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April 20, 2007

Department of Ecology  
P.O. Box 47600  
Olympia, Washington 98504-7600

Attention: Water Quality Program - Jim LaSpina

Reference: Comments on Draft ISWGP

Dear Mr. LaSpina:

This letter presents Tree Top's comments on the **Public Notice Draft of the Industrial Stormwater General Permit** (hereinafter ISWGP).

### BACKGROUND

The ISWGP will significantly impact Tree Top, and in fact represents the most severe environmental challenge currently facing the company.

Tree Top has accomplished the intent of stormwater regulations by diverting runoff into process wastewater treatment facilities at all but two locations in Washington. This is an expensive option, and one that is certainly not available to most permittees.

We have diverted a portion of the runoff at the other two facilities into treatment, but still must comply with the ISWGP for the remainder. Options for these sources of runoff are limited and will be costly to construct and maintain.

### GENERAL COMMENTS

Tree Top had hoped that the new stormwater permit would:

- ◆ allow time for statistically-valid data collection,
- ◆ reduce the number of benchmarks and action levels, especially for initial corrective action thresholds,
- ◆ revise benchmarks and action levels to better correspond to potential water quality impacts,
- ◆ adjust benchmarks and action levels to reflect conditions east of the Cascades (e.g., metal benchmarks as a function of hardness),

- ◆ allow reasonable time for implementation when capital and/or treatment BMPs are required.

Ecology's proposed changes will not improve the existing permit in these key areas. By the time that the permit is modified for renewal in 2012, many if not most permittees will have been forced to implement treatment BMPs whether or not they are needed for protection of water quality.

EPA's draft Multi-Sector General Permit (MSGP) and Oregon's 1200-Z permit were reviewed in preparation for these comments. The differences between these permits and the ISWGP are profound. The ISWGP is far more stringent, and justification for this stringency has not been provided. Ecology has strayed far beyond the necessary elements of an NPDES stormwater permit.

The ISWGP is so complex and stringent that most permittees will be unable to comply with all of the provisions, leaving them vulnerable to Ecology enforcement and citizen suits.

## **SPECIFIC COMMENTS**

### **• Sampling**

The change from rigid quarterly to flexible wet season sampling is a welcome improvement. The new approach will yield data that are more indicative of impacts upon receiving water quality and will eliminate the current near-impossibility of obtaining meaningful dry season samples.

### **• Monitoring Data Variability**

Stormwater monitoring data exhibit wide variability, and geometric means or even arithmetic means would better reflect overall impacts upon receiving waters. The MSGP recognizes this by using averages for comparison to benchmarks.

Corrective actions, especially Level 3 and above, should be triggered by data collected over longer periods of time. Averages over at least 8 data points (two years) should be the basis for triggering Level 3 and should be followed by a similar amount of time for evaluation.

### **• Benchmarks and Action Levels**

It was disappointing to see the present permit's benchmarks and action levels continued with little change and in fact made more stringent for the most problematic parameters: zinc and copper. Regardless of what they are called, these concentrations function as effluent limits. They should be more realistically related to the potential for water quality impacts.

There are too many benchmark parameters, especially at the lowest corrective action level. For most industrial categories a simple indicator parameter such as suspended solids could be used for initial samples. Additional parameters could be added at Level 2 or Level 3 as appropriate.

Hardness levels east of the Cascades are typically much higher than on the west side, significantly affecting the impact of dissolved metals on aquatic organisms. Compliance with metal benchmarks should be based on values adjusted for site-specific hardness data, as is done in the MSGP.

Dissolved metal concentrations should be used for benchmarks, action levels, and monitoring since water quality standards are based on dissolved, not total, metals.

The triggers for corrective actions are open-ended. If the specified number of violations accumulate, no matter how far apart in time, then corrective action is required. This will eventually occur for many if not essentially all dischargers for one or another of the bloated suite of parameters. A mechanism to reset the clock is needed; e.g., consider the rolling mean or (better) the rolling geometric mean of the eight most-recent samples for comparison against benchmarks/action levels.

- **Corrective Actions**

The projects that will be required will not all be simple or inexpensive, and reasonable time to plan, design, and construct must be allowed.

The corrective action approach that was recommended in the 6415 Report is preferable to Ecology's approach and should be incorporated into the ISWGP, except that the time period for implementation of treatment BMPs should be extended by at least one year beyond the 6415 Report's deadline of the beginning of the next wet season.

The time allowed for evaluation of the efficacy of corrective actions should also be increased, to allow statistically-significant data to be collected.

- **Visual Inspections**

The increase in visual inspection frequency from quarterly to monthly is unnecessary. Tree Top's experience has been that the people involved with the stormwater program generally know what's going on around the facilities. If a change to the SWPPP is needed it will be known, and more frequent inspections simply waste time and paper.

- **Level 4**

The requirements for Level 4 corrective actions clearly go beyond the concept of a general permit and should be removed from the ISWGP. When a facility reaches the level that significant treatment facilities are required, then an individual permit is needed.

If Ecology is determined to include a Level 4 corrective action in the permit, then it should only be required only after a clear failure of the Level 3 actions, e.g., when the 8-sample rolling average or rolling geometric mean exceeds the action level.

- **Time Allowed for Corrective Actions**

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The ISWGP allows only 6 months for construction of Level 2 capital BMPs and only 12 months<sup>1</sup> for construction at Levels 3 and 4. This is not consistent with compliance schedules that are commonly negotiated by Ecology in connection with industrial and municipal wastewater treatment facilities under individual permits. The amount of work that will go into planning, design, and construction of facilities under the ISWGP will often approach that required of individual permittees with much larger systems. The time limits for implementation of capital and treatment BMPs should be significantly increased.

We encourage Ecology not to issue this permit as currently drafted. Numerous shortcomings have been identified in comments that have been made public. The written comments that will be received by the April 20 deadline should be considered and the draft revised and reissued.

Sincerely,

Jeff W. Davis, P.E.  
Tree Top, Inc., Civil Projects Engineer

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<sup>1</sup> S8.C of the ISWGP specifies that the Level Three Response report shall include an implementation schedule not to exceed 12 months. The time allowed for development of the report is not clearly defined in S8.C. Presumably the 12-month clock would start when the report is submitted.

However, note that the Level Three Report Form in Appendix 6 implies that the 12 month period includes preparation of the response report.