From: David Johnson
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Posted At: Industrial Stormwater Comments
Conversation: Draft Permit comments
Subject: Draft Permit comments

July 15, 2009

Jeff Killelea
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Dear Mr. Killelea:

I wish to offer the following comments on the proposed Ecology ôIndustrial Stormwater General Permitö draft version dated June 3, 2009.

In general, the draft permit imposes a significant new new paperwork compliance burden on small business through several new requirements.

Inspections (S7): The permittee is required to conduct and document in the SWPPP a monthly visual inspection of the site. A lengthy list of inspection requirements are enumerated in Section S7.B, each of which must be documented in the inspection report. Beginning in 2012, the inspection can only be performed by a ôCertified Industrial Stormwater Managerö, a Certified Professional in Stormwater Quality, or a Professional Engineer. The general water quality assumptions implicit in this requirement are that such inspections will identify pollutant sources, identify measures to remove those pollutant sources from exposure to precipitation, ensure that the inspections are performed by a competent person, and that the inspections will be documented for later review. The resulting inspection records are then retained on site where they will subject to legal action and severe financial penalties if any requirement is not completed correctly. While this is undoubtedly beneficial for law firms and inspection professionals, it is unlikely to have any measurable effect on stormwater quality because impacts on stormwater quality from industrial sites are generally structural. Structural impacts are created by the nature of the industrial activities that are carried out on the site which are exposed to precipitation and are not changed by inspections. For example, stormwater from an oil refinery is likely to become contaminated with various types of oil and fuels and frequent inspections will not have an effect other than to identify an unusual source created by a spill or

sloppy maintenance practices. Such unusual sources are unlikely to be identified promptly by a monthly inspection and would be better addressed by focusing resources on the routine practices employed at the facility rather than on inspections and their documentation.

Recommendation: Eliminate S7.A.2. Eliminate S7.C.1.(c-f). This will drastically reduce the paperwork compliance burden, significantly reduce the litigation burden, and allow the inspections to be performed by site personnel.

Benchmark Levels: The draft permit establishes much lower benchmark levels for copper at 14 ppb for Western Washington and 32 ppb for Eastern Washington while eliminating the former action level. Paradoxically, the zinc benchmark level is increased from 117 ppb to 200 ppb in Western Washington and 255 ppb in Eastern Washington . Since the benchmark levels have effectively become the action levels, these changes are magnified. No consideration is made for the form of the metal, either dissolved or solid. Copper tends to be in a solid insoluble form in stormwater runoff while its damaging aquatic effects are created in a dissolved form. Drinking water levels of copper tend to be much higher than the benchmark levels. For example, the City of Tacoma reported a value for copper of 589 ppb as their highest level detected in their most recent consumer confidence report. Also, there is no justification for providing a significantly different standard for metals in one portion of the state versus another. The imposition of arbitrary standards on geographic regions with no underlying technical basis would seem to be a violation of the equal protection requirement of the U.S. Constitution. The very low metals level for copper would require sophisticated and complex treatment processes to achieve that are unlikely to be technically or economically feasible for implementation.

Recommendation: Provide a single benchmark for all parts of the State. Maintain the benchmarks at the levels established in the current permit.

Thank you for the opportunity to make these comments.

Sincerely,

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