
State Water Resources Control Board

MAY 16 2018

The Honorable Scott Pruitt
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

CLEAN WATER ACT COVERAGE OF "DISCHARGES OF POLLUTANTS" VIA A
DIRECT HYDROLOGIC CONNECTION TO SURFACE WATER
DOCKET ID NO. EPA-HQ-OW-2018-0063

Dear Administrator Pruitt:

Thank you for the opportunity to comment on the U.S. Environmental Protection Agency's (EPA's) solicitation of comments on previous statements regarding the Clean Water Act (CWA) and whether pollutant discharges from point sources that reach jurisdictional surface waters via groundwater or other subsurface flow that has a direct hydrologic connection to the jurisdictional surface water may be subject to CWA regulation.

The California State Water Resources Control Board (State Water Board), in conjunction with the nine California regional water quality control boards (collectively, "Water Boards") is designated as California's water pollution control agency for the CWA. The CWA prohibits the discharge of pollutants from point sources into waters of the United States unless in compliance with a national pollutant discharge elimination system (NPDES) permit. In California, the Water Boards issue NPDES permits in lieu of EPA. Implementation of the NPDES program in California could potentially be affected by any change in EPA's interpretation of the CWA. Therefore, please accept the following general comments on behalf of staff of the Water Boards.

The Water Boards request no specific clarification or revision of the previous statements as set forth in the docket identified above. However, we strongly urge that any revision or clarification of previous statements or other change in position be adopted as rulemaking, subject to notice and public comment in accordance with the federal Administrative Procedure Act (5 U.S.C. § 551 et. seq.). Clarification or revisions of these statements without the full authority of agency rulemaking could lead to ambiguity in application of CWA jurisdiction and further constrain clear regulatory requirements for

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persons subject to its provisions. Therefore, any revision of previously-stated EPA interpretations must be accomplished through regulations.

Thank you for considering these comments. If you have any questions regarding this submittal, you may contact Marleigh Wood of the State Water Board's Office of Chief Counsel, at (916) 341-5169, or Marleigh.Wood@waterboards.ca.gov.

Sincerely,



FOR
Eileen Sobeck
Executive Director
California State Water Resources Control Board

all via electronic mail

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