sampling as the hold time for pH, as defined by 40 CFR part 136, is 15 minutes. The only practical option given by the permit is to utilize a calibrated portable instrument. These instruments need to be calibrated with every use and are not guaranteed to work therefore every site would need two. Costs we've found for these portable meters are \$100 with \$45 per year to replace the electrodes and, in addition, calibration solutions cost \$75 per year. To comply with this requirement it will cost \$365 per site the first year and \$165 annually to maintain the equipment.

Proper use of the this equipment is also not guaranteed and that is why the DIGP should be modified to reflect the EPA Industrial Stormwater Monitoring and Sample Guide dated March 2009, which specifically list pH paper as an appropriate monitoring tool.

12 Section XI.B.9 Sampling and Analysis

This section states: For all effluent sampling analytical results that are properly reported by the laboratory as "non-detected," or something similar, the Discharger shall report and use the value equal to 1/2 of the method detection limit reported for that analytical parameter for any calculation required by this General Permit.

This is very problematic as we do not want to falsely report that we are discharging pollutants that were not measured. Reporting of non-detect values could be done the same way it is currently done on CIWQS. When a non-detect is reported the method detection limit must also be recorded. If a value must be put on non-detect results, the value should be 1/100 of the MDL so that the value clearly indicates that the laboratory analysis did not detect any pollutants. **Requiring a discharger to report values that were not measured, and to act on those unmeasured values is clearly arbitrary and of questionable value.**

13 Section XII.E ERA Level 2 Demonstrations

Subsection 3 details what a BAT/BCT Compliance Demonstration Technical Report must contain. Of concern in the required documents is c. which states: *A statement that the Discharger has already designed, installed, and implemented operational source control, treatment, and/or structural source control BMPs that are required to reduce or prevent pollutants in industrial storm water discharges in compliance with BAT/BCT.*

Implementing treatment and structural BMPs for Dischargers is so cost prohibitive that we believe Dischargers should be able to seek approval for such BMPs from their Regional Board, prior to implementation. Without prior approval, costly BMP improvements could be rejected by the Board and may have to be removed after installation. By seeking prior



approval Dischargers could be ensured that these costly BMP improvements are accepted by the Board as BAT/BCT and that the Discharger is fully complying with the Permit.

A time frame should be explicitly outlined so that implementation based upon approval does not lead to delays that can negatively impact water quality. Dischargers should not be in violation of the permit during the approval time period, if a QSE occurs and samples are outside of the NALs. This would also need to be directly addressed in the permit moving forward.

In Conclusion

Granite Rock sees the need to improve storm water quality, and believes that our suggestions offer solutions to developing a revised industrial storm water permit that encourages continual improvement of water quality. We thank the Board for the opportunity to provide comments, and request that the agency does not hesitate to contact us if further discussion or clarification is needed

A handwritten signature in blue ink, appearing to read "Sam LoForti", with a horizontal line extending to the right.

Sam LoForti
Environmental Specialist
(831) 768-2009
sloforti@graniterock.com