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April 19, 2007

Jim La Spina  
Department of Ecology  
PO Box 47600  
Olympia, WA 98504-7600

**Re: Comments on Public Draft Industrial Stormwater General Permit**

Dear Mr. La Spina:

In response to the Department of Ecology's February 21, 2007 Public Notice of the Draft Industrial Stormwater General Permit ("Draft Permit"), CityIce Cold Storage Company ("CityIce") hereby submits these written comments.

**General Comments**

CityIce believes that its experiences managing stormwater effluent under the existing general industrial stormwater permit are typical of the experiences of other food-related businesses operating in the Puget Sound region. CityIce has devoted significant financial resources to developing and implementing adaptive management processes aimed at reducing adverse impacts caused by stormwater effluent on the quality of receiving waters. CityIce is concerned that the costs of planning, implementing, managing, monitoring, and reporting may be increased drastically under the Draft Permit, and it will be forced to commit large portions of its operational budget attempting to meet standards that have no discernible relationship to area wide water quality standards. Furthermore, the complexity of the 118-page Draft Permit increases opportunities for technical violations that could subject businesses to the additional staggering costs of Clean Water Act citizen suits.

Under the Draft Permit, the proposed lower benchmark values for certain pollutants (including copper and zinc) appear arbitrary and untested and will make compliance expensive and complex. For a majority of facilities in the region, the new benchmark levels will result in unavoidable exceedances. Under the Draft Permit, these exceedances will trigger corrective actions that, again, are costly and unproven, and that have no demonstrable or measurable benefits to the environment. CityIce is generally concerned that the Draft Permit establishes very low benchmark values without determining the reasonable potential of these values to cause or contribute to a violation of applicable water quality standards. The Draft Permit's metals parameters appear to have been set without any rigorous scientific review to establish what values are necessary to protect water quality standards. Scientific data are essential for evaluating the methodology used in calculating the benchmarks, and their absence here will require industries to spend vast sums of money without scientific justification.

The Draft Permit further imposes enforceable consequences when benchmark values are exceeded. For example, the Draft Permit requires implementation of best management practices ("BMPs") without any determination of whether BMPs exist that are capable of reducing effluent to below benchmark levels. This is particularly true for operational source control BMPs for metals, which, as far as CityIce can determine, have not been established. If an exceedance of benchmark values is going to trigger implementation of corrective actions, the regulating agency should identify practices and technologies that are actually capable of achieving the permit standards. To date, that has not happened.

The cost of compliance has been substantial under the existing general permit, and CityIce is concerned that the cost will increase dramatically if the Draft Permit is adopted. There appears to be a shift from the existing permit, which used monitoring results as a tool to evaluate the effectiveness of existing BMP performance, to an approach in which the monitoring is performed to determine an appropriate punitive response to the exceedance of an arbitrarily set benchmark level. This new approach is bad for business and may create no new benefits to the environment.

### **Specific Comments**

*S5 Benchmarks for Zinc and Copper.* The new benchmarks for zinc and copper are significantly lower than under the existing permit. The lower benchmark for copper (from 63.6 ug/L to 11.9 ug/L) is particularly significant because copper is included as a core parameter under the Draft Permit. Lowering these benchmarks will undoubtedly trigger a substantial increase in the number of corrective actions. Other benchmark changes are also significant, given the high percentage of industrial permittees that are already reporting regular exceedances of benchmark levels. For example, many permittees report exceeding the existing level for zinc

(117 ug/L), and many more can be expected to exceed the levels set under the Draft Permit (109 ug/L).

It is not clear how the Department of Ecology arrived at these lower benchmark values because very little explanation is provided. Nor does the Draft Permit or its accompanying fact sheet present the methodology used to calculate the benchmarks or provide any consideration or comparison of the costs of compliance with these benchmarks in relation to their contribution to the achievement of water quality standards. The absence of a clear explanation of the basis for and impact of the proposed limits deprives the public of a meaningful opportunity to comment on the Draft Permit.

Ecology should either maintain current benchmark levels or explain why the lower levels are necessary, how they were arrived at, and what their impact will be on regulated industries.

*S8.A-D Level One to Level Four Corrective Actions.* Under Section S8, there is an excessive reliance on a single data point. The Draft Permit provides that "each time a sampling result is above a benchmark value," a Level 1 response is required. The analysis and reporting requirements under a Level 1 response are disproportionate to the limited information provided by a single sampling event. Likewise, Levels 2-4 responses should not be based on a single sampling result. There is typically a high degree of variability in sampling results, depending on the size and intensity of the stormwater event, the length of the interval between rainfalls, the ambient levels of pollutants, and other factors.

Because there can be so much variability in stormwater quality, a single sample does not necessarily provide a useful indication of the performance of management practices. The Department of Ecology should consider using some type of rolling average for determining whether monitoring data trigger adaptive management requirements.

*S8.B Level Two Operational Source Control BMPs.* Level 2 corrective actions specify that, "within 45 days of starting a Level Two Corrective Action," permittees must complete additional operational source control BMPs. We are not aware of operational source control BMPs specifically addressing metals, much less a basis for assuming that it is always possible to implement such measures within 45 days. All relevant and applicable BMPs should be identified before this Level 2 corrective action requirement becomes effective.

*S8.C-D Triggering Events for Levels Three and Four Corrective Actions.* The Draft Permit provides that any two (even non-consecutive) benchmark exceedances after implementation of a Level 2 corrective action will trigger a Level 3 response. Similarly, any two exceedances after completing a Level 3 response will trigger a

Level 4 action. Apart from the proposal above to eliminate reliance on single data points and to switch to a more reliable and informative rolling average reporting system, two sampling events are simply not enough to indicate whether a costly Level 2 response has been successful in improving management practices and correcting the effluent problem. The completion of a Level 2 response may not produce immediate results, and the proposed 2-exceedance trigger may not adequately or accurately reflect the success of changed management practices. We propose that either more samples exceeding the benchmark be required before a Level 3 response is required or that Ecology develop a reporting system of rolling averages, in which the potentially expensive Level 3 corrective actions are based on reliable average effluent detections over several reporting periods.

Thank you for this opportunity to comment on the Draft Permit. If you have any questions concerning the contents of this letter, please contact Kim Suelzle of CityIce Cold Storage Company at (206) 285-6500.

Very truly yours,

Kim Suelzle  
President  
CityIce Cold Storage