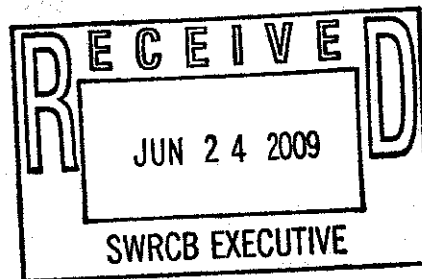


Wednesday, June 24, 2009

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



RE: Comments on Construction Stormwater Draft Permit

Dear Members of the Board:

The California Construction & Industrial Materials Association (CalCIMA) represents over 100 mine operators and ready mix concrete suppliers, with over 500 facilities in California. We appreciate the opportunity to provide comments to the Board as you work on developing the Construction Stormwater General Permit.

At this point, we are concerned that the draft creates unintended confusion as to coverage for surface mining activities. Under the existing regulatory structure, it is clear surface mining falls under the General Permit for Discharges of Stormwater from Industrial Activity (Industrial General Permit). The current Industrial General Permit specifically references "**mining operations (active and inactive)**" as an industry group requiring coverage under the industrial permit. It repeatedly notes that construction activities will be covered under a separate general permit, showing a clear intention to draw a line between the permitting of construction activities and the permitting of industrial activities such as mining.

Language in the draft Construction General Permit appears to imply that mining activities might also be covered under the Construction General Permit. Specifically, there is language in the draft that the Construction General Permit covers "clearing, grading, grubbing, or excavation, or any other activity that results in a land disturbance" (B.17, p. 3.) The draft permit proposes an exclusion from the Construction General permit for landfill construction activity that is subject to the Industrial General Permit (C.31, p. 5), but proposes no parallel exclusion for mining, another industrial activity whose primary activities involve land disturbance. There is a general exclusion for sites that have an *individual* NPDES storm water discharge permit (C.29), but not for activities covered by another general permit.

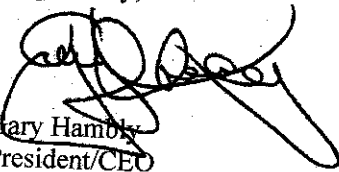
In order to ensure clarity of regulatory structure, we believe it is important that the Board include distinctions for surface mining operations similar to what are proposed for the landfills, or a general exemption for any facility governed by the Industrial Stormwater permit. **To accomplish this, please revise Section C.31 (p. 5) to also exclude "mining facilities operating under the Industrial General Permit." Alternatively, exclude all facilities which operate under the Industrial General Permit.**

There are several important reasons why there should be clearer distinction as to which activities are covered by which permits. One, there should not be unnecessary or confusing duplicate regulation on business. Two, EPA's NPDES regulations address mining as a category of industrial storm water discharge separate from construction, and address which discharges from mining facilities require permit coverage. These provisions are appropriately incorporated into

the Industrial General Permit, Attachment 1. Three, the Construction General Permit clearly focuses on temporary construction activities to create new facilities or modify existing facilities, which is very different than mining. Surface mining occurs over a longer time period than construction activities. This means there are different opportunities for control methods compared to a temporary construction activity. Activities which occur over longer periods in a more stable work environment should not be lumped together with activities, such as stockpiling, that occur over relatively brief periods of time at construction sites.

We appreciate your consideration of our comments. The Industrial General Permit makes it very clear our facilities are governed by its requirements. We believe the Construction General Permit should recognize this as well. The renewal of the Construction General Permit provides an opportunity to avoid confusion between coverage by the two stormwater general permits.

Respectfully,



Gary Hamby  
President/CEO