



## TRIDENT SEAFOODS CORPORATION

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Department of Ecology  
PO Box 47600  
Olympia, WA 98504-7600  
Attn: Lionel Klikoff

January 10, 2008

DEPARTMENT OF ECOLOGY  
JAN 14 2008  
WATER QUALITY PROGRAM

Re: COMMENTS ON THE DRAFT STORM WATER GENERAL PERMIT

Dear Mr. Klikoff,

Thank you for the opportunity to comment.

We encourage the Department of Ecology (Ecology) to consider adopting, by reference, the federal storm water permit administered by the Environmental Protection Agency (EPA) to serve for the State of Washington.

By comparison to Ecology's proposal, the EPA's storm water permit is beneficially streamlined (just 40 pages), much easier to follow and has proven more effective with respect to achieving its goals, including compliance.

The EPA informs us that their storm water permit fully satisfies the Clean Water Act and is immediately available to the State of Washington, essentially without further complication.

### Specific Comments

To be honest, we find the proposed Ecology permit (PERMIT) unusually complex for what it needs to be (based in existing regulation), that it is difficult to follow and that it therefore lends itself toward confusion. We also find that significant financial burden is assumed and that the whole of that responsibility falls entirely on the permittee.

We believe that Ecology, perhaps unknowingly, underestimates the actual resources necessary to fully implement the suggested enforceable BMPs. For example, at our facilities, the PERMIT would require expensive contractual professional engineers and environmental specialists to devise and implement, while full-time staff technicians maintain the numerous BMPs continuously throughout the property.

While we accept that it is unfortunately due to limited Ecology resources, the fact remains that our repeated experience with program Technical Assistance is that it is limited to the point of insufficient meaningful value, especially with respect to BMPs meant to address metals. By example, in requesting interpretive assistance regarding the current permit, Ecology staff usually offers only general advice; "follow the permit" or "I can't tell you what to do."

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The on-the-ground difficulty with such above-referenced technical assistance is that it is basically unhelpful, apart from rational. The bottom line is that "follow the permit" does not help clarify an answer or satisfy the purpose for contacting technical assistance in the first place.

Please understand that these comments are not meant to unduly criticize Ecology policy or staff; certainly not. Rather, we offer these comments not expecting the storm water program at Ecology to sufficiently grow and become better able to offer effective technical assistance under the new PERMIT cycle.

Full compliance with the current permit is almost totally nonexistent according to Ecology staff. We interpret their estimated compliance ratio (400:1 in 2006/7) as a clear basis to suggest that Ecology simplify the proposed PERMIT wherever possible.

Without deliberate simplicity and reasonable, feasible, economical terms and/or conditions built into the PERMIT we expect compliance to remain expensively difficult and, well, practically unobtainable. As well, the opportunity for third-party litigation, apart from potential Ecology noncompliance enforcement action, increases with a permit too complicated to easily follow.

In the previously proposed draft PERMIT comments, the Association of Washington Businesses requested a study of the effects of copper on salmon in marine waters be conducted. Such a study would be of great interest to us as it would address an important natural resource question as well as core business sector.

At a recent proposed draft PERMIT workshop, Ecology was asked why it has not conducted any zinc rainfall studies given the well established problematic relationship between zinc in rain and runoff waters. Ecology's response that it was "not in the budget" left the workshop participants wondering why since so many had reported that rainfall has been consistently sampled and tested positive for zinc. One sample in the Seattle area tested at 85 ug/L and another in Tacoma tested at 200 ug/L.

We encourage Ecology to consider testing freefalling rainwater for metals.

Ecology could provide through the PERMIT that permittees take such a sample able to establish zinc concentrations in falling rain; rainwater concentrations of zinc (and potentially other metals) could then be subtracted from stormwater samples to more accurately establish metal(s) emanating from the permitted facility.

The standard laboratory total metals (Zinc, Copper, and Lead) test does not reveal an accurate amount of dissolved metals in any given storm water sample. It is, of course, the accuracy and correlation of benchmark total metals with water quality standards violation (and possible detrimental effects to aquatic species) that hold the most important unresolved questions. We suggest that dissolved metals testing instead be required as it would produce more relevance.

As for toxicity of total metals, there appears no allowance for a water effects ratio or dilution factor for the differences in marine receiving waters, mixing zones, and the all-important differences in water hardness of stormwater effluent in formulating the new lower benchmarks. PERMIT benchmarks for metals appear solely based on Hardness being 35 mg/L CaCO<sub>3</sub>. By example, what if the sample's hardness value turns out greater and therefore changes actual total metals toxicity?

The new Threshold values for the Benchmarks appear arbitrary, being set at 10x the current and new benchmark values. While the new and higher Threshold values are appreciated, the numbers still appear to be arbitrarily set and inconsistent with the 6415 report or the benchmark values set forth in the EPA MSGP. If the Benchmark and Threshold values are to represent indicators of water quality standard violations, then the Benchmarks should be actual and correct violations of water quality standards.

Stormwater Pollution Prevention Plan (SWPPP) [S3 (A) (9) (a)]

- Ecology may notify the permittee when:
  - The SWPPP does not meet one or more of the minimum requirements of S3 or
  - The SWPPP is not adequate to assure compliance with water quality standards.
  
- It is interesting to note on page 62 of the Fact Sheet for the proposed permit,
  - "Ecology does not review a SWPPP for approval or denial for several reasons".
  - This leads to potentially incorrect interpretations of compliance.
  - Wouldn't a change in this procedure enhance compliance?

Treatment BMP [S3 (B) (3) (c) (i)]

- Under this section, the construction and installation of treatment BMP for reducing metal content in the effluent are not yet well known or proven to reduce metal content below benchmark values.
  - This section should be amended to "applicable and appropriate Treatment" as requested by Weyerhaeuser in the previous draft proposal.

Access to SWPPP [S3 (A) (4) (e)]

- A nominal processing fee should be applied to public requests in lieu of allowing public requests access to company property and files and charging them a copying fee.

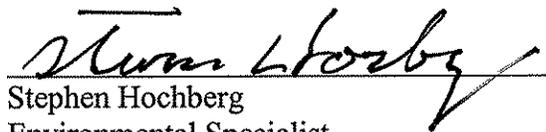
Implementation of Enhanced/Additional BMPs [S3 (A) (6) (f)]

- Even if BMPs are implemented and maintained within timelines, this section adds a contradictory statement allowing for enforcement where water quality standards were to be violated.

Permit Fees [S11]

- While not technically part of the permit, we would like to point out that if technical assistance is effectually not available for facilities in Level II/III or Step A/B, then it is both reasonable and fair that that permit fees be restructured to a flat rate or percentage fee against stormwater related acreage.

Again, thank you for this opportunity to comment and I sincerely hope you accept our thoughts as offered respectfully,



Stephen Hochberg  
Environmental Specialist  
Trident Seafoods