



California Regional Water Quality Control Board Central Valley Region

Katherine Hart, Chair



Arnold
Schwarzenegger
Governor

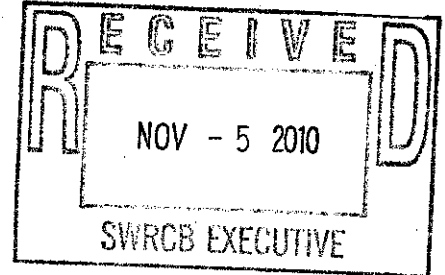
Linda S. Adams
Secretary for
Environmental
Protection

11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114
Phone (916) 464-3291 • FAX (916) 464-4645
<http://www.waterboards.ca.gov/centralvalley>

November 4, 2010

Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

11/16/10 Bd Mtg. Item 5
CGP Reopener
Deadline: 11/5/10 by 12 noon



Re: **Comment Letter – CGP Reopener (Order No. 2009-0009-DWQ)**

State Board:

The Central Valley Regional Water Quality Control Board (Central Valley Water Board) recognizes the difficulties that the new Construction General Permit's signatory requirements have caused for the US Army Corps of Engineers (the "Corps"), particularly in relation to projects built over easements that span many different parcel owners. The Central Valley Water Board is supportive of a change to the signatory requirements that would allow a contractor designated by the Corps to sign the General Permit's Notice of Intent.

However, the Central Valley Water Board would like to clarify that it is this Board's opinion that the Corps retains the ultimate responsibility for the actions of its contractors. Even under the language proposed by the Corps, SAFCA, and the Department of Water Resources, the Corps will not be fully insulated from issuance of a Notice of Violation, should our Board's inspectors discover violations of the General Permit at Corps-managed sites.

At the heart of the federal Clean Water Act is the general prohibition against "the discharge of any pollutant by any person" unless such a discharge is in conformity with an NPDES permit (33 U.S.C. § 1311). While it is this Board's hope that the Corps will exercise appropriate oversight of their contractors, thereby obviating the need for this Board to issue Notices of Violation. The Central Valley Water Board will continue to carefully monitor the Corps' construction sites to ensure that they are maintained in accordance with the terms of the new Construction General Permit.

If the State Water Board chooses to incorporate the language suggested by the Corps, SAFCA, and the Department of Water Resources, the Central Valley Water Board would like to suggest adding one word to the proposed language, as follows:

*"However, when a federal agency is a Legally Responsible Person, or has written permission from a Legally Responsible Person to enter and/or construct a project, then a contractor to the federal agency shall **also** be a Legally Responsible Person when it contractually assumes all NPDES permit compliance responsibilities including signing and certifying all required NPDES permit documents."*

Thank you for considering this comment.

Sincerely,

Pamela C. Creedon

California Environmental Protection Agency

