UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

July 26, 2018

Michelle Beckwith, Chief
Coastal Storm Water Unit
Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501

Re: Draft Sector-Specific General Permit for Storm Water Runoff Associated with Industrial Activities from Scrap Metal Recycling Facilities (NPDES Permit No. CAG618001, Order No. R8-2018-0069)

Dear Ms. Beckwith:

Thank you for the opportunity to review and comment on the draft Sector-Specific General Permit for Storm Water Runoff Associated with Industrial Activities from Scrap Metal Recycling Facilities (NPDES Permit No. CAG618001), which was public-noticed on June 25, 2018. We have outlined our major concerns below. As some provisions in the draft permit do not meet Clean Water Act requirements, we request that the Board modify the permit prior to issuance to ensure it meets all applicable federal statutory and regulatory requirements as discussed in this letter.

The permit provides 2 options: (1) comply with numeric action levels (NALs) that trigger specific BMPs or (2) comply with numeric effluent limitations (NELs). First, it is not clear how the Regional Board conducted the reasonable potential analysis and calculated numeric effluent limitations (NELs). The fact sheet lacks documentation of a reasonable potential analysis to determine whether water quality-based effluent limits are necessary to protect designated uses from the discharge. NPDES regulations at 40 CFR 122.44(d) require permits to include any requirements in addition to or more stringent than technology based requirements where necessary to achieve applicable water quality standards. To establish WQBELs, the permitting authority must determine whether the discharge has the reasonable potential to cause or contribute to an excursion above any applicable WQS. The fact sheet mentions an RPA was conducted, but the method and results of the RPA are not included. The fact sheet must provide documentation of the reasonable potential analysis and calculation of WQBELs.

Second, it is also not clear why the NELs include different pollutants than the numeric action levels (NALs). The fact sheet mentions that the NALs are taken from EPA's multi-sector general permit, but further explanation is needed to describe how the

combination of NALs and specific BMPs are sufficiently protective of water quality standards, and why and if they are different from the NELs. Federal regulations at 40 CFR 122.44(k)(2) indicate that inclusion of BMPs in lieu of numeric effluent limitations is appropriate only in cases where numeric limits are infeasible. The fact sheet should explain why NELs are infeasible for any pollutants for which a compliance option based on action levels and BMPs is authorized and why the BMPs are sufficient to result in attainment of applicable water quality objectives and associated TMDL wasteload allocations.

Based on the above analysis, the fact sheet must also include an explanation of how the NELs meet antidegradation and antibacksliding requirements pursuant to 40 CFR 131.12 and 40 CFR 122.44(l) respectively.

Lastly, the draft permit does not include sufficient language to meet NPDES regulatory requirements concerning implementation of applicable TMDL WLAs. NPDES permits must contain effluent limits and conditions consistent with the requirements and assumptions of wasteload allocations in the TMDL. See 40 CFR 122.44(d)(1)(vii)(B). The permit does not include WQBELs implementing the TMDL WLAs, and the permit language implies the permittee will determine which impaired waters and which TMDLs are applicable. This approach is inconsistent with both federal regulatory requirements and recently general permits issued in California, which specify applicable TMDLs and effluent limitations necessary to meet associated WLAs. The permit needs to be revised to ensure these requirements are met and the fact sheet needs to include a description of the applicable TMDLs and impaired waters, and how the permit's effluent limitations implement the associated WLAs.

We appreciate the opportunity to provide input on the public notice draft permit. We look forward to working with you and your staff to resolve these concerns prior to issuance of this permit. Please contact me at (415) 972-3464 or Elizabeth Sablad at (415) 972-3044 if you have any questions regarding our comments.

Sincerely,

for David Smith, Manager
NPDES Permits Section (WTR-2-3)