

PROPOSED CHANGES TO THE STATE WATER BOARD ORDER NO. 2009-0009-DWQ

This Change Sheet covers revisions to the proposed amendments to State Water Board Order No. 2009-0009-DWQ, posted on the State Water Board website:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/construction/noticetocgpermitnotice_101610.pdf

Changes in green underline: additional language proposed after the October 16, 2010, proposed amendments.

Changes in ~~green strikeout~~: language proposed to be removed after the October 16, 2010, proposed amendments.

Changes in blue underline: language amending the existing Order proposed on October 16, 2010.

Changes in ~~red strikeout~~: language to be removed from the existing Order proposed on October 16, 2010.

**State Water Board Order No. 2009-0009-DWQ
Section II- 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.

State Water Board Order No. 2009-0009-DWQ
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, and any other documents, reports, or information required by the General Permit, the State or Regional Water Board, or USEPA. 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 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)(c), 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 an LRP for any construction or land disturbance project:

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. ~~The Legally Responsible Person will typically be the project proponent. A contractor who does not possess a real property interest is not qualified to be a Legally Responsible Person. 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. The following persons or entities may also serve as an LRP under the applicable circumstances:
 - a. For If the land is 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) is considered to possess a real property interest;
 - b. For pollution investigation and remediation projects overseen by a public agency, any potentially responsible party that has received permission to conduct the projects from the holder of a real property interest in the land; or
 - c. For federal projects, the federal agency sponsor. The federal agency sponsor may provide written authorization to its contractor to serve as the LRP, provided, however, that the federal agency sponsor retains all responsibility for compliance with the General Permit.