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April 19, 2007

Jim La Spina
Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Re: **Industrial Stormwater General Permit**
Comments By Union Pacific Railroad Company

Dear Mr. La Spina:

We are submitting these comments on the Draft Industrial Stormwater General Permit ("Draft Permit") on behalf of Union Pacific Railroad Company ("UPRR").

UPRR appreciates the opportunity to comment on the Draft Permit. The scope of industrial activities relating to railroad transportation under the Draft Permit is "Railroad Transportation and vehicle maintenance shops (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication)."

This language is very similar to the scope under the current 2002 industrial stormwater general permit, which reads: "*Only those portions of the facility* that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication, equipment cleaning operations..." (emphasis added).

UPRR seeks clarification by Ecology that the scope of the Draft Permit regarding Railroad Transportation is limited to "those portions of the facility" that involve vehicle maintenance, etc. UPRR believes it would be unreasonable to expand the requirements of the Draft Permit (e.g., sampling, inspections, best management practices) beyond the vehicle maintenance areas specifically identified in both the 2002 and 2007 definitions quoted above.

For example, in addition to vehicle maintenance areas, UPRR's railyards include track beds, loading areas, office buildings, and parking lots. Track beds in general are not regulated under the current 2002 permit because they traverse the entire state and are not significant sources of releases of hazardous substances. It does not make environmental sense to regulate track beds within the boundaries of the railyard but not regulate track beds outside the boundaries. In loading areas, the potential for releases of hazardous substances is minimal because only closed containers are lifted onto railcars. Office buildings and/or administrative parking lots from which stormwater does not commingle from other regulated areas are specifically exempt from coverage under section S1.C.3 of the Draft Permit.

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Other than the vehicle maintenance and other areas specifically regulated under the current permit, UPRR does not monitor storm water elsewhere at its facilities (*e.g.*, storm water that drains to a ditch). UPRR believes it would be an unreasonable and burdensome modification of current requirements to (indirectly) change the scope of the regulated areas in the new Draft Permit.

Therefore, UPRR respectfully requests that Ecology confirm that the Draft Permit does not revise the current stormwater permit which regulates only those specified portions of Railroad Transportation facilities. Further, UPRR seeks clarification that the Draft Permit is not applicable to facilities where stormwater is contained fully on the facility (*i.e.*, where stormwater does not run off the facility or into a storm system or ditch).

In addition, the Draft Permit requires collection of at least four samples from October 1 through June 30 from each designated location, but no more frequently than two weeks from the same location. UPRR will try to collect samples during or just after storm events. There may be limited occasions, however, when UPRR collects a sample at a designated location in accordance with a scheduled event, but sampling happens to occur prior to a storm event. UPRR seeks clarification from Ecology that in such event it will not be required to resample at that location during or just after the next storm event.

Finally, UPRR requests that Ecology state whether requirements under the Draft Permit will be enforced on an equal basis in facilities in both Eastern and Western Washington. Currently, Ecology does not appear to be implementing as comprehensive a stormwater program in Eastern Washington compared to its activities in Western Washington.

Please do not hesitate to contact me if you have any questions about these comments.

Very truly yours,

SALTER JOYCE ZIKER, PLLC



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TAG/maz

cc: Norman Siler/UPRR
Robert Bylsma/UPRR
Randal Dyer/EMR