

California Council for Environmental and Economic Balance

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March 4, 2014

Jeanine Townsend
Clerk of the Board
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814



Via email: commentletters@waterboards.ca.gov

RE: Comment Letter – April 1, 2014 Board Meeting: Final Draft Industrial General Permit

Dear Members of the California State Water Resources Control Board:

The California Council for Environmental and Economic Balance (CCEEB) is a non-partisan, non-profit coalition of business, labor, and public leaders that advances strategies for a strong economy and a healthy environment. CCEEB respectfully submits that the State Water Board's Response to Comments document failed to adequately respond to a specific issue on which CCEEB commented in its September 19, 2013 letter. This issue is the definition of the Legally Responsible Person (LRP) for a corporation.

7.1 An important comment made in this letter was in regards to the permit's definition of the LRP for corporations found in Section XXI.K.4.a. - Electronic Signature and Certification Requirements. CCEEB's letter pointed out significant differences between the permit's requirements for a LRP and EPA's definition for a Responsible Corporate Officer and that these differences will in practice be burdensome and will unnecessarily restrict both the persons to which the authority to sign documents is available and the manner in which this authority is established.

The State Water Board's Response to Comments document, dated February 24, 2014, lists this comment (See p.66, Comment #14 from Commenter #16) but fails to respond to CCEEB's specific issue that it is both more restrictive than and inconsistent with the US Environmental Protection Agency's definition found in 40 CFR 122.22(a)(1). The proposed permit's language would:

- Replace EPA's language that specifies that " ... any other person who performs similar policy- or decision-making functions for the corporation ... " with " ... other officer of the corporation ... "; and

- Require in both K.4.a.(a) and (b), that these persons be given this authority in accordance with "corporate bylaws or board resolution" (4.k.a.(a)) rather than in accordance with "corporate procedures". (*emphasis added*)

The response to comment response makes a vague reference to the requirements of the U.S. EPA Cross-Media Electronic Reporting Regulations as a basis for the revisions made to EPA's language, but no specific requirement is cited. Further, a review of the most recent proposal from EPA for electronic reporting (see NPDES Electronic Reporting Rule, pp 78 FR 46006, dated July 30, 2013) includes references to signature and certification standards in both 40 CFR 122(a)(1) and 40 CFR 127(12)(l), neither of which contain the changes proposed in this permit.

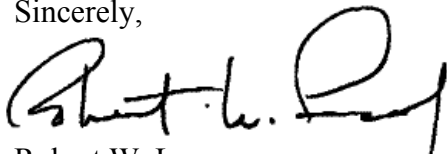
CCEEB respectively requests that the permit be revised to be consistent with EPA's language as follows:

"4. LRP eligibility is as follows:

- a. For a corporation: by an authorized corporate officer. For the purposes of this section, an authorized corporate officer means: (a) a president, secretary, treasurer, vice-president, or any other person officer of the corporation with authority to execute documents on behalf of the corporation pursuant to corporate procedures bylaws or board resolution; or (b) the manager of the facility, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures bylaws and by corporate resolution."

Thank you for considering these comments. If you wish to discuss this matter further, please contact Bob Lucas at 916-444-7337.

Sincerely,



Robert W. Lucas
Water, Waste & Chemistry Project Manager



Gerald D. Secundy
President

cc: Matthew Rodriguez, Secretary, California Environmental Protection Agency
Gordon Burns, Undersecretary, California Environmental Protection Agency
Jackson Gualco, The Gualco Group, Inc.