July 14, 2009

via email to industrialstormwatercomments@ecy.wa.gov

Jeff Killelea
Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

Re: Comments on Draft Industrial Stormwater General Permit

Dear Mr. Killelea,

Darigold, Inc. is a producer-owned cooperative processing milk from our owners in order to provide a secure market for the milk produced on their dairy farms. We operate six plants serving 350 dairy farmers throughout all of Washington. We are extremely concerned that the proposed new Industrial Stormwater General Permit (ISGP) will lead to significantly higher operating costs for our milk processing plants, which will reduce our ability to compete with products imported from out of state. This will bring economic hardship to our owners, who have already been hit hard by the economic downturn. In addition to the specific comments included in this letter, we encourage you to consider the economic impact of the stringent requirements included in the proposed new ISGP.

Our concern about the economic impact to our Washington producers is due to the draft ISGP being far more stringent and expensive to implement than the EPA Multi Sector General Permit applicable to businesses in other states. For instance, for our milk processing plants the EPA requires only visual inspection of stormwater runoff while Condition S7 of the proposed ISGP requires that we hire a "Certified Industrial Stormwater Manager (CISM), Certified Professional in Stormwater Quality (CPSWQ), or Professional Engineer" to perform quarterly collection of samples that must be sent to a laboratory for testing. We object to these certification requirements and request that, similar to federal requirements, our staff be allowed to perform routine stormwater monitoring.

The cost of either training our personnel or hiring a consultant with the required credentials and paying the laboratory fees is only the beginning: if the "benchmarks" in the ISGP are exceeded, Condition S8.C.3 of the proposed ISGP requires the hiring of consultants to perform an AKART analysis and design a treatment system. We feel that we should be allowed the option of responding to stormwater quality problems using our professionally trained staff without involvement of expensive consultants. We also feel that the Best Management Practices described in Ecology's Stormwater Management Manuals should be the basis of corrective actions – not an expensive "reinventing the wheel" process of determining AKART for every individual benchmark exceedance that occurs. Isn't this why Ecology developed the Stormwater Management Manuals in the first place?

The requirements for a Level Four Corrective Action included in Condition S8.D of the proposed ISGP are even more laden with implicit requirements that consultants be retained. In particular, requirements for receiving water studies and engineering reports contained in Conditions S8.D.1.a.i and ii are excessive. These studies and reports typically cost many thousands of dollars per study or report, just to produce the document (as opposed to addressing the problem). The provisions for revocation of coverage under the ISGP included in Conditions S8.D.1.d and e amount to a mechanism by which Ecology can force our milk plants to close, which is an inappropriate and excessive response to stormwater quality problems. Both the requirements for consultant reports and the provisions allowing Ecology to close our plants should be removed from the ISGP.

Condition S8 also requires unreasonably fast implementation of Level Three and Level Four corrective actions. These corrective actions not only involve the consultant reports that we object to, they also require design and construction of complex and expensive treatment facilities. We object to the requirement that this process be completed "Immediately, but no later than the deadline specified in Table 6." Table 6 allows a maximum of six months from triggering a Level Three corrective action to completion of construction. Only three months is allowed for implementation of the more complicated and expensive Level Four corrective action. We cannot budget for these projects within these short timeframes. Merely addressing SEPA and Ecology design review requirements often takes three months – the entire time allowed for completion of a Level Four corrective action! At least 12 months should be allowed from the time any corrective action is found to be necessary to when in must be completed.

If we are faced with the prospect of having to design and construct a treatment system for our stormwater runoff, we may wish (if feasible) to use dry wells, swales or other BMPs as described in Ecology's Stormwater Management Manuals to eliminate all stormwater discharges from one of our milk plants. Condition S13 does not allow permit termination if we do this, even though these BMPs are widely used. Condition S1A of the ISGP states "This statewide permit applies to facilities conducting industrial activities that discharge stormwater to a surface water body or to a storm sewer system that drains to a surface water body." Condition S13 should be changed so, if we are able to make modifications such that there is no discharge, we can terminate coverage under the ISGP.

The benchmark requirement in Table 2 that stormwater has "no visible oil sheen" is unreasonable in that even a minute quantity of oil can cause a sheen. This should be changed to the current, quantifiable limit of 15 milligrams per liter.

The nitrate/nitrite limit of 0.68 milligram per liter in Table 3 is unreasonably low in that this limit is a fraction of limits applied to drinking water and treated wastewater routinely discharged to rivers and streams. Forcing stormwater to be treated to levels more stringent than drinking water or treated wastewater is unreasonable.

The requirement in Condition S3.B.3.b.i.5.a that "All chemical liquids, fluids, and petroleum products, shall be stored on an impervious surface that is surrounded with a containment berm or dike …" should be changed to clarify that it applies only to hazardous chemicals and petroleum products, not 'fluids' such as water.

The requirement in Condition S3.B.4 requiring all dischargers to construct both sediment control and filtration BMPs is excessive. This requirement should apply only to facilities that have excessive erosion or sediment generation, not to all facilities governed by the ISGP.

We appreciate the opportunity to provide these comments and hope Ecology will make the changes we request. Please feel free to contact me by mail at the address on the first page of this letter or by phone at 208-631-9213 if you would like additional information regarding any of the issues raised in this letter. Thank you for your consideration.

Sincerely,

Chris Lammer, P.E.
Environmental Manager
Darigold, Inc.