

July 12, 2009

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

DEPARTMENT OF ECOLOGY

**JUL 16 2009**  
WATER QUALITY PROGRAM

**RE: Comments on Proposed Industrial Stormwater General Permit**

Dear Mr. Killelea:

Ocean Beauty Seafoods, LLC appreciates the opportunity to comment on the Washington Department of Ecology's proposed Industrial Stormwater General Permit ("ISGP"). We applaud Ecology's efforts to improve the ISGP and, in particular, support the proposed change to condition "S4.B Sampling Requirements" to allow sampling anytime during discharge.

We are concerned, however, about certain aspects of the proposed ISGP. Our concerns and recommended changes are as follows:

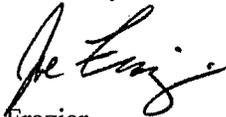
- 1. Elimination of Action Levels.** The current ISGP has both "benchmarks" and "action levels." The action levels are substantially higher than the benchmarks and play an integral role in triggering corrective action. The proposed ISGP eliminates action levels. As Ecology states in its "Industrial Stormwater General Permit – Fact Sheet" (June 3, 2009 Public Comment Draft), because "benchmark values are not numeric effluent limitations, discharges that exceed a benchmark value are not automatically considered a permit violation or a violation of water quality standards." The benchmarks do, however, trigger corrective action. By eliminating action levels from the proposed ISGP, Ecology has made the benchmarks the effective action levels, in some instances at much lower levels than the action levels under the current ISGP. For example, the proposed ISGP would reduce the 50 NTU action level in the current ISGP to what is effectively a 25 NTU action level under the proposed ISGP (the same level as the turbidity benchmark under the current ISGP). This change may require us to take corrective action for stormwater discharges outside our control. For example, our Seattle facility is impacted by turbidity arising from pollutants arising from an unpaved right-of-way that we do not own or control but must use in order to access the facility. We have taken appropriate action to mitigate such impacts and believe that it would be more appropriate for Ecology to set the turbidity benchmark in the proposed ISGP at 50 NTU. We therefore question the scientific rationale for Ecology's proposal to eliminate action levels and request that Ecology clarify whether exceeding a benchmark is now a permit violation or provide scientific and legal support for those benchmarks that are effectively lower action levels under the proposed ISGP.
- 2. Requalification for Consistent Attainment.** Proposed ISGP Condition S4.B.6. provides: "*After the effective date of this permit, the Permittee may suspend sampling for one or more parameters based on consistent attainment of benchmark values when: ...*" The introductory clause of this provision apparently requires facilities that have previously established consistent attainment to re-qualify. We request that Ecology remove the introductory clause to proposed Condition S4.B.6 and allow facilities that have established consistent attainment under the current ISGP to carryover those results to the proposed ISGP. This proposed modification will save permit holders costs without any risk of harm to water quality. In the alternative, we propose that Ecology establish a standard for "confirmation" or "verification" of consistent attainment that is less onerous than two years of further sampling for a parameter that has previously met the consistent attainment standard. For example, Ecology could

require a facility to conduct two quarters of confirmation sampling and file a verification that the facility has not made any substantive changes to its operations or facility that would impair its historic "consistent attainment." This proposed modification would address any concerns Ecology may have about the possibility of changed conditions and allow permit holders to verify ongoing compliance at lower cost than permitted under the ISGP as presently proposed.

3. **Mandatory Level Two Corrective Action.** Proposed ISGP Condition S8.B. mandates Level Two Corrective Action for facilities that "triggered Corrective Action Level 2 and/or Level 3" under the current ISGP. As proposed, each facility listed in Appendix 6 to the proposed ISGP, including Ocean Beauty, will be required to submit a Level Two Corrective Action whether or not the facility has already completed and submitted to Ecology an equivalent "level two source control report" under the current ISGP. The proposed ISGP requires reporting on specific forms that will be appendices to the proposed ISGP. It appears, therefore, that a facility cannot rely on prior reports and materials submitted to Ecology. We request that Ecology clarify that level two source control reports previously submitted to Ecology are sufficient to meet proposed Condition S8. In the alternative, we request that Ecology modify the proposed ISGP to allow facilities listed in Appendix 6 to rely on such materials. To do otherwise would not meet the ISGP's goals and would place unfairly duplicative and unnecessary administrative burdens and costs on facilities that have already addressed corrective actions.
4. **New Inspector Training.** Proposed ISGP Condition S7.A.2. requires that, beginning January 1, 2012, "visual inspections shall be conducted by a Certified Industrial Stormwater Manager (CISM), Certified Professional in Stormwater Quality (CPSWQ), or Professional Engineer." We anticipate that this provision will increase, perhaps substantially, permit holders' costs for completing visual inspections. This anticipated cost increase is amplified by the proposed increase in visual monitoring frequency from quarterly in the current ISGP (Condition S4.D.1) to monthly in the proposed ISGP (Condition S7.A.). Ocean Beauty, and probably many other permit holders, will likely have its stormwater compliance employees trained and qualified to conduct these inspections according to the proposed ISGP standards. We request, therefore, that Ecology develop a standardized "online" course for this training. We further request that Ecology subsidize the training or charge a nominal fee that makes it affordable for permit holders to have their staff trained.

If you have questions or need additional information regarding these comments, please do not hesitate to contact me at (206)-286-2577.

Sincerely,  
Ocean Beauty Seafoods, LLC



Joe Frazier  
Director, Corporate Food Safety, QA, and Regulatory Affairs

Cc: M. Palmer, J. Hanrahan, T. Ross, C. Luna – OBS LLC