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Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
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Re: Comment Letter – April 1, 2014 Board Meeting: Final Draft Industrial General Permit

Dear State Water Resources Control Board,

Please accept these additional comments on the latest draft of the General Industrial Storm Water Permit on behalf of the California Sportfishing Protection Alliance and the California Water Impact Network (hereinafter "CSPA"). CSPA already has submitted substantive comments on the various drafts of the Permit and hereby incorporates those comments by reference. These additional comments focus on two overarching issues that continue to undermine the effectiveness of the new Permit.

First, CSPA appreciates the addition of the requisite reference to the CWA's BAT and BCT standards to Section V.A. of the Permit. However, in addition to adding that critical language, staff also has added at least one term – "practicability" – that is, on its face, plainly inconsistent with both the BAT and the BCT standard. Section V.A now reads:

Dischargers shall implement BMPs **that comply with the BAT/BCT requirements of this General Permit** to reduce or prevent discharges of pollutants in their storm water discharge in a manner that reflects best industry practice considering technological availability and economic **practicability and** achievability.

The State Board has no authority to redefine the terms BAT and BCT contrary to the definitions established by the Clean Water Act. See CSPA, et al., April 29, 2011 Comments on Draft General Permit. "Practicability" is not an authorized criterion for establishing a BAT-based effluent limitation. See 33 U.S.C. § 1314(b)(2)(B); 40 C.F.R. § 153.2(c)(3). Nor is it an authorized criterion for BCT-based effluent limitations. See 33 U.S.C. § 1314. See also 40 C.F.R. § 153.2(c)(2). In order to be consistent with the Clean Water Act's definitions of BAT and BCT, the State Board must delete the term "practicability" from Section V.A.

Second, the NALs for hardness-dependent metals included in the Permit are based on an extremely high hardness number – 400 mg/L. Permit, Table 2 ("The NAL is

the highest value used by U.S. EPA based on their hardness table in the 2008 MSGP”) As a result, the NALs for zinc, copper, nickel, lead, cadmium, and silver are much higher than the benchmark values adopted by EPA in its nationwide permit and those inflated numbers are not protective of water quality for almost every waterbody in California. A hardness of 400 mg/L rarely occurs in the State’s ambient waters, especially during wet weather in those areas where most industrial discharges are occurring, *i.e.* urban and suburban areas. Indeed, for most major waterbodies, such a high hardness value has and will never occur. A brief review of monitoring data compiled or collected for the Sacramento River, San Joaquin River, the Delta, Russian River, Los Angeles River, and San Gabriel River demonstrates that hardness of 400 mg/L never occurs in those rivers during wet weather. See accompanying data excerpts; See http://www.waterboards.ca.gov/losangeles/board_decisions/basin_plan_amendments/technical_documents/77_New/010510%20LA%20River%20Metals%20Reconsideration_Staff%20Report.pdf (Los Angeles River hardness around 80 mg/L); http://www.waterboards.ca.gov/losangeles/board_decisions/basin_plan_amendments/technical_documents/98_New/FINALBallonaMetalsandToxicsReopenerStaffReport21Nov13.pdf (recommended hardness for Ballona Creek is 82 mg/L); http://www.swrcb.ca.gov/centralvalley/water_issues/irrigated_lands/monitoring_plans_reports_reviews/monitoring_report_reviews/coalitions/sanjoaquin_county_delta_waterquality/sjcdwqc_2013mar_amr.pdf (March 1, 2013 San Joaquin County & Delta Water Quality Coalition hardness data for various creeks in and around Delta well below 100 mg/L); Sacramento WWTP, Receiving Water Data from CWIQS, Sacramento River, Dec. 12, 2013, hardness equals 68 mg/L); Healdsburg WWTP, Receiving Water Data from CWIQS, Russian River, Dec. 3, 2013, hardness equals 132 mg/L; Healdsburg WWTP, Receiving Water Data from CWIQS, Russian River, Apr. 17, 2013, hardness equals 134 mg/L. And for those discharges going to saline waters, such as San Francisco Bay, the metals standards are not hardness dependent. Hence, the State Board does not have any evidentiary justification for assuming that all receiving waters throughout the State have a hardness of 400 mg/L or that NALs based on such an unnaturally high hardness value either will protect beneficial uses, meet applicable water quality standards, or be reflective of BAT/BCT. CSPA requests that the State Board recalculate the NALs to reflect a range of hardness values that would be reflective of the waterbodies into which industrial storm water discharges are occurring.

CSPA and C-WIN look forward to the April 1, 2014 hearing and discussing these recommended changes to the final draft permit, as well as other concerns that remain from our previous comments.

Sincerely,

/s/ Michael Lozeau

Lozeau Drury LLP
On behalf of CSPA and C-WIN