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NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION AND LAND DISTURBANCE ACTIVITIES

**ORDER NO. 2010-0014-DWQ
NPDES NO. CAS000002**

Order No. 2009-0009-DWQ was adopted by the State Water Resources Control Board on:	September 2, 2009
Order No. 2009-0009-DWQ became effective on:	July 1, 2010
Order No. 2009-0009-DWQ shall expire on:	September 2, 2014
This Order, which amends Order No. 2009-0009-DWQ, was adopted by the State Water Resources Control Board on:	November 16, 2010
This Order shall become effective on:	February 14, 2011

IT IS HEREBY ORDERED that this Order amends Order No. 2009-0009-DWQ. Additions to Order No. 2009-0009-DWQ are reflected in [blue-underline](#) text and deletions are reflected in ~~red-strikeout~~ text.

IT IS FURTHER ORDERED that staff are directed to prepare and post a conformed copy of Order No. 2009-0009-DWQ incorporating the revisions made by this Order.

I, Jeanine Townsend, Clerk to the Board, do hereby certify that this Order with all attachments is a full, true, and correct copy of an Order adopted by the State Water Resources Control Board, on **November 16, 2010**.

AYE: Chairman Charles R. Hoppin
Vice Chair Frances Spivy-Weber
Board Member Arthur G. Baggett, Jr.
Board Member Tam M. Doduc

NAY: None

ABSENT: None

ABSTAIN: None

Jeanine Townsend
Clerk to the Board

**FINAL ADOPTED CHANGES TO
Order No. 2009-0009-DWQ
November 16, 2010**

Fact Sheet pages 11-12 Obtaining and Terminating Permit Coverage

The appropriate Legally Responsible Person (LRP) must obtain coverage under this General Permit, ~~except in two limited circumstances. First, where the construction of pipelines, utility lines, fiber-optic cables, or other linear underground/overhead projects will occur across several properties, the utility company, municipality, or other public or private company or agency that owns or operates the linear underground/overhead project is responsible for obtaining coverage under the General Permit. Second, where there is a lease of a mineral estate (oil, gas, geothermal, aggregate, precious metals, and/or industrial metals), the lessee is responsible for obtaining coverage under the General Permit.~~ To obtain coverage, the LRP or the LRP's Approved Signatory or other entity described above must file Permit Registration Documents (PRDs) prior to the commencement of construction activity. Failure to obtain coverage under this General Permit for storm water discharges to waters of the United States is a violation of the CWA and the California Water Code.

Section II(A)(2) Conditions for Permit Coverage, page 14

2. The ~~utility company, municipality, or other public or private company or agency that owns or operates the linear underground/overhead project~~ Legally Responsible Person is responsible for obtaining coverage under the General Permit where the construction of pipelines, utility lines, fiber-optic cables, or other linear underground/overhead projects will occur across several properties unless the LUP construction activities are covered under another construction storm water permit.

Section II(C)(4) Conditions for Permit Coverage, page 18

4. When an LRP with active General Permit coverage transfers its LRP status to another person or entity that qualifies as an LRP, the existing LRP shall inform the new LRP of the General Permit's requirements. ~~When an LRP owns property with active General Permit coverage, and the LRP sells the property, or a parcel thereof, to another person, that person shall become an LRP with respect to whatever parcel was sold. The existing LRP shall inform the new LRP of the General Permit's requirements.~~ In order for the new LRP to continue the construction activity on its parcel of property, the new LRP, or the new LRP's approved signatory, must submit PRDs in accordance with this General Permit's requirements.

Section IV(I) – Special Provisions pages 24-25

I. Electronic Signature and Certification Requirements

1. All Permit Registration Documents (PRDs) and Notices of Termination (NOTs) shall be electronically signed, certified, and submitted via SMARTS to the State Water Board. Either the Legally Responsible Person (LRP), as defined in Appendix 5 – Glossary, or a person legally authorized to sign and certify PRDs and NOTs on behalf of the LRP (the LRP's Approved Signatory, as defined in Appendix 5 - Glossary) must submit all information electronically via SMARTS.

~~a. The LRP's Approved Signatory must be one of the following:~~

- ~~i. For a corporation: a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (a) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; 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;~~
- ~~ii. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;~~
- ~~iii. For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. The principal executive officer of a Federal agency includes the chief executive officer of the agency or the senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of U.S. EPA);~~
- ~~iv. For the military: Any military officer who has been designated.~~
- ~~v. For a public university: An authorized university official~~

- ~~b. 2. Changes to Authorization. If an aApproved sSignatory's authorization is no longer accurate, a new authorization satisfying the requirements of paragraph (a) of this section must be submitted via SMARTS prior to or together with any reports, information or applications to be signed by an aApproved sSignatory.~~

- ~~2. 3. All Annual Reports, or other information required by the General Permit (other than PRDs and NOTs) or requested by the Regional Water Board, State Water Board, U.S. EPA, or local storm water management agency shall be certified and submitted by the LRP or the LRP's aApproved sSignatory ~~as described above.~~~~

Attachment A, Section E(9) - Special Provisions pages 10-11

8. Electronic Signature and Certification Requirements

- a. All Permit Registration Documents (PRDs) and Notices of Termination (NOTs) shall be electronically signed, certified, and submitted via SMARTS to the State Water Board. Either the Legally Responsible Person (LRP), as defined in Appendix 5-Glossary, or a person legally authorized to sign and certify PRDs and NOTs on behalf of the LRP (the LRP's Approved Signatory, as defined in Appendix 5-Glossary) must submit all information electronically via SMARTS. ~~For Linear Underground/Overhead projects, the Legally Responsible Person is the person in charge of the utility company, municipality, or other public or private company or agency that owns or operates the LUP. The LRP's Approved Signatory must be one of the following:~~
 - i ~~For a corporation: a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:~~
 - (1) ~~a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or~~
 - (2) ~~the manager of the facility if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;~~
 - ii ~~For a partnership or sole proprietorship: a general partner or the proprietor, respectively; or~~
 - iii ~~For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. The principal executive officer of a Federal agency includes the chief executive officer of the agency or the senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of U.S. EPA).~~
- b. Changes to Authorization. If an aApproved sSignatory's authorization is no longer accurate, a new authorization satisfying the requirements of paragraph (a) of this section must be submitted via SMARTS prior to or together with any reports, information or applications to be signed by an aApproved sSignatory.
- c. All SWPPP revisions, annual reports, or other information required by the General Permit (other than PRDs and NOTs) or requested by the Regional Water Board, State Water Board, USEPA, or local storm water management agency shall be certified and submitted by the LRP or the LRP's aApproved sSignatory ~~as described above.~~

Appendix 5 – Glossary

Approved Signatory

A person who has been authorized by the Legally Responsible Person ~~legal authority~~ to sign, certify, and electronically submit Permit Registration Documents, ~~and Notices of Termination on behalf of the Legally Responsible Person~~, and any other documents, reports, or information required by the General Permit, the State or Regional Water Board, or U.S. EPA. The Approved Signatory must be one of the following:

1. For a corporation or limited liability company: a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (a) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation or limited liability company; 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;
2. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
3. For a municipality, State, Federal, or other public agency: a principal ~~le~~ executive officer, ranking elected official, city manager, council president, or any other authorized public employee with managerial responsibility over the construction or land disturbance project (including, but not limited to, project manager, project superintendent, or resident engineer);
4. For the military: any military officer or Department of Defense civilian, acting in an equivalent capacity to a military officer, who has been designated;
5. For a public university: an authorized university official;
6. For an individual: the individual, because the individual acts as both the Legally Responsible Person and the Approved Signatory; or
7. For any type of entity not listed above (e.g. trusts, estates, receivers): an authorized person with managerial authority over the construction or land disturbance project.

Legally Responsible Person

The Legally Responsible Person (LRP) will typically be the project proponent. The categories of persons or entities that are eligible to serve as the LRP are set forth below. For any construction or land disturbance project where multiple persons or entities are eligible to serve as the LRP, those persons or entities shall select a single LRP. In exceptional circumstances, a person or entity that qualifies as the LRP may provide written authorization to another person or entity to serve as the LRP. In such a circumstance, the person or entity that provides the authorization retains all responsibility for compliance with the General Permit. Except as provided in category 2(d), a contractor who does not satisfy the requirements of any of the categories below is not qualified to be an LRP.

The following persons or entities may serve as a LRP:

1. ~~The A person, company, agency, or other entity that possesses a real property interest (including, but not limited to, fee simple ownership, easement, leasehold, or other rights of way) in the land who possesses the title of the land or the leasehold interest of a mineral estate~~ upon which the construction or land disturbance activities will occur for the regulated site. ~~For linear underground/overhead projects, it is in the person in charge of the utility company, municipality, or other public or private company or agency that owns or operates the LUP.~~
2. In addition to the above, the following persons or entities may also serve as an LRP:
 - a. For linear underground/overhead projects, the utility company, municipality, or other public or private company or agency that owns or operates the LUP;
 - b. For land controlled by an estate or similar entity, the person who has day-to-day control over the land (including, but not limited to, a bankruptcy trustee, receiver, or conservator);
 - c. For pollution investigation and remediation projects, any potentially responsible party that has received permission to conduct the project from the holder of a real property interest in the land; or
 - d. For U.S. Army Corp of Engineers projects, the U.S. Army Corps of Engineers may provide written authorization to its bonded contractor to serve as the LRP, provided, however, that the U.S. Army Corps of Engineers is also responsible for compliance with the general permit, as authorized by the Clean Water Act or the Federal Facilities Compliance Act.