



August 15, 2018

Via Electronic Mail

Louisiana Department of Environmental Quality (LDEQ)
Public Participation Group
P.O. Box 4313
Baton Rouge, LA 70821-4313
DEQ.PUBLICNOTICES@LA.GOV

Re: Comments on Impala Terminals Burnside LLC, Burnside Terminal Draft Water Discharge Permit, AI No. 39945, Permit No. LA0125938, Activity No. PER20170001.

Dear Public Participation Group:

The Gulf Restoration Network (GRN) respectfully submits the following comments on the Draft Water Discharge Permit for the Impala Terminals Burnside LLC, Burnside Terminal, AI Number 39945, Permit Number LA0125938, Activity Number PER20170001. We reserve the right to rely on all public comments submitted, request a written response to our comments, and request written notification when any action is taken on this Draft Permit (actions such as issuance, denial, remand, etc.). If the permit is amended or altered in response to comments, we request an opportunity to review and comment on any amended permit.

The Burnside Terminal is a bulk marine terminal that handles, transfers, and stores dry bulk material. These materials include bauxite, iron ore, alumina, pox carbon, and most notably, coal and petroleum coke. The facility discharges stormwater runoff and sanitary wastewater into the Panama Canal and the Mississippi River, subsegment 040403 of the Lake Pontchartrain Basin and subsegment 070301 of the Mississippi River Basin. GRN and its members throughout Louisiana have a substantial interest in this draft permit because of the discharges into the Mississippi River, a primary drinking water source. We appreciate the opportunity to comment of the facility's draft water discharge permit and look forward to the Louisiana Department of Environmental Quality's (LDEQ) responses.

1. Pollutants are not properly limited or treated

The Burnside Terminal transfers and stores petroleum coke and coal, which creates hazardous runoff which is discharged into the Mississippi River. These discharges are especially dangerous given the fact that the Mississippi River is designated as a drinking water supply. The pollutants that this runoff releases into the River will affect drinking water downstream, specifically for the greater New Orleans area.

Despite the designated uses of the receiving waterbody, Outfall 005, which discharges stormwater runoff from the bauxite conveyor area, requires no treatment of these discharges. In order to protect the waters of Louisiana, LDEQ should require that all discharges from this terminal are first treated. Further, coal and petcoke stormwater contains multiple other pollutants which are not monitored or limited. The only monitored pollutants are BOD, TOC, TSS, Oil and Grease, Fecal Coliform, and pH; however, coal and petcoke contain and cause other types of water pollution, such as nickel, copper, and mercury. These should be monitored and limited as well to protect the drinking water in the Mississippi River and protect the designated uses of the Lake Pontchartrain Basin.

Additionally, LDEQ should utilize X-Ray Spectrometry Technology (XRF)¹ to sample coal discharges in the Mississippi River. Due to the cumulative impacts of this coal and pet coke to the State Master Plan (see Figures 1, 2, 3, and 4), the volume of material in the river and dredged from the river, this technology is the best-suited to proper sampling. LDEQ cannot fully assess the cumulative impacts of the Impala Terminal's Burnside proposed permit unless LDEQ can see that no excess materials from the terminal are discharged into the river. To do this, LDEQ must require that IMT take monthly samples from each coal and petcoke pile on the Myrtle Grove Terminal property, after any mixing,

¹ For further information on XRF Technology, see: Beckhoff, B., Kanngießner, B., Langhoff, N., Wedell, R., Wolff, H., Handbook of Practical X-Ray Fluorescence Analysis, Springer, 2006, ISBN 3-540-28603-9; Bertin, E. P., Principles and Practice of X-ray Spectrometric Analysis, Kluwer Academic / Plenum Publishers, ISBN 0-306-30809-6; Buhrke, V. E., Jenkins, R., Smith, D. K., A Practical Guide for the Preparation of Specimens for XRF and XRD Analysis, Wiley, 1998, ISBN 0-471-19458-1; Kalnicky, D J, and Singhvi, R. [Field portable XRF analysis](https://doi.org/10.1016/S0304-3894(00)00330-7) of environmental samples Journal of Hazardous Materials Volume 83, Issues 1-2, 7 May 2001, Pages 93-122, available at: [https://doi.org/10.1016/S0304-3894\(00\)00330-7](https://doi.org/10.1016/S0304-3894(00)00330-7); Jenkins, R., X-ray Fluorescence Spectrometry, Wiley, ISBN 0-471-29942-1; Van Grieken, R. E., Markowicz, A. A., Handbook of X-Ray Spectrometry 2nd ed.; Marcel Dekker Inc.: New York, 2002; Vol. 29; ISBN 0-8247-0600-5

and conduct XRF on those samples. This way, the dischargers of materials recovered from the river and the restoration sites can be precisely identified. Field Portable XRF technology exists, so such sampling is highly feasible on a monthly basis, alongside the monthly DMR reports. When properly used, this sampling will hold the correct polluters accountable and will reduce superfluous litigation, decreasing the court systems' (and thereby the State of Louisiana's) costs and resources. LDEQ should require XRF sampling be completed monthly by IMT before approving this permit.

2. A proper antidegradation analysis must be done

LDEQ has not done a proper antidegradation analysis in this draft water discharge permit, especially due to the two new Outfalls established in this permit (Outfalls 004 and 005, which discharge treated sanitary wastewater and bauxite conveyor stormwater runoff, respectively). LDEQ has not shown that antidegradation requirements have been met for the receiving waterbodies. The Clean Water Act declares that states must implement an antidegradation policy which ensures that existing water uses and quality be maintained and protected. 40 C.F.R. § 131.12(a)(1). Louisiana has implemented this antidegradation policy, and therefore LDEQ must demonstrate that the permit will protect the waterbody's designated use and quality. See 40 C.F.R. § 122.44(d)(1)(vi)(A). LDEQ has failed to do so in this instance. The designated uses for the receiving waterbodies are: primary contact recreation, secondary contact recreation, propagation of fish and wildlife, drinking water supply, and outstanding natural resources. Some of these standards are listed as supported in the 2016 Integrated Report, meaning that LDEQ must ensure that these waterbodies are not further degraded so as to keep them supporting their designated use standards.

Further, some of the designated uses are not listed as supporting standards in the 2016 Integrated Report, therefore LDEQ also has an interest in attempting to better these waterbodies and prevent any further degradation. The draft permit does not adequately address antidegradation, specifically with regards to the two new Outfalls; LDEQ must ensure that the Burnside Terminal's new outfalls do not degrade waterbodies that support their designated uses, nor further degrade waterbodies that are already degraded to the point of non-support. Because these outfalls are adding more pollution to the waterbodies, it is difficult to argue that they will not degrade the receiving waterbodies, but LDEQ must at least address and analyze this.

3. LDEQ should not simply dismiss the Outstanding Natural Resource Water (ONRW) designation

Although Louisiana Code could permit the discharge because the Panama Canal is not specified as an ONRW, it is still important that LDEQ assess the impacts that the Burnside Terminal and the added outfalls will have upon Blind River (the specified ONRW). These waters are important to Louisiana and therefore LDEQ should give a greater consideration to the discharges into them, or into their tributaries/distributaries. The Panama Canal does flow into the Blind River, and although it is several miles upstream, the pollution from this terminal could still degrade the ONRW. Therefore, LDEQ should address these concerns and do a more in-depth analysis here.

4. Past Noncompliance Should Be Considered More Seriously

The draft permit states that, in the DMR review, this terminal has been in noncompliance on multiple occasions in 2016 and 2017. LDEQ does not appear to take this into consideration at all however; they do not address or discuss the past noncompliance in any meaningful way, aside from simply raising it. Especially considering that this draft permit would allow for two new outfalls, and therefore more chances for the Burnside Terminal to be in violation of its permit, LDEQ must address these past non-compliances and the impacts further noncompliance would have on the receiving waterbodies.

5. pH requirements should match Louisiana's water quality standards

The numeric water quality criteria for pH in the receiving waters, subsegment 040403 of the Lake Pontchartrain Basin, is 6.0-8.5; however the permit allows for 6.0-9.0. La. Admin. Code Tit. 33, §1123, Table 3. Therefore, this draft permit is not in compliance with Louisiana state water quality standards. LDEQ should withdraw and amend the permit to comply with these water quality criteria.

Due to the above concerns, GRN requests that LDEQ appropriately modify the permit to meet these requirements or withdraw the permit. GRN would also like to be notified as to any of LDEQ's decisions regarding the permit completely. Thank you for your time and the opportunity to comment on the draft water discharge permit.

Sincerely,

A handwritten signature in blue ink that reads "Matt Rota". The signature is stylized with a large, sweeping "M" and a long horizontal stroke at the end.

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