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July 24, 2014

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Mr. Jeff Killelea
Washington State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600

Re: Comments on the Draft Revised Industrial Stormwater General Permit – Released for Public Comment May 7, 2014

Dear Mr. Killelea:

This letter provides Lynden Incorporated's (Lynden), comments on the Draft Industrial Stormwater General Permit (Draft ISGP) released for public comment on May 7, 2014. Lynden subsidiaries operate containerized and bulk shipping facilities on the Lower Duwamish River in Seattle, Washington, which discharge stormwater under the current Washington State Department of Ecology (Ecology) ISGP (Permit Nos. WAR001365 and WAR127039).

We appreciate Ecology's efforts in the production of the public comment Draft ISGP. We agree with a majority of the revisions included in the Draft ISGP as they are straightforward refinements and adaptations of the current ISGP. However, Section 6 of the Draft Permit, *Discharges to Impaired Waters*, includes language that is unclear, will produce data that are hard to interpret, and includes requirements that are unnecessary to improved stormwater quality from facilities with ISGP coverage as follows:

The numeric effluent limit for Total Suspended Solids (TSS) is too low:

- By Ecology's own estimation (see Ecology's 2008 *Industrial Stormwater Discharges to Impaired Water Bodies*), nearly 40% of all discharges will exceed the 30 milligrams per liter (mg/L) effluent limitation.
- Of the 2,466 ISGP single sample TSS results reported to Ecology from 2010 to present, 726 (or 29%) exceeded the proposed 30 mg/L numeric effluent limitation.



- The TSS numeric effluent limit was not included in the *Economic Impact Statement* for the *National Pollutant Discharge Elimination System Stormwater Discharge General Permit*.
- The TSS numeric effluent limit is likely to be exceeded, even in areas that do not have ongoing industrial operations. See Table 4-1 from the U.S. Environmental Protection Agency's (EPA's) 1999 *Preliminary Data Summary of Urban Stormwater Best Management Practices*.

Table 4-1. Median Event Mean Concentrations for Urban Land Uses

Pollutant	Units	Residential		Mixed		Commercial		Open/ Non-Urban	
		Median	COV	Median	COV	Median	COV	Median	COV
BOD	mg/l	10	0.41	7.8	0.52	9.3	0.31	--	--
COD	mg/l	73	0.55	65	0.58	57	0.39	40	0.78
TSS	mg/l	101	0.96	67	1.14	69	0.85	70	2.92
Total Lead	µg/l	144	0.75	114	1.35	104	0.68	30	1.52
Total Copper	µg/l	33	0.99	27	1.32	29	0.81	--	--
Total Zinc	µg/l	135	0.84	154	0.78	226	1.07	195	0.66
Total Kjeldahl Nitrogen	µg/l	1900	0.73	1288	0.50	1179	0.43	965	1.00
Nitrate + Nitrite	µg/l	736	0.83	558	0.67	572	0.48	543	0.91
Total Phosphorus	µg/l	383	0.69	263	0.75	201	0.67	121	1.66
Soluble Phosphorus	µg/l	143	0.46	56	0.75	80	0.71	26	2.11

COV: Coefficient of variation
 Source: Nationwide Urban Runoff Program (US EPA 1983)

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- The current Environmental Protection Agency multi-sector general permit daily maximum limits for TSS ranges from 23 to 100 mg/L depending on the industrial class of the facility. Ecology also currently includes a 100 mg/L benchmark monitoring for specified industrial classes. These established limits/benchmarks further demonstrate that a one-size-fits-all approach is not appropriate for the implementation on a broad scale across many industrial classes and land use types.
- We request that Ecology collect more data over this permit term to develop a technical basis, beyond best professional judgment, for establishing a revised TSS effluent limit in 2020.

Line cleaning and solids sampling provisions are overly general, will cause confusion, and will create potential releases:

- Ecology should be more specific as to what conditions would be acceptable for system cleaning and sampling waivers. Additional categorical waivers should include the following:
 - All sections of pipe from the most down-gradient in-line structure to the outfall; cleaning these sections of pipe will likely cause releases to the receiving water
 - Pipes and stormwater structures that are inaccessible due to configuration (i.e., non-inline structures)
 - Pipes and stormwater structures upgradient of treatment systems.
- The proposed reporting requirement for solids will produce data that are difficult to interpret and create confusion, as follows:
 - Facilities are already required to characterize solids wastes for the purposes of disposal.
 - Solids scraped from the stormwater structures and pipes are not representative of the water or solids quality at the point of discharge. Solids that accumulate in catch basins or settling basins are a result of an engineered solids removal structure. Therefore, the retention of solids within the basic treatment structure attenuates the potential for solids release at the point of discharge.

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- There is no stated use of the proposed Solids Monitoring Report data. Given that the data are not easily interpreted and there is no data quality objective associated with their collection, Ecology should remove this requirement as characterization for disposal is already required.
- If Ecology does include this requirement in the final permit, the ISGP must specify acceptable sampling types and frequency.

Reporting of numeric effluent limit violations should be simplified.

- The Water Quality Permitting Portal system should be updated to include reporting requirement associated with numeric effluent limit violations.
- The numeric effluent limitation violation reporting timeframe should continue to be 30 days, rather than the 5 days proposed, to allow for appropriate response coordination.

Lynden has invested significant time and resources into storm water treatment at its facilities in order to comply with the current ISGP requirements. Installation and maintenance costs total several hundred thousand dollars, and will continue indefinitely. And now, despite having achieved compliance currently, the company faces further costs incurred as the regulatory bodies prepare to “move the goal posts” in the new permit.

In addition to the cost of purchasing/installing/maintaining new treatment infrastructure, risk persists of financial penalties associated with once again exceeding a new total suspended solids numeric effluent limit that is set too low (\$10K per event). On top of potential DOE fines, there are also potential litigation costs if the company is forced to defend against 3rd parties that may make an issue of such exceedances.

Lynden’s assessment is that it is unreasonable for industry to be burdened with an even more rigid standard when the best available science indicates that the ecological benefit of the currently specified standard is immeasurably small.

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We appreciate Ecology's consideration of our comments on the draft ISGP. Lynden is committed to maintaining compliance throughout the next ISGP cycle and providing economic opportunity and environmental stewardship to the people of Washington State.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Everett Billingslea'.

Everett Billingslea
Sr. Vice President & General Counsel

cc: Rheagan Sparks, Lynden Incorporated