



UNITED FOR A HEALTHY GULF

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December 16, 2014

LDEQ
Public Participation Group
Post Office Box 4313
Baton Rouge, LA 70821-4313
DEQ.PUBLICNOTICES@LA.GOV

**RE: Louisiana Pollutant Discharge Elimination System (“LPDES”) Permit
for NOLA Oil Terminal, LLC**

**AI Number - 186945
Permit Number - LA0126944
Activity Number - PER2014001**

Dear Public Participation Group:

The Gulf Restoration Network (GRN) respectfully submits the following comments on the Draft Water Discharge Permit: NOLA Oil Terminal, LLC, Permit Number LA 0123382, AI Number 186945, Activity Number PER2014001 (Draft Permit). GRN reserves 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 (issuance, denial, remand, etc.).

1. A Tier 2 antidegradation analysis must be done.

LDEQ has not shown that it meets federal and state antidegradation requirements for the receiving water bodies. The federal antidegradation laws provide that “[e]xisting instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected” (40 C.F.R. § 131.12(a)(1)). Louisiana’s antidegradation policy mirrors this requirement, commonly known as “Tier 1 protection,” stating that “the administrative authority will not approve any wastewater discharge...that would impair water quality or use of state waters” (La. Admin. Code, tit. 33, pt. IX, § 1109). Thus, before the LDEQ can issue a permit, it has a duty to ensure that the permit protects the receiving water body’s designated uses (See, e.g., 40 C.F.R. § 122.44(d)(1)(vi)(A) (when the

state issues a permit, the state must “demonstrate [the permit]...will fully protect the designated use”).

Where water quality exceeds levels necessary to support designated uses, antidegradation rules require “Tier 2” protection for the water body. See 40 C.F.R. §131.12(a)(2). According to the Statement of Basis, receiving waters are meeting their uses, and thus water quality supporting these uses must not only be maintained (Tier 1 protection), but if the quality of the receiving water exceeds these levels, “that quality shall be maintained and protected unless the State finds, after [public participation], that allowing lower water quality is necessary to accommodate important economic or social development in the area...” (40 C.F.R. §131.12(a)(2); see La. Admin., Code, tit. 33, pt. IX, § 1119 (“State policy is that all waters of the state...whose existing quality exceeds the specifications of the approved water quality standards...will be maintained at their existing high quality...[unless] to accommodate justifiable economic and /or social development in the areas.”)).

According to p. 3 in the Statement of Basis and the public notice, this is a new discharge into Wilkinson Canal in the Barataria Basin (segment 020802). As a new discharger LDEQ or the applicant must submit a Tier 2 antidegradation analysis that is consistent with 40 C.F.R § 131.12(a)(2) and La. Admin. Code, tit 33, pt. IX, § 1119.

We request that this permit be withdrawn and re-issued with a Tier 2 antidegradation analysis for the receiving waters.

2. Limits from LDEQ’s guidance on stormwater, letter dated 6/17/87, from Dale Givens (LDEQ to Myron Knudson (EPA Region 6) is inappropriately applied.

Studies of pollutants in stormwater have advanced greatly since the date of this memo, and therefore these limits might not be accurate according to recent science and technology. However, even if this memo still stands it is inappropriately applied.¹ This memo states the proposed limits for Oil and Grease, TOC, and pH are intended for *uncontaminated* stormwater. Given that there is no proposed treatment for any of the outfalls, there is no evidence that this water is uncontaminated. In fact this water could contain contaminated stormwater from the facilities and materials stored in outdoor locations, as well as pollutants from safety showers, eye wash

¹ Memo is attached.

stations, fire test water, and monitored hydrostatic test wastewater (while this is monitored, it is apparently not treated).

Because of the lack of treatment and potential for contamination, the application of the Givens-Knudson Memo is inappropriate.

Because of this, water quality based limits must be imposed for all of the potential contaminants and all waste water should be treated.

3. LDEQ must hold a public hearing.

NOLA Oil Terminal requests permission to discharge waste into the Wilkinson Canal, which is a waterway nearby NOLA Oil Terminal's proposed site in Plaquemines Parish that is connected to the larger Barataria River Basin. As currently outlined, the discharges will be in the form of industrial wastewater, as well as "miscellaneous wastewater." This so-called miscellaneous wastewater will potentially include, but is not limited to, wastes from fire tests, hydrostatic tests, safety showers, and eyewash stations. NOLA Oil Terminal provides no further description of these discharges.

Although LDEQ has preliminarily determined that the proposed discharges will have no adverse effects on the existing uses of the Wilkinson Canal, we have reason to believe that the changes in water quality that will inevitably occur may impact the quality of recreational and commercial fishing practices.

Since there has been no mention of this effect on local fishermen in the public record thus far, we request that a public hearing be held in or near Belle Chasse to determine the scale of fishing within the Wilkinson Canal and its connected waterways. The cumulative impacts of NOLA Oil Terminal's proposal can only be determined after the input from all those potentially affected has been fully weighed.

For a healthy Gulf,



Matt Rota
Senior Policy Director

CC:

Lisa Jordan, Tulane Environmental Law Clinic

Kay Schwab, EPA Region 6

Paul Kaspar, EPA Region 6

Scott Eustis, GRN

Grace Morris, GRN



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Martha A. Madden
SECRETARY

OFFICE OF WATER RESOURCES

J. DALE GIVENS
ASSISTANT SECRETARY

JUN 17 1987

Mr. Myron O. Knudson, Director
Water Management Division
U. S. Environmental Protection
Agency, Region VI
Allied Bank Tower
1445 Ross Avenue
Dallas, Texas 75202

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Subject: Permit Limitations for Uncontaminated Stormwater

Dear Mr. Knudson:

As a general policy, the Office of Water Resources is applying the following limitations to uncontaminated stormwater discharges.

Parameter	Daily Maximum
Oil and Grease	15 mg/l
Chemical Oxygen Demand and/or	100 mg/l
Total Organic Carbon	50 mg/l
pH	6.0-9.0

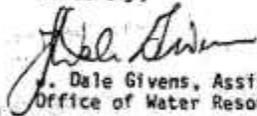
It has been our experience that these limits are applicable for most situations, but higher limits are allowed if the applicant can demonstrate they are justified by higher background values for the specific area.

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Mr. Myron O. Knudson, Director
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We would request that EPA use these values in all future NPDES draft permits for Louisiana facilities to eliminate the problem of individual permit drafters within both of our agencies using different values (e.g., TOC values from 35 mg/l to 75 mg/l).

Sincerely,



Dale Givens, Assistant Secretary
Office of Water Resources

JDG:RTG:baw

cc: Jack Ferguson, GW-P
U. S. Environmental Protection
Agency, Region VI