

May 31, 2011

Vincent Christian  
California Regional Water Quality Control Board  
San Francisco Bay Region  
1515 Clay Street, Suite 1400  
Oakland, CA 94612  
vchristian@waterboards.ca.gov  
*Submitted via electronic mail*

**RE: Comments on the Proposed Tentative Order No. R2-2011-XXXX for the USS  
POSCO Industries Pittsburgh Plant, NPDES Permit No. CA0005002**

Dear Mr. Christian:

Thank you for the opportunity to comment on the proposed Tentative Order for the USS POSCO Industries Pittsburg Plant (“Plant”), NPDES Permit No. CA0005002 (“Draft Permit”). San Francisco Baykeeper (“Baykeeper”) submits these comments on behalf of our 2,300 members that live, work, and recreate in and around the San Francisco Bay. Baykeeper is a 501(c)(3) non-profit organization with the mission of protecting and enhancing the water quality of the San Francisco Bay for the benefit of its ecosystems and surrounding communities. Please address the following concerns to ensure that the Draft Permit adequately protects water quality and appropriately regulates a facility with a long history of point and non-point source pollution.

**1. The Draft Permit’s Effluent Limitations Violate the Clean Water Act’s Anti-Backsliding Policy.**

The Clean Water Act’s (“CWA”) anti-backsliding policy states, “a permit may not be renewed, reissued, or modified to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit.” 33 U.S.C. § 1342(o); 40 C.F.R. § 122.44(l). The Draft Permit violates this policy because it weakens the effluent limitations for four pollutants – zinc, naphthalene, tetrachloroethylene, and cyanide – without proper justification. *Compare* Draft Permit, 10, Tables 6 & 8, *with* Order No. R2-2006-0029, 7. To avoid violating the CWA’s anti-backsliding policy, the California Regional Water Quality Control Board (“Board”) staff members should modify the Draft Permit to make the effluent limitations at least as stringent as the limitations in the Plant’s former permit.

At a minimum, the Draft Permit should justify the relaxed effluent limitations for zinc, naphthalene, tetrachloroethylene, and cyanide. The effluent limitations for zinc, naphthalene, and tetrachloroethylene are all based on the Plant’s estimated production levels, but the Draft Permit does not describe the Plant’s production changes or confirm the need for increased limitations. Instead, the proposed Draft Permit asserts that the proposed effluent limitations are “the same or more stringent than those in the previous permit” due to *lower* processing rates at the Plant. Draft Permit, F-17.

In addition, the Draft Permit should specify which, if any, exception under the CWA allows the Board to relax the effluent limitations for zinc, naphthalene, tetrachloroethylene, and cyanide. A full and detailed justification of these changes in the Draft Permit or the Fact Sheet would assure the public that the Board is in compliance with the CWA's anti-backsliding policy.

**2. The Draft Permit's Cyanide and Copper Limitations are Impermissibly Weaker than the Applicable Water Quality Standards.**

According to the site-specific objectives for the San Francisco Bay, the maximum amount of cyanide that an entity may discharge into marine waters is, on average, 2.9 µg/L every 4 days and 9.4 µg/L every hour. San Francisco Bay Basin Plan, Ch. 3: Water Quality Objectives. In contrast, the proposed Draft Permit allows the Plant to discharge, on average, 6.8 µg/L of cyanide each month and a maximum of 14 µg/L of cyanide each day. Draft Permit, 10, Table 8. Since the Draft Permit's cyanide effluent limitations are much more relaxed than the applicable site-specific objectives, the Board should revise the Draft Permit to make the effluent limitations for cyanide at least as stringent as the site-specific objectives for the San Francisco Bay.

In addition, the proposed Draft Permit's effluent limitations for copper are weaker than the most stringent water quality standards. According to the Draft Permit, "[t]he most stringent applicable WQOs for copper are the Basin Plan's site-specific chronic and acute marine WQOs." Draft Permit, F-29. This statement is inaccurate. Under the California Toxics Rule ("CTR"), the maximum amount of copper that an entity may discharge into saltwater is, on average, 3.1 µg/L every 4 days and 4.8 µg/L each day, making the CTR more stringent than the site-specific objectives. 40 C.F.R. § 131.38(b)(1). In contrast, the Draft Permit allows the Plant to discharge, on average, 3.3 µg/L of copper each month and a maximum of 5.5 µg/L of copper each day. Draft Permit, 10, Table 8. Since the CTR contains the most stringent water quality standards for copper in the San Francisco Bay and the Sacramento-San Joaquin Delta, the Board should base the Draft Permit's copper effluent limitations on the CTR. This change would be consistent with the rest of the Draft Permit because the Permit repeatedly applies the most stringent water quality standards. *See* Draft Permit, 8, F-11, F-12, F-28 to F-33. At a minimum, the Draft Permit should justify the use of a less protective standard.

Even more, the Draft Permit impermissibly excludes discharges that have copper concentrations less than 15 µg/L from regulation, effectively rendering the effluent limitations for copper meaningless. Draft Permit, 11 fn. 1. Under this exemption, "effluent sample concentrations at Discharge Point No. 001 that exceed the copper limitations in Table 8 can, nevertheless, be considered in compliance with those limitations if the effluent copper concentration is also no greater than the intake water copper concentration [of 15 µg/L]." Draft Permit, F-25. This unjustified exemption should be removed because the Plant's on-site wastewater treatment plant could be used to remove copper from intake waters.

**3. The Draft Permit's Stormwater Effluent Limitations are Deficient.**

The proposed Draft Permit places effluent limitations on only two pollutants in the Plant's stormwater (Discharge Point No. 002) – pH and oil and grease. Draft Permit, 12, Table 9. Since

the Plant is known to have a number of priority contaminants on its premises, including polychlorinated biphenyls (PCBs), the Draft Permit must account for the other pollutants that could be present in the Plant's stormwater, including, but not limited to, total suspended solids, total organic carbon, and all priority pollutants. There are several uncovered areas within the Plant's facilities that could easily contaminate stormwater with pollutants beyond just oil and grease, such as material storage, processing, and sludge disposal areas. Best Management Practices Program, 5 (2009). Therefore, at a minimum, the Board should 1) explain its rationale for placing only two effluent limitations on the Plant's stormwater, and 2) identify all contaminants with the potential for stormwater-borne discharges.

In addition, the Draft Permit is deficient because it requires the Plant to test for priority pollutants in its stormwater from Discharge Point No. 002 only once every five years. Draft Permit, E-4. Instead, the Board should require the Plant to test its stormwater for priority pollutants on an annual basis to ensure that the Plant's stormwater is not causing further contamination of the San Francisco Bay and the Sacramento-San Joaquin Delta.

The Draft Permit's Monitoring and Reporting Program should also require the Board conduct a reasonable potential analysis for all priority pollutants from Discharge Point No. 002 every year, rather than every five-year permit cycle. *See* Draft Permit, F-41. An annual reasonable potential analysis would be consistent with the Draft Permit's reopener provision, which allows the Board to modify the Order before the end of a permit cycle if investigations show that a discharge has a reasonable potential to contribute to adverse water quality impacts. *See* Draft Permit, 14.

Thank you for considering Baykeeper's comments, and we look forward to hearing your responses. If you have any questions, please contact me at (415) 856-0444, extension 109.

Sincerely,



Abigail D. Blodgett  
Legal Fellow  
San Francisco Baykeeper