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Greg Gould  
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P.O. Box 47600  
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Re: Comments on Draft Water Quality Permit for Targa Sound Terminal, per Publication No. 18-07-001, re: National Pollutant Discharge Elimination System Waste Discharge Permit No. WA0003204

Greetings Mr. Gould:

Please accept these comments on the January 17, 2018 draft modified individual NPDES permit for Targa Sound Terminal LLC (“Targa,”) which are submitted jointly by Puget Soundkeeper Alliance (“Soundkeeper”) and Citizens for a Healthy Bay (“CHB.”)

Soundkeeper is a water quality focused grassroots organization founded in 1984. Soundkeeper’s mission is to protect and preserve the waters of Puget Sound. Representing over 3,000 members, supporters, volunteers and activists, Soundkeeper works to meaningfully decrease pollutants reaching the Sound by actively monitoring Puget Sound water quality, enforcing clean water laws, improving policies and regulations, preventing pollution and cleaning up waterways. Soundkeeper is profoundly concerned with the health of the Hylebos Waterway and Commencement Bay and seeks to establish strong permits for the industrial facilities that use this waterway.

CHB is a 28-year-old environmental organization whose mission is to represent and engage people in the cleanup, restoration and protection of Commencement Bay, the surrounding waters and natural habitat. CHB is a 501(c)3 nonprofit providing practical, solutions-based environmental leadership in the Puget Sound area. CHB works side-by-side with residents, businesses and governments to prevent pollution and make our community more sustainable.

The current draft modified individual NPDES permit #WA0003204 released on January 10, 2018 (the “Permit”) for Targa falls short of complying with legal requirements to protect the waters of the Hylebos Waterway and Commencement Bay. Soundkeeper and CHB request that Ecology revise the permit to make it consistent with the law and protective of water quality.

## **1. The compliance schedule fails to protect the Hylebos waterway**

Instead of mandating immediate compliance with the applicable water quality standards covered by an NPDES permit, the draft permit lays out a five-year compliance schedule. *See* Permit, Special Condition 12. This delay in compliance is not only detrimental to the health of the Hylebos waterway, but also violates applicable regulations. RCW 90.48.520 states, “In no event shall the discharge of toxicants be allowed that would violate any water quality standard, including toxicant standards, sediment criteria, and dilution zone criteria.” Through the use of interim standards and a compliance schedule, the draft permit allows the Targa facility to discharge in violation of water quality standards for up to five years.

### **i. Ongoing environmental harm**

The five-year delay in mandated compliance for the Targa facility will lead to years of harmful polluted discharges from a facility that is already long behind schedule for coming into compliance with water quality standards. Targa has a worrisome history of non-compliance and Ecology has a history of issuing insufficiently protective permits.

Targa’s previous permit, issued on March 23, 2007, had benchmarks, and not effluent limits, for many toxicants, including copper, zinc, and total suspended solids (“TSS.”) (“The previous permit included limits for oil and grease and pH and benchmarks for COD, BOD5, TSS, total zinc, total copper, total lead, and pH.” *Fact Sheet for NPDES Permit WA0003204*, Targa Sound Terminal at 19 (January 10, 2018.)) Even with these lax standards, Targa had nine permit violations and 46 benchmark exceedances over the lifetime of the permit. *Id.* These violations and exceedances, of which 42 exceedances were from metals, impact the Hylebos Waterway, a 303(d)-impaired waterway for many pollutants, including copper and zinc.

Instead of using the re-permitting process to finally bring Targa into compliance in a timely manner, the draft permit allows the Targa facility to continue to discharge zinc, copper and TSS in excess of water quality standards for the next five years. All while Ecology admits that it believes that these discharges may impact water quality and sediment quality, further impairing the Hylebos waterway! (“Ecology believes that Targa’s stormwater and the OMMP results show that Targa’s discharges may have potential to exceed the aquatic sediment standards.” *See Fact Sheet* at 35). The concern about further degrading dangerous water and sediment quality problems is both serious and urgent. The nearby Occidental Chemical Superfund site has the most contaminated soil, sediment and

groundwater in Commencement Bay, polluted with heavy metals, PCBs and a variety of volatile organic compounds in a toxic plume that extends to an area the size of five Century Link Fields and reaches 160 feet below sea level.

Soundkeeper and CHB urge Ecology to revise the permit to require immediate compliance and avoid prolonging negative water quality impacts.

## **ii. AKART Analysis and Technological Solutions**

The Industrial Stormwater General Permit (ISGP) requires hundreds of facilities across the state—including many far more complex than the Targa facility—to implement all known, available and reasonable methods of prevention, control and treatment (“AKART”) as a *precondition* to discharging pollution to waters of the state. In stark contrast, Targa last completed an AKART analysis over 18 years ago. *Fact Sheet* at 22. Why has Ecology continued to allow Targa to discharge pollution to the Hylebos even though it does not currently implement AKART and has not analyzed it in over 18 years?

Additionally, the draft permit gives Targa one year to complete an AKART engineering and analysis report and an additional two and half years to implement the findings of that report. Permit, *Special Condition* 12. The ISGP requires facilities that exceed benchmarks, such as the Targa facility, to complete an engineering report and *install* treatment BMPs within a year or less. This is reasonable, as relevant treatment BMPs are well-known and in use by many industrial facilities across western Washington. *See, e.g., Ecology, Stormwater Management Manual for Western Washington (SWMMWW.)* Why, then, does the draft permit provide Targa with three and a half years to assess and implement AKART? Did Ecology consider any site-specific information that supports the need for the lengthy compliance schedule? If so, what?

There is also no indication that Ecology complied with the WAC 173-201A-510(4)(d) requirement that “[p]rior to establishing a schedule of compliance, the department shall require the discharger to evaluate the possibility of achieving water quality standards via non-construction changes.” What, if any, evaluation occurred and what was the result?

This delay in implementation of pollution controls will also cause a delay in the assessment of the impact of the Targa facility discharges on the Hylebos Waterway. Testing at the facility found antimony at Outfalls 002, 003, and 004. *Fact sheet* 17-19. The draft permit delays testing of the effects of antimony on the waterway, because “test results will not be accurate until after the improvements have been completed.” *Fact Sheet* at 36. For the first three and a half years of the permit, Targa may be unable to assess the impact of the antimony it discharges, because the permit does not require immediate implementation of AKART. During this time, despite full agency awareness of the harmful discharges and the public health risks they present, and with that agency’s apparent permission, Targa will continue discharging additional antimony to the Hylebos waterway – and the public will be deprived of the critical data it needs to protect itself from exposure to these pollutants.

Soundkeeper and CHB urge Ecology to revise the draft permit to require use of AKART at the outset of the permit to prevent the possible excessive discharge of antimony.

### **iii. WQBELs**

The draft permit impermissibly fails to impose numeric water quality-based effluent limits (“WQBELs”) for copper, zinc, and TSS at Outfalls 002, 003, and 004 at the outset of the permit. Ecology determined that copper at all three outfalls and zinc at Outfalls 003 and 004 pose reasonable potential to exceed the aquatic life water quality criteria at the critical condition. *Fact Sheet* at 31. Additionally, Ecology determined that discharges from the Targa facility have the potential to cause or contribute to an exceedance of the sediment criteria in the Hylebos waterway. *Fact Sheet* at 35.

Yet, to our surprise and disappointment, in the face of these known serious impacts, the draft permit only provides interim limits for these pollutants and allows five years to come into compliance with the WQBELs. *Fact sheet* at 32.

A five-year delay is inconsistent with 40 C.F.R. 122.47 and WAC 173-201A-510(4), which mandate that compliance schedules require compliance with water quality-based effluent limits and any interim technology requirements “as soon as possible.” *See also* Memo from James Hanlon, Director of EPA’s Office of Wastewater Management to Alexis Strauss, Dir. of the Water Division, Region 9 (May 10, 2007) (attached.)

How did Ecology determine that five years is the soonest that the Targa facility can come into compliance with the WQBELs for copper, zinc and TSS?

Did Ecology consider any site-specific information that supports the need for the five-year compliance schedule?

## **2. Reduced pH monitoring**

The draft permit reduces the monitoring frequency of pH from twice per month to once per month for the Targa facility. Ecology based this on “historical results” and best professional judgment. *Fact Sheet* at 38. However, Ecology issued violations for pH exceedances at the Targa facilities six times under the previous permit. *Fact Sheet* at 19.

Given this history of non-compliance, what is the basis to reduce pH monitoring at the Targa facility?

## **3. The draft permit must require sufficiently sensitive testing for PCBs**

The draft permit does not have a sufficiently sensitive testing method for PCBs. Targa detected a discharge of PCBs from Outfall 003 in February 2014. Additionally, Ecology found that “the immediate area around Targa’s outfalls has relatively higher PCB concentrations than the rest of the Hylebos Waterway.” *Fact sheet* at 35. In light of these test

results, the draft permit requires Targa to test for PCBs from Outfall 003 and to conduct a study if any PCBs are detected.

However, the draft permit requires test method 608.3 for the detection of PCBs from Outfall 003. Permit at 46. The minimum detection limit of method 608.3 is only 0.065 µg/L and Method 608.3 has a practical quantification limit (PQL) of 0.095 µg/L. This PQL is significantly higher than the PCB human health criteria of 0.00017 µg/L. WAC 173-201A-240(5), tbl.240. As such, Method 608.3 will fail to detect any PCBs from 0.00017 µg/L to 0.065 µg/L. This means that Targa may very well be discharging PCBs in excess of levels considered safe for humans to a waterway already impaired by PCBs while rejoicing in “non-detect” lab results.

Sufficiently more sensitive methods for PCB monitoring exist, and Ecology has a legal duty to require them. See WA Supreme Court Case No. 94293-5, *Puget Soundkeeper Alliance v. State of Washington, Department of Ecology* – decision pending.

Soundkeeper and CHB request that the draft permit be revised to use a more sensitive detection method for PCBs discharged from Outfall 003 and that these monitoring results are made publicly available.

## **Conclusion**

Soundkeeper and CHB request that Ecology address the concerns identified in these comments, provide adequate answers to all questions posed, and provide for public comment on a revised draft permit.

Thank you for your consideration.

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### **Citizens for a Healthy Bay**

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Attachments:

- Memo from James Hanlon, Director of EPA’s Office of Wastewater Management to Alexis Strauss, Dir. of the Water Division, Region 9 (May 11, 2007)