



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

DEC 14 2011

Ms. Alexis Strauss, Director, Water Division
United States Environmental Protection Agency (USEPA)-Region 9
75 Hawthorne Street
San Francisco, CA 94105-3901

Dear Ms. Strauss:

MODIFICATION TO CALIFORNIA'S WATER QUALITY CERTIFICATION FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY'S VESSEL GENERAL PERMIT

The State Water Resources Control Board (State Water Board) is exercising its authority to make minor modifications to the Water Quality Certification (Certification) it issued on February 4, 2009, for the United States Environmental Protection Agency's (USEPA) draft Vessel General Permit (VGP). The State Water Board's Certification reserved the right to modify or revoke the Certification pursuant to California Code of Regulations, title 23, section 3860. USEPA did not object to this condition and has posted the certification, including the provision allowing for modification, on its website.¹

The State Water Board is amending additional condition number 3, relating to propeller cleaning, hull biofouling, and underwater ship husbandry discharges. The original condition allowed propeller cleaning to occur until January 1, 2012, based on the understanding that the California State Lands Commission would have adopted biofouling management regulations for vessels, and that those regulations would have been effective by that date. However, the State Lands Commission has not adopted its biofouling management regulations. Therefore I am amending the Certification's additional condition number 3 to allow propeller cleaning until the biofouling management regulations become effective. After biofouling management regulations become effective propeller cleaning will be allowed as specified in those regulations. The State Water Board will keep you apprised as to the estimated date when the regulations will become effective.

Enclosed are the appropriate changes to the Certification. This modification of the Certification is not to be interpreted as acquiescence regarding the legality of USEPA's actions regarding the issuance of National Pollutant Discharge Elimination System (NPDES) permits. California has been authorized to issue NPDES permits in lieu of USEPA for discharges into California waters and it remains our contention that USEPA lacks the authority to issue this permit in California waters.

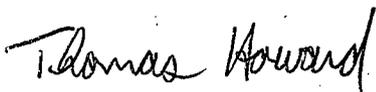
¹ See http://www.epa.gov/npdes/pubs/401_california.pdf [as of February 2, 2009].

CHARLES R. HOPPIN, CHAIRMAN | THOMAS HOWARD, EXECUTIVE DIRECTOR

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If you have any questions regarding this letter or its attachments, please contact Ms. Victoria Whitney, Director of the Division of Water Quality at (916) 341-5568 or vwhitney@waterboards.ca.gov.

Sincerely,



Thomas Howard
Executive Director

Enclosure

cc: Eugene Bromley, USEPA Region 9
Don Hermanson, State Lands Commission