



March 29, 2012

Reply to:

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(202) 466-3755
esap@ensresources.com

The Honorable Dianne Feinstein
United States Senate
331 Hart Senate Office Building
Washington, D.C. 20510

SUBJECT: State Water Quality Authorities – Conflicts of Interest

Dear Senator Feinstein:

On behalf of the undersigned organizations, we are writing to thank your staff for meeting with several of us during recent visits to Washington D.C. We know how busy you and your legislative staff are and we appreciate the opportunity to meet face to face to discuss important issues of concern to our members.

One of the key issues we collectively seek to address is a regulatory obstacle that prevents the most qualified individuals from serving on state boards charged with the important task of determining how best to protect the nation's waters. Current Environmental Protection Agency (EPA) regulations preclude any individual from serving on a water quality permitting authority if 10 percent (10%) or more of his or her income comes from an entity holding a federal National Pollutant Discharge Elimination System (NPDES) permit. We believe that this provision is outdated and should be replaced with a conflict of interest test, which would ensure that no official may participate in a decision in which he or she has a direct or indirect financial interest.

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The decades old 10% rule has led to numerous instances where highly qualified individuals with decades of technical experience have been prohibited from serving as state water quality regulators in the absence of any actual or perceived conflict of interest. For example, in California a former member of a local special district governing board was deemed ineligible for appointment to a California water quality board. The determination stemmed from his spouse's employment by a school district subject to the statewide general NPDES permit for small municipal stormwater discharges. In another instance, a part owner of a vineyard was ruled ineligible for appointment. The basis of this determination was simply because the vineyard sold grapes on the "open market" and the grapes were purchased by vintners holding a general stormwater permit under the Clean Water Act. Reports of similar impacts have been experienced throughout California and in other parts of the country.

We believe the change needed can be accomplished by EPA through regulation, and we request that you send a letter to the EPA Administrator urging her to move forward expeditiously with revisions to the regulations.

Thank you for your interest in this important issue. If you or your staff have any questions, please contact Eric Sapirstein at (202) 466-3755

Sincerely



Catherine Smith
Executive Director
California Association of Sanitation Agencies



Timothy Quinn
Executive Director
Association of California Water Agencies

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Signing for
Dennis Nuxoll
Vice President Federal Government Affairs
Western Growers Association



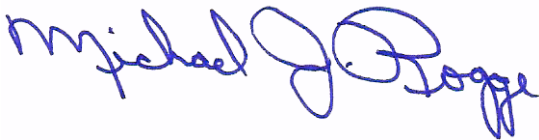
Valerie Nera
Policy Advocate
California Chamber of Commerce



Karen Keene
Senior Legislative Representative
California State Association of Counties



Craig S.J. Johns
Executive Director
Partnership for Sound Science in Environmental Policy



Mike Rogge
Policy Director, Environmental Quality
California Manufacturers and Technology Association



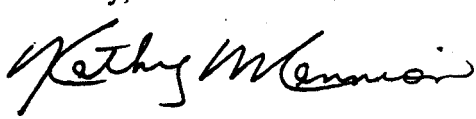
Kyra Ross
Legislative Representative
League of California Cities

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Kathy Mannion

Director of Water and Power

Regional Council of Rural Counties



John Coleman

Executive Director

Bay Planning Coalition