

ENFORCEMENT

WHEN THE STATE OF CALIFORNIA SHOWS UP AT YOUR SITE

The Monthly Dirt

a monthly newsletter on the California Construction General Permit
by WGR Southwest, Inc.



When you hear that an inspector has shown up at your site, do you get the same feeling as finding a letter from the IRS in your mailbox? If so, you're not alone. After all, no matter how good your compliance program is, nobody wants to have an official from an agency scrutinizing it. Why? Well, because of the obvious – potential violations, fines, and corrective action. There's something in all of us that doesn't want anyone telling us that we are not measuring up to the standard. But, you may not have considered that storm water inspectors from the State Water Board or from a municipality are actually *protecting* your business from those who would undercut it. How? Well, here's a couple ways:

Level Playing Field – Suppose two contractors are building commercial centers in the same city. One contractor has a robust SWPPP and BMP program. They hired a reputable QSD who prepared a site-specific SWPPP, installed a TC-1 track out control exit costing \$5,000, installed perimeter controls at \$2.50/foot, applied hydromulch on inactive areas at \$1,600/acre, and paid for one of their employees to become a QSP. The other contractor has a SWPPP that is more boilerplate than site-specific, installed fiber roll on the surface as perimeter control, neglected to install any other BMPs, and is not performing QSP inspections or monitors discharges. Which contractor will make more profit? Which one will win bids? Who suffers in this situation? This is a big reason why inspectors and enforcement is necessary. They level the playing field and help prevent unfair economic situations caused by people who just don't want to comply.

Motivation – Some contractors (like Mr. Boilerplate SWPPP in the last paragraph) need a little motivation to comply with the Construction General Permit requirements. It turns out that municipal inspectors, the State Water Board enforcement staff, and sometimes the US EPA, know exactly what kind of motivation is needed. Depending on where your project is located, you can usually expect a municipal inspection once a month (maybe more during the rain season). Problem sites are issued a notice of violation (NOV), instructed to correct the problems by a specific date, and will be marked for a follow-up visit. Sometimes municipalities will issue fines and possibly charge the contractor for

the inspections. If a site refuses to comply with the municipality's requirements, the municipality is required to report the site to the State Water Board. The State Water Board usually visits construction sites because of a complaint from a City, County, or sometimes the general public. But Water Board inspectors have also been known to randomly inspect sites. If the Water Board inspector finds problems, he or she may issue a verbal warning, or a written NOV (which is posted on SMARTS). Similar to the municipal process, the Water Board staff will specify the needed corrective action and due date and will perform a follow up inspection. If corrective action is not taken in time or to the extent required, the Water Board will then issue an Administrative Civil Liability (ACL) letter which will include a fine that is calculated at \$10,000/day *per violation*, plus an additional fine of up to \$10/gallon of discharge of sediment laden water. These fines can easily add up to several hundred thousand dollars. But, keep in mind that these are not the infamous "Clean Water Act fines." These fines come from the USEPA, and can be over five times as much as the Water Board fines, with a maximum amount of

Calculating Runoff

How does the State calculate how many gallons have discharged from your site? Using the RUSLE equation, it's actually a pretty simple process to find out the average amount of discharge from your site based on a certain amount of rainfall.

\$51,570/day per violation. Although it's pretty unlikely for a construction site to be visited by the federal government, it does occasionally happen. You could compare it to being hit by lightning – rare, but usually fatal.

So, the next time you have an inspector show up at your site, try to remember that he or she is there to protect your business. By “encouraging” compliance with municipal codes and the Construction General Permit and by providing the proper “motivation,” the inspector is helping to prevent your competition from taking shortcuts in their storm water program that gives them the economic advantage over those (like you) who are trying to do the right thing.

Rich Muhl on Enforcement

We sat down with Rich Muhl of the Central Valley RWQCB to hear how the Water Board enforcement process works.



<http://wgr-sw.com/podcasts/listen.php?ID=20>

Find Violators

Want to find out who's been violating the Construction General Permit in your area? You can search online for violators using the Water Board's interactive tool.

The screenshot shows the 'Violation Report' search page on the ciwqs.waterboards.ca.gov website. The page has a search bar at the top right and a navigation menu on the left. The main content area is titled 'Violation Report' and includes the following sections:

- You can display results by Region, by County, or by Violation Type:**
 - REGION
 - COUNTY
 - VIOLATION TYPE
- Select a violation source(s) from the dropdown:** (A dropdown menu is visible with '13 Items')
- Note:** Hold "Ctrl" while clicking to select multiple values
- Select an agency type:** (A dropdown menu is visible with '13 Items')
- Select a program type from the dropdown:** (A dropdown menu is visible with 'CONSTR')
- Select a date range:**
 - Beginning Date:** (Dropdown menu with '12/31/2016')
 - Ending Date:** (Dropdown menu with '12/31/2017')
- Submit Search** button

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Upcoming Training

Got SWPPP? Classes coming to Lodi:

✓ QSP/QSD Training, **April 25-27, 2017**

○ Sign up at www.gotswppp.com

✓ PDU Week, **May 22-26, 2017**

○ Visit www.pduweek.org for more info

(For more information about these classes, please email jteravskis@wgr-sw.com)

Do the Crime – Do the Time

Although there are potential criminal penalties in the Clean Water Act that could send a recalcitrant discharger to jail, that's not what we are referring to.

Some Regional Boards have come up with a new method to encourage contractors to do the right thing in regards to their project site – and that is “doing time” in a storm water education class.

The Central Valley RWQCB is including in some of their NOV's another corrective action in addition to improving SWPPPs and installing BMPs. Now, a NOV can require everyone at the project (including LRPs, QSPs, contractors, and even subcontractors) to attend a 2- to 4-hour class taught by a Trainer of Record (ToR). A sign-in sheet must be submitted to the Regional Board with a copy of the training materials. The ToR is responsible to make sure that no one leaves the class. Some NOV's may even specify exactly which topics need to be addressed. For some dischargers, this penalty provides more of a motivation than merely paying a fine. However, the Regional Board says that while it might feel like doing time, the storm water classes are not meant to be punitive, but rather educational.

Please contact us if you have any questions ...

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Technical Questions about Environmental Compliance?

Call ...

Mike Lewis, QSP, CESSWI (Northern California)

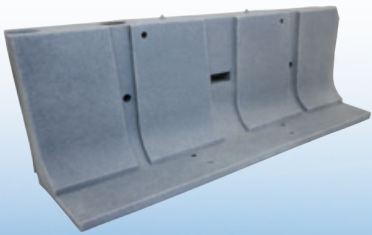
mlewis@wgr-sw.com, (209) 334-5363 ext. 116

Gray Martz, QSP/QSD, PG (Southern California)

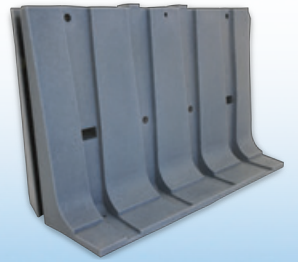
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The image shows a YouTube video player interface. The main video area displays a man in a white shirt and dark vest speaking, with the text 'comes by hearing, and hearing by the Word of G' visible at the bottom. The video title 'Faith and Science: Intersections' is shown at the top right of the player, along with 'PDU Week • 1/8 videos'. A playlist of six sessions is listed on the right side of the player:

- 1 Faith and Science - Session 1: Overview (PDU Week)
- 2 Faith and Science - Session 2: Genesis 1:1-19 (PDU Week)
- 3 Faith and Science - Session 3: Genesis 1:20-2:25 (PDU Week)
- 4 Faith and Science: Session 4 - Genesis 2-4 (PDU Week)
- 5 Faith and Science - Session 5: Genesis 2-4 (Part 2) (PDU Week)
- 6 Faith and Science - Session 6: Genesis 5 (PDU Week)

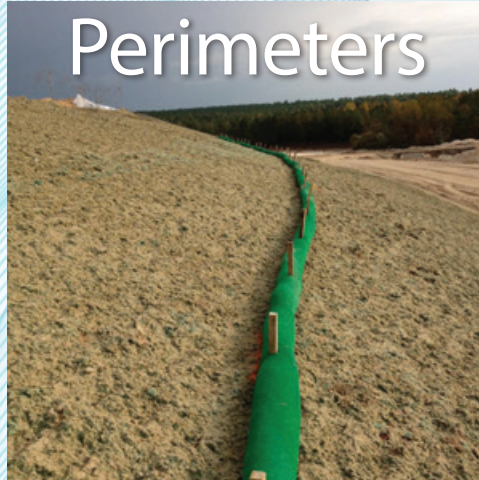
The video player controls at the bottom show a progress bar at 44:50 / 1:47:04 and various icons for play, volume, settings, and full screen.

WATCH NOW AT [YOUTUBE.COM/PDUWEEK](https://www.youtube.com/pduweek)

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