

# California Regional Water Quality Control Board



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Secretary for  
Environmental Protection

## North Coast Region

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**Arnold Schwarzenegger**  
Governor

### ORDER NO. R1-2006-0067 NPDES PERMIT NO. CA0025143

<b>Discharger</b>	<b>Willits Environmental Remediation Trust City of Willits</b>
<b>Name of Facility</b>	<b>Page Property</b>
<b>Facility Address</b>	<b>3920 Canyon Road</b>
	<b>Willits, California</b>
	<b>Mendocino County</b>

The Dischargers are authorized to discharge from the following discharge points as set forth below:

Discharge Point	Effluent Description	Discharge Point Latitude	Discharge Point Longitude	Receiving Water
001	Treated Groundwater	39°25'56"	N123°18'11"	Darby Creek

This Order/ was adopted by the Regional Water Board on:	<b>August 9, 2006</b>
This Order shall become effective on:	<b>September 8, 2006</b>
This Order shall expire on:	<b>August 9, 2011</b>
The U.S. Environmental Protection Agency (U.S. EPA) and the Regional Water Board have classified this discharge as a minor discharge	
The Discharger shall file a Report of Waste Discharge in accordance with Title 23, California Code of Regulations, <u>not later than 180 days in advance of the Order expiration date</u> as application for issuance of new waste discharge requirements.	

IT IS HEREBY ORDERED, that in order to meet the provisions contained in Division 7 of the California Water Code (CWC) and regulations adopted thereunder, and the provisions of the federal Clean Water Act (CWA), and regulations and guidelines adopted thereunder, the Dischargers shall comply with the requirements established herein.

I, Catherine Kuhlman, Executive Officer, do hereby certify the following is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, North Coast Region, on August 9, 2006.

Catherine Kuhlman, Executive Officer

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
REGION 1, NORTH COAST REGION**

ORDER NO. R1-2006-0067  
NPDES NO. CA0025143

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## I. FACILITY INFORMATION

The following Discharger is authorized to discharge in accordance with the conditions set forth in this Order:

<b>Discharger</b>	<b>Willits Environmental Remediation Trust (WERT) City of Willits</b>
<b>Name of Facility</b>	<b>Page Property</b>
<b>Facility Address</b>	<b>3920 Canyon Road Willits, CA 95490 Mendocino County</b>
<b>Facility Contact, Title and Phone</b>	<b>Anne Farr, Trustee, (916) 781-9327 Dave Madrigal, City of Willits, (707) 459-4605</b>
<b>Mailing Address</b>	<b>Willits Environmental Remediation Trust 6016 Princeton Reach Way Granite Bay, CA 95746  City of Willits 111 East Commercial Street Willits, CA 95490</b>
<b>Type of Facility</b>	<b>Former Burn Dump/Chromic Acid Disposal Pits</b>
<b>Facility Design Flow</b>	<b>Up to 29,000 Gallons Per Day</b>

## II. FINDINGS

The California Regional Water Quality Control Board, North Coast Region (hereinafter the Regional Water Board) finds:

- A. Background.** On January 30, 2006 and April 5, 2006, the Willits Environmental Remediation Trust submitted a Report of Waste Discharge proposing to collect groundwater contaminated with hexavalent chromium, treat the groundwater and discharge highly treated groundwater to Darby Creek, a tributary of the Eel River, as well as to evaporate and/or spray irrigate the highly treated groundwater on the City of Willits property ("Former Landfill"). The application was deemed complete on May 17, 2006.

The Willits Environmental Remediation Trust (WERT) is an independent instrumentality of the United States District Court for the Northern District of California, as established pursuant to the Amended Final Consent Decree, Final Order, and Final Judgment; And Order Establishing the Willits Environmental Remediation Trust, entered by Judge Susan Illston (N.D. Ca, Case No. C96-0283SI) on December 22, 2000 (the Consent Decree). The WERT was established in part to completely, timely and cost-effectively conduct all investigatory and remedial work at the Remco Facility located at 934 South Main Street in Willits, California (Remco Site) and surrounding areas in and around the City of Willits where hazardous substances associated with the Remco Facility operations have come to be located. The Page Property is one location where Remco wastes are located, and the WERT is investigating and cleaning up those wastes.

In the 1940's, the City of Willits acquired 2.4 acres of land for use as a municipal landfill on the Page Property. The municipal landfill was operated by Wilson Page on behalf of the City of Willits. The City of Willits is still the current landowner of the property. Therefore, the Willits Environmental Remediation Trust and City of Willits are hereinafter referred to as Dischargers.

- B. Facility Description.** The facility is a former municipal burn dump that operated from the 1940's to 1970. The burn dump is a 2.4 acre parcel located on the Page Ranch and operated by Wilson Page on behalf of the City of Willits. In the late 1960's, industrial wastes, including chromic acid mixed with petroleum hydrocarbons and volatile organic compounds generated from the Remco Hydraulics Facility, were collected and disposed at the former burn dump. Wastes from the Remco Facility were initially disposed onto the operating burn dump located on a hillside. In early 1970, disposal ponds were constructed and industrial wastes were disposed into ponds constructed on the property. In late 1973, Regional Water Board staff prohibited the disposal of industrial wastes to the burn dump. From 1974 to the mid 1980's, septage was disposed into the ponds.

The burn dump is located on a hillside with Darby Creek flowing at the base of the hillside. Darby Creek is a tributary to Outlet Creek and the Eel River. During winter months, rainfall flows through the permeable soils and garbage of the former burn dump and emerges as a spring at the base of the hill. The spring contains hexavalent chromium

at concentrations up to 1,650 ug/l (ppb). Contaminated groundwater then flows on the ground surface and discharges to Darby Creek. Detectable levels of hexavalent chromium are found in Darby Creek at concentrations up to 18 ug/l. The spring flows in direct relationship to the rainy season and dries up in the spring and summer months.

The Dischargers propose to install an extraction trench where contaminated groundwater emerges from the side of the hill, pump the contaminated groundwater to the top of the hill where it will be treated to nondetectable levels and then discharged to Darby Creek. The treatment system consists of a filter to remove sediment, carbon vessels to remove contaminants, and a holding tank to meter the discharge to Darby Creek. This NPDES Permit prohibits the discharge to Darby Creek during the times of May 15 to September 30. After May 15, the dischargers propose to spray irrigate or evaporate highly treated groundwater to the Page Ranch.

**C. Legal Authorities.** This Permit is issued pursuant to CWA Section 402 and implementing regulations adopted by the U.S. EPA and the CWC, Division 7, Chapter 5.5. It shall serve as a NPDES permit for point source discharges of highly treated groundwater to surface waters. This Permit shall also serve as Waste Discharge Requirements (WDRs) pursuant to the CWC, Division 7, Article 4, Chapter 4 for discharges that are not subject to regulation under CWA Section 402.

#### **D. Background and Rationale for Requirements**

The Regional Water Board developed the requirements of this Order based on information submitted as part of the application, through monitoring and reporting programs, and through special studies. Attachments A - F, which contain background information, rationale for Order Requirements, and Order requirements, are hereby incorporated into this Order and, thus, constitute part of this Order.

#### **E. California Environmental Quality Act (CEQA)**

An Initial Study/Checklist and Negative Declaration was prepared and approved by the Regional Water Board on August 9, 2006, to satisfy the requirements of the California Environmental Quality Act. The Regional Water Board has considered the Initial Study/Checklist and Negative Declaration, and has determined that compliance with this Order will have no significant environmental impact.

#### **F. Technology-Based Effluent Limitations**

NPDES regulations at 40 CFR 122.44 (a) require permits to include applicable technology-based limitations and standards. CWA Section 402 (a) (1) and NPDES regulations at 40 CFR 125.3 authorize the use of best professional judgment (BPJ) to derive technology-based effluent limitations on a case-by-case basis where Effluent Limitations Guidelines are not available for certain industrial categories and/or pollutants of concern. Where BPJ is used, the permit writer must consider specific factors outlined at 40 CFR 125.3.

There are no applicable Effluent Limitations Guidelines (technology-based limitations established by the U.S. EPA) for groundwater pump-and-treat systems, and therefore, technology-based effluent limitations have been established using BPJ.

**G. Water Quality-Based Effluent Limitations**

NPDES regulations at 40 CFR 122.44 (d) require permits to include water quality-based effluent limitations (WQBELs) to attain and maintain applicable numeric and narrative water quality criteria to protect the beneficial uses of receiving waters. Where numeric water quality objectives have not been established, in accordance with 40 CFR 122.44 (d), WQBELs may be established using calculated numeric water quality criteria; using U.S. EPA water quality criteria established under CWA Section 304 (a); or using indicator parameters for the pollutants of concern

**H. Water Quality Control Plans**

The Regional Water Board adopted a *Water Quality Control Plan for the North Coast Region* (the Basin Plan) that designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters addressed through the plan. Beneficial uses are designated for all waters of the North Coast Region and are designated for coastal and inland waters, wetlands, and groundwaters. Beneficial uses of any water body specifically identified in the Basin Plan generally apply to its tributary streams.

The Basin Plan identifies the following existing and potential beneficial uses for Outlet Creek, a tributary of the Eel River.

Discharge Point	Receiving Water	Beneficial Uses
001	Eel River	<p><u>Existing:</u>            MUN – Municipal and Domestic Supply            AGR – Agricultural Supply            IND – Industrial Service Supply            GWR – Groundwater Recharge            FRSH – Freshwater Replenishment            NAV – Navigation            REC1 – Water Contact Recreation            REC2 – Non-Contact Water Recreation            COMM – Commercial and Sport Fishing            COLD – Cold Freshwater Habitat            WILD – Wildlife Habitat            RARE – Preservation of Rare, Threatened, or Endangered Species            MIGR – Migration of Aquatic Organisms            SPWN – Spawning, Reproduction, and/or Early Development</p> <p><u>Potential:</u>            PRO – Industrial Process Supply            POW – Hydropower Generation            AQUA – Aquaculture</p>

Discharge Point	Receiving Water	Beneficial Uses
	Groundwater	<u>Existing:</u> MUN – Municipal and Domestic Supply AGR – Agricultural Supply IND – Industrial Service Supply FRSH – Freshwater replenishment to Surface Waters CUL – Native American Culture <u>Potential:</u> PRO – Industrial Process Supply AQUA – Aquaculture

The State Water Resources Control Board (State Board) adopted a *Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Waters and Enclosed Bays and Estuaries of California* (Thermal Plan) on May 18, 1972, and amended this plan on September 18, 1975. This plan contains temperature objectives for inland surface waters.

Requirements of this Order protect all receiving water beneficial uses and specifically implement the applicable water quality control plans, described above.

**I. National Toxics Rule (NTR) and California Toxics Rule (CTR)**

U.S. EPA adopted the NTR on December 22, 1992 and amended it on May 4, 1995 and November 9, 1999. The CTR was adopted by the California State Water Resources Control Board (State Water Board) on May 18, 2000 and amended on February 13, 2001. These rules include water quality criteria for the priority, toxic pollutants and are applicable to discharges authorized by this Order.

**J. State Implementation Policy**

The State Water Board’s *Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California* (State Implementation Policy or SIP) became effective on April 28, 2000 with respect to the priority pollutant criteria promulgated for California by the U.S. EPA through the NTR and to the priority pollutant objectives established by the Regional Water Boards in their basin plans (with the exception of the provision on alternate test procedures in section 2.3 of the SIP, which became effective on May 22, 2000). The SIP became effective on May 18, 2000 with respect to the priority pollutant criteria established in the CTR. The SIP includes procedures for determining the need for and calculating WQBELs and requires dischargers to submit data sufficient to do so.

**K. Compliance Schedules and Interim Requirements**

Section 2.1 of the SIP provides that, based on a discharger’s request and demonstration that it is infeasible for an existing discharger to achieve immediate compliance with an effluent limitation derived from a CTR criterion, compliance schedules may be allowed in an NPDES permit. Unless an exception has been granted under Section 5.3 of the SIP, a compliance schedule may not exceed 5 years from the date that the permit is issued or

reissued, nor may it extend beyond May 18, 2010 to establish and comply with CTR criterion-based effluent limitations. Where a compliance schedule for a final effluent limitation exceeds 1 year, the Order must include interim numeric limitations for that constituent or parameter. Where allowed by the Basin Plan, compliance schedules and interim effluent limitations or discharge specifications may also be granted to allow time to implement a new or revised water quality objective. The Permit does not include compliance schedules or interim effluent limitations.

#### **L. Antidegradation Policy**

NPDES regulations at 40 CFR 131.12 require that State water quality standards include an antidegradation policy consistent with the federal policy, which is expressed at 40 CFR 131.12. State Board Resolution 68-16 establishes California's antidegradation policy, requiring that existing quality of receiving waters be maintained unless degradation is justified based on specific findings. As discussed in the Fact Sheet (Attachment F), limitations and conditions of this Permit are consistent with the antidegradation provisions of 40 CFR 131.12 and State Board Resolution 68-16.

#### **M. Anti-Backsliding Requirements**

CWA Sections 402 (o) (2) and 303 (d) (4) and NPDES regulations at 40 CFR 122.44 (l) prohibit backsliding in NPDES permits. These anti-backsliding provisions require effluent limitations in a reissued permit to be as stringent as those in the previous permit, with some exceptions where limitations may be relaxed. Order No. R1-2006-0067 complies with all applicable anti-backsliding requirements.

#### **N. Monitoring and Reporting**

NPDES regulations at 40 CFR 122.48 require that all NPDES permits specify requirements for recording and reporting monitoring results. CWC Sections 13267 and 13383 authorize the Regional Board to require technical and monitoring reports. The attached monitoring and reporting program (MRP) (Attachment E) establishes monitoring and reporting requirements to implement federal and State requirements.

#### **O. Standard and Special Provisions**

Standard NPDES provisions, established at 40 CFR 122.41 and 122.42 and applicable to all discharges, must be included in every NPDES permit and are provided in Attachment D. The Regional Board has also included in this Permit special provisions applicable to discharges authorized under the Permit. A rationale for these special provisions is provided in the attached Fact Sheet (Attachment F).

#### **P. Notification of Interested Parties**

The Regional Water Board has notified dischargers and interested agencies and persons of its intent to prescribe waste discharge requirements, effluent limitations, and other requirements for discharges of highly-treated groundwater to surface waters following extraction and cleanup of groundwater polluted with hexavalent chromium. The

Dischargers and interested parties and persons have been provided an opportunity to submit written comments and recommendations regarding waste discharge requirements, effluent limitations, and other requirements of the Permit. Details of this notification are provided in the Fact Sheet (Attachment F) of this Permit.

#### **Q. Consideration of Public Comment**

The Regional Water Board, in a public meeting, heard and considered all comments pertaining to waste discharge requirements, effluent limitations, and other requirements of the Permit. Details of the public hearing are provided in the Fact Sheet (Attachment F).

### **III. DISCHARGE PROHIBITIONS**

- A. The discharge of any waste, including highly treated groundwater and purge waters extracted from the site and treated, is prohibited unless the discharge is regulated by an NPDES permit or is discharged to a permitted facility.
- B. The discharge of treated groundwater to Darby Creek containing inorganic constituents in excess of the background level in the receiving water is prohibited.
- C. The discharge from the treatment facility of detectable levels of the organic constituents listed in the Tables 1, 2, and 3 attached to this Order is prohibited. For purposes of this Order, the Minimum Level of detection shall be those listed in the Tables 1, 2, and 3, included in Monitoring and Reporting Program No. R1-2006-0067 (Attachment E).
- D. The discharge of treated groundwater to land containing inorganic constituents in excess of the background levels in groundwater is prohibited.
- E. The discharge to land of highly treated water containing hexavalent chromium is prohibited.
- F. Creation of pollution, contamination, or nuisance, as defined by CWC Section 13050 is prohibited. [Health and Safety Code, Section 5411]
- G. The discharge of extracted and treated groundwater/purge waters in excess of 29,000 gallons per day (gpd) is prohibited.
- H. Bypass or overflow of untreated or partially treated groundwater to waters of the State from the treatment system or from the collection and transport systems or from pump stations tributary to the treatment system is prohibited.
- I. The discharge of waste to land that is not owned by or subject to an agreement for use by the Discharger is prohibited.
- J. The discharge of treated groundwater/purge waters from the treatment system to the Eel River or its tributaries is prohibited during the period May 15 through September 30 of each year.

- K. During the period of October 1 through May 14, discharges of highly treated groundwater shall not exceed one percent of the flow of Darby Creek. For purposes of this Permit, the flow in Darby Creek shall be that flow measured at the discharge point 001.

#### **IV. EFFLUENT LIMITATIONS AND DISCHARGE SPECIFICATIONS**

##### **1. Pollutants with Effluent Limitations Established by the Order**

- A. The specific minimum detection requirements for laboratory analysis and reporting for all organic and inorganic pollutants are presented in Table 1, 2, and 3 attached to Monitoring and Reporting Program No. R1-2006-0067 (Attachment E).
- B. Organic pollutants listed in Tables 1, 2, and 3 shall not be discharged at detectable concentrations.
- C. Inorganics that are naturally occurring shall not be discharged at levels that exceed background in the receiving water.
- D. Acute toxicity. There shall be no acute toxicity in treated effluent. Dischargers shall be in compliance with this limitation when the survival of aquatic organisms in a 96-hour bioassay of undiluted waste complies with the following.

Minimum for any one bioassay: 90 percent survival

Compliance with this effluent limitation shall be determined in accordance with Section V. A of the Monitoring and Reporting Program (MRP – Attachment E to the Permit).

#### **V. RECEIVING WATER LIMITATIONS**

##### **1. Surface Water Limitations**

Receiving water limitations are based on water quality objectives contained in the Basin Plan and are a required part of this Order. Discharges shall not cause the following conditions in receiving waters.

- A. The waste discharge shall not cause the dissolved oxygen concentration of the receiving waters to be depressed below 7.0 mg/l at any time nor below 9.0 mg/L during critical spawning and egg incubation periods. In the event that the receiving waters have background dissolved oxygen concentrations of less than these levels, discharges shall not depress dissolved oxygen concentrations below existing levels.
- B. The discharge shall not cause the pH of the receiving waters to be depressed below 6.5 nor raised above 8.5. If the pH of the receiving water is less than 6.5, the discharge shall not cause a further depression of the pH of the receiving water. If the pH of the receiving water is greater than 8.5, the discharge shall not cause a

- further increase in the pH of the receiving water. The discharge shall not cause receiving water pH to change more than 0.5 units at any time.
- C. The discharge shall not cause the turbidity of the receiving waters to be increased more than 20 percent above naturally occurring background levels.
  - D. The discharge shall not cause the receiving waters to contain floating materials, including, but not limited to, solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses.
  - E. The discharge shall not cause the receiving waters to contain taste- or odor-producing substances in concentrations that impart undesirable tastes or odors to fish flesh or other edible products of aquatic origin, that cause nuisance, or that adversely affect beneficial uses.
  - F. The discharge shall not cause coloration of the receiving waters that causes nuisance or adversely affects beneficial uses.
  - G. The discharge shall not cause bottom deposits in the receiving waters to the extent that such deposits cause nuisance or adversely affect beneficial uses.
  - H. The discharge shall not cause or contribute to receiving water concentrations of biostimulants that promote objectionable aquatic growths to the extent that such growths cause nuisance or adversely affect beneficial uses of the receiving waters.
  - I. The discharge shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses of receiving waters.
  - J. The discharge shall not cause the receiving waters to contain toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life. Compliance with this objective shall be determined according to Sections V.A. and V.B. of Monitoring and Reporting Program No. R1-2006-0067.
  - K. Discharges shall not cause alteration of natural temperature of receiving waters unless it can be demonstrated to the satisfaction of the Regional Water Board that such alteration in temperature does not adversely affect beneficial uses. At no time or place shall discharges cause temperature to increase more than 5° F above natural receiving water temperature.
  - L. The discharge shall not cause an individual pesticide or combination of pesticides to be present in concentrations that adversely affect beneficial uses. There shall be no bioaccumulation of pesticide concentrations found in bottom sediments or aquatic life as a result of the discharge.
  - M. The discharge shall not cause the receiving waters to contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water that cause nuisance or that otherwise adversely affect beneficial uses.

- N. This discharge shall not cause a violation of any applicable water quality standard for receiving waters adopted by the Regional Water Board or the State Water Board as required by the CWA and regulations adopted thereunder. If more stringent applicable water quality standards are promulgated or approved pursuant to Section 303 of the CWA, or amendments thereto, the Regional Water Board will revise and modify this Order in accordance with the more stringent standards.

## **VI. PROVISIONS**

### **A. Standard Provisions**

#### **1. Federal Standard Provisions**

The Discharger shall comply with all Standard Provisions included in Attachment D of this Order.

#### **2. Regional Water Board Standard Provisions**

- a. Authorization to discharge under this Order may be terminated for reasons which include, but are not limited to, the following.
  - i. Violation of any term or condition contained in this Order;
  - ii. Obtaining authorization to discharge under the Order by misrepresentation or failure to fully disclose relevant information;
  - iii. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge;
  - iv. A change in the groundwater treatment system to a configuration that is not eligible for coverage under this Order;
  - v. The discharge is endangering human health or the environment.
- b. The Regional Water Board may review and revise this Permit at any time upon application by any person, or on the Regional Water Board's own motion.
- c. If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under the federal CWA at Section 307 (a) for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation for the pollutant in this Permit, this Permit shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition and the Permittee so notified.
- d. The Executive Officer may modify or revoke authorization to discharge under this Permit if it is determined that the Permittee is causing or significantly contributing to adverse impacts to the water quality and/or beneficial uses of receiving waters. In the event that the Regional Water Board's interpretation of the narrative

toxicity objective is modified or invalidated by the Regional Water Board, a court decision, or a State statute or regulation, this Permit may be revised to be consistent with the decision, statute, or regulation.

- e. In addition, the Regional Water Board may consider revising this Permit to make it consistent with any Regional Water Board decisions arising from various petitions for rehearing, and litigation concerning the State Implementation Plan, 303 (d) list, and TMDL Program.
- f. Availability. A copy of this Permit shall be maintained at the discharging facility and be available at all times to operating personnel.
- g. Change in Discharge. At least 180 days prior to an expected material change in the character, location, or volume of a discharge, the Permittee shall file with the Regional Water Board a revised report of waste discharge. A material change includes, but is not limited to, moving the discharge to another drainage area, to a different water body, or to a disposal area, significantly removed from the original area, potentially causing different water quality or nuisance problems.
- h. Monitoring and Reporting. The Regional Water Board or State Water Board may require the Permittee to establish and maintain records, make reports, install, use, and maintain monitoring equipment or methods (including, where appropriate, biological monitoring methods), sample effluent as prescribed, and provide other information as may be reasonably required.

The Permittee shall file with the Regional Water Board technical reports on self monitoring work performed according to the detailed specifications contained in any monitoring and reporting program as directed by the Regional Water Board.

Chemical, bacteriological, and bioassay analyses shall be conducted at a laboratory certified for such analyses by the California Department of Health Services Environmental Laboratory Accreditation Program (ELAP) or approved by the Executive Officer. In the event a certified laboratory is not available to the Permittee, analyses performed by a non-certified laboratory will be accepted, provided:

- i. A quality assurance/ quality control program is instituted by the laboratory, and a manual containing the steps followed in this program is kept in the laboratory and made available for inspection by representatives of the Regional Water Board. The quality assurance/quality control program must conform to U.S. EPA or State Department of Health Services guidelines.
- ii. The laboratory will become certified within the shortest practicable time if the State certification program is resumed.

All Discharge Monitoring Reports shall be sent to:

California Regional Water Quality Control Board  
North Coast Region  
5550 Skylane Blvd., Suite A  
Santa Rosa, CA 95403

## **B. Monitoring and Reporting Program Requirements**

The discharger shall comply with MRP Order No. R1-2006-0067 presented in Attachment E of this Order, and future revisions thereto.

## **C. Special Provisions**

### **1. Stormwater**

If applicable, authorized dischargers shall seek coverage under and comply with the requirements of State Water Board Order No. 97-03-DWQ, NPDES General Permit No. CAS000001 – Waste Discharge Requirements for Discharges of Stormwater Associated with Industrial Activities Excluding Construction Activities (1997). If this General Stormwater Permit is reissued, authorized dischargers shall seek coverage under and comply with the requirements of the most recent version of the permit.

### **2. Special Studies, Technical Reports, and Monitoring Requirements**

#### **a. Whole Effluent Toxicity**

In addition to a limitation for whole effluent acute toxicity established by Section IV. D of this Order, the MRP of this Order requires monitoring for whole effluent chronic toxicity to determine compliance with the Basin Plan's narrative water quality objective for toxicity.

As established by the MRP, if either the acute toxicity effluent limitation or a chronic toxicity monitoring trigger of 1 TUc is exceeded, the Discharger shall conduct accelerated toxicity monitoring as prescribed in Section V.A.6. of the MRP. Results of accelerated toxicity monitoring will either trigger the implementation of a Toxicity Reduction Evaluation (TRE), if toxicity persists; or it will indicate that a return to routine toxicity monitoring is justified because persistent toxicity has not been identified by accelerated monitoring.

TREs shall be conducted in accordance with the TRE Work Plan prepared by the Discharger pursuant to Section VI. C. 2. b of this Order, below. As a result of a TRE, this Order may be reopened to include a chronic toxicity limitation, a new acute toxicity limitation, and/or a limitation for a specific toxicant identified in the TRE. Additionally, if a numeric water quality objective for toxicity is adopted by the State Water Board, this Order may be reopened to include a numeric effluent limitation for toxicity based on that objective.

## **b. Toxicity Reduction Evaluation Work Plan**

The Discharger shall prepare, within 180 days of the effective date of this Order, and maintain, a TRE Work Plan. This Plan shall be reviewed and updated as necessary in order to remain current and appropriate for the facility and the discharge. The TRE Work Plan shall describe the steps which the Permittee will follow if acute or chronic toxicity is found to be persistent in effluent by accelerated toxicity monitoring as described in Section V of the MRP. The TRE Work Plan shall be prepared in accordance with the EPA guidance document: *Generalized Methodology for Conducting Industrial Toxicity Reduction Evaluations* (EPA/600/2-88/070, 1989) and shall include, at a minimum, the following items.

- i. A description of the investigation and evaluation techniques that will be used to identify potential causes and sources of toxicity, effluent variability, and treatment system efficiency.
- ii. A description of the facility's methods of maximizing in-house treatment efficiency and good housekeeping practices.
- iii. The TRE Work Plan shall include provisions to perform a Toxicity Identification Evaluation (TIE) when the source and/or identity of the toxin(s) responsible for observed toxicity are unknown. The Work Plan shall indicate whether TIEs will be performed by in-house personnel or by a contractor and shall be conducted in accordance with the following applicable guidance from the U.S. EPA's Office of Research and Development. (Documents are located at <http://nepis.epa.gov/pubtitleORD.htm>)
  - *Toxicity Identification Evaluation: Characterization of Chronically Toxic Effluents, Phase I* (EPA/600/6-91-005F),
  - *Methods for Aquatic Toxicity Identifications, Phase II Procedures for Samples Exhibiting Acute and Chronic Toxicity* (EPA/600/R-92/080), and
  - *Methods for Aquatic Toxicity Identification Evaluations, Phase III Toxicity Confirmation Procedures for Samples Exhibiting Acute and Chronic Toxicity* (EPA/600/R-92/081).
- iv. The TRE shall include an expected schedule for conducting and completing the study, including TRE initiation within 30 days following receipt of accelerated monitoring results, which require initiation of a TRE.
- v. The TRE Work Plan shall include a provision to discontinue the TRE if, based on monitoring results, there is no longer consistent toxicity in the effluent.
- vi. As toxic substances are identified or characterized, the TRE Work Plan shall require continued source identification steps and steps to evaluate strategies for reducing or eliminating the toxic substances from the discharge. The TRE

Work Plan shall require all reasonable steps to reduce toxicity and meet the effluent limitation for acute toxicity established by this Order and the monitoring trigger of 1.0 TUC for chronic toxicity.

The TRE Work Plan shall not require duplication of such efforts as source control, pollution prevention, and storm water control, which are undertaken as required elements of other pollution control programs; however, such efforts shall be considered as part of a TRE.

The Regional Water Board recognizes that toxicity may be episodic and identification and reduction of sources may not be successful in all circumstances. Consideration of enforcement action by the Regional Water Board will be based, in part, on the Discharger's actions and efforts to identify and control or reduce sources of toxicity in effluent.

**c. Operation and Maintenance Manual**

All owners or operators shall maintain and update, as necessary, a Groundwater Treatment System Operation and Maintenance (O&M) Manual to assure efficient and effective treatment of contaminated groundwater. The O&M Manual shall address, but not limit attention to, the following.

- i. The O&M manual shall specify both normal operating and critical maximum or minimum values for treatment process variables including influent concentrations, flow rates, water levels, temperatures, time intervals, and chemical feed rates.
- ii. The O&M manual shall specify an inspection and maintenance schedule for active and reserve systems and shall provide a log sheet format to document inspection observations and record completion of maintenance tasks.
- iii. The O&M manual shall include a Contingency and Notification Plan meeting the requirements of Regional Water Board Resolution No. 74-151, *Contingency Planning and Notification Requirements for Accidental Spills and Discharges* (July 24, 1974), which is hereby incorporated into and made a part of this Permit. The plan shall include procedures for reporting of accidental discharges and for emergency notification of operating personnel to assure compliance with this Permit, as well as authorization letters from the Executive Officer.
- iv. The O&M manual shall specify safeguards to prevent noncompliance with limitations and requirements of the Permit resulting from equipment failure, power loss, vandalism, or ten-year return frequency rainfall.

**d. Engineering Design Report**

For all new dischargers, an Engineering Design Report that certifies the adequacy of each major component of the proposed treatment facility shall be submitted.

The certification shall include an analysis, based on accepted engineering practice, which demonstrates that the treatment process and the physical design of the treatment components will ensure compliance with the prohibitions, effluent limitations, and other conditions of the Permit. The report shall also certify that:

- i. Adequate maintenance and testing schedules are included in the Groundwater Treatment System Treatment O&M Manual; and
- ii. Sampling points are located where representative monitoring samples of process and discharge streams can be obtained. The design engineer shall affix her/his signature and engineering license number to this Engineering Design Report.

**e. Granular Activated Carbon Quality Assurance / Quality Control**

The Discharger shall implement a Quality Assurance / Quality Control (QA/QC) Program to assure that newly replenished granular activated carbon (GAC) in the treatment system is providing high quality effluent with respect to pH, ammonia, and inorganic constituents. Activities conducted as part of the GAC QA/QC program shall be documented in routine Discharge Monitoring Reports submitted for the facility.

**3. Notice of Start Up**

After receiving authorization to discharge under the Order and at least 7 days prior to initiating a discharge, the dischargers shall notify the Regional Water Board of the time and date for initiation of the discharge(s) authorized under the Order.

**VII. COMPLIANCE DETERMINATION**

Compliance with the effluent limitations contained in Section IV of this Order will be determined as specified below:

**A. Average Monthly Effluent Limitation (AMEL)**

If the average of daily discharges over a calendar month exceeds the AMEL for a given parameter, an alleged violation will be flagged and the discharger will be considered out of compliance for each day of that month for that parameter (e.g., resulting in 31 days of non-compliance in a 31-day month). The average of daily discharges over the calendar month that exceeds the AMEL for a parameter will be considered out of compliance for that month only. For purposes of Mandatory Minimum Penalties, a violation of an AMEL will be considered as one violation. Depending on the nature of the violation, the Regional Water Board may, however, pursue discretionary civil penalties for the remaining days of violation. If only a single sample is taken during the calendar month and the analytical result for that sample exceeds the AMEL, the discharger will be considered out of compliance for that calendar month. For any one calendar month during which no sample (daily

discharge) is taken, no compliance determination can be made for that calendar month.

#### **B. Average Weekly Effluent Limitation (AWEL)**

If the average of daily discharges over a calendar week exceeds the AWEL for a given parameter, an alleged violation will be flagged and the discharger will be considered out of compliance for each day of that week for that parameter, resulting in seven days of non-compliance. The average of daily discharges over the calendar week that exceeds the AWEL for a parameter will be considered out of compliance for that week only. For purposes of Mandatory Minimum Penalties, a violation of an AWEL will be considered as one violation. Depending on the nature of the violation, the Regional Water Board may, however, pursue discretionary civil penalties for the remaining days of violation. If only a single sample is taken during the calendar week and the analytical result for that sample exceeds the AWEL, the discharger will be considered out of compliance for that calendar week. For any one calendar week during which no sample (daily discharge) is taken, no compliance determination can be made for that calendar week.

#### **C. Maximum Daily Effluent Limitation (MDEL)**

If a daily discharge exceeds the MDEL for a given parameter, an alleged violation will be flagged and the discharger will be considered out of compliance for that parameter for that one day only within the reporting period. For any 1 day during which no sample is taken, no compliance determination can be made for that day.

#### **D. Instantaneous Minimum Effluent Limitation**

If the analytical result of a single grab sample is lower than the instantaneous minimum effluent limitation for a parameter, a violation will be flagged and the discharger will be considered out of compliance for that parameter for that single sample. Non-compliance for each sample will be considered separately (e.g., the results of two grab samples taken within a calendar day that both are lower than the instantaneous minimum effluent limitation would result in two instances of non-compliance with the instantaneous minimum effluent limitation).

#### **E. Instantaneous Maximum Effluent Limitation.**

If the analytical result of a single grab sample is higher than the instantaneous maximum effluent limitation for a parameter, a violation will be flagged and the discharger will be considered out of compliance for that parameter for that single sample. Non-compliance for each sample will be considered separately (e.g., the results of two grab samples taken within a calendar day that both exceed the instantaneous maximum effluent limitation would result in two instances of non-compliance with the instantaneous maximum effluent limitation).

#### **F. Six-month Median Effluent Limitation**

If the median of daily discharges over any 180-day period exceeds the six-month median effluent limitation for a given parameter, an alleged violation will be flagged and the discharger will be considered out of compliance for each day of that 180-day period for that parameter. The next assessment of compliance will occur after the next sample is taken. If only a single sample is taken during a given 180-day period and the analytical result for that sample exceeds the six-month median, the discharger will be considered out of compliance for the 180-day period. For any 180-period during which no sample is taken, no compliance determination can be made for the six-month median limitation.

#### **G. Compliance with Single-Constituent Effluent Limitations.**

The discharge is out of compliance with the effluent limitation if the concentration of the pollutant in the monitoring sample is greater than the effluent limitation and greater than or equal to the reported Minimum Level (ML). The ML is the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method-specific sample weights, volumes and processing steps have been followed.

#### **H. Compliance with Effluent Limitations Expressed as a Sum of Several Constituents.**

The discharge is out of compliance with an effluent limitation that applies to the sum of a group of chemicals (e.g., PCBs) if the sum of the individual pollutant concentrations is greater than the effluent limitation. Individual pollutants of the group will be considered to have a concentration of zero if the constituent is reported as non-detect (ND) or Detected, but Not Quantified (DNQ).

#### **I. Multiple Sample Data Reduction.**

When determining compliance with an AMEL for priority pollutants and more than one sample result is available in a month, the Discharger shall compute the arithmetic mean unless the data set contains one or more reported determinations of “Detected, but Not Quantified” (DNQ) or “Not Detected” (ND). In those cases, the Discharger shall compute the median in place of the arithmetic mean in accordance with the following procedure:

1. The data set shall be ranked from low to high, ranking the reported ND determinations lowest, DNQ determinations next, followed by quantified values (if any). The order of the individual ND or DNQ determinations is unimportant.
2. The median value of the data set shall be determined. If the data set has an odd number of data points, then the median is the middle value. If the data set has an even number of data points, then the median is the average of the two values around the middle unless one or both of the points are ND or DNQ, in which case the median value shall be the lower of the two data points where DNQ is lower than a value and ND is lower than DNQ.

## ATTACHMENT A – DEFINITIONS

**Average Monthly Effluent Limitation (AMEL):** the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

**Average Weekly Effluent Limitation (AWEL):** the highest allowable average of daily discharges over a calendar week (Sunday through Saturday), calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

**Daily Discharge:** Daily Discharge is defined as either: (1) the total mass of the constituent discharged over the calendar day (12:00 am through 11:59 pm) or any 24-hour period that reasonably represents a calendar day for purposes of sampling (as specified in the permit), for a constituent with limitations expressed in units of mass or; (2) the unweighted arithmetic mean measurement of the constituent over the day for a constituent with limitations expressed in other units of measurement (e.g., concentration).

The daily discharge may be determined by the analytical results of a composite sample taken over the course of one day (a calendar day or other 24-hour period defined as a day) or by the arithmetic mean of analytical results from one or more grab samples taken over the course of the day.

For composite sampling, if 1 day is defined as a 24-hour period other than a calendar day, the analytical result for the 24-hour period will be considered as the result for the calendar day in which the 24-hour period ends.

**Effective Concentration (EC):** The EC is a point estimate of the toxicant concentration that would cause an adverse effect on a quantal (all-or-nothing) response (such as death, immobilization, or serious incapacitation) in a given percent of the test organisms. If the effect is death or immobility, the term lethal concentration (LC) may be used. EC values may be calculated using point estimation techniques such as probit, logit, and Spearman-Kärber. EC25 is the concentration of toxicant (in percent effluent) that cause a response in 25 percent of the test organisms.

**Inhibition Concentration (IC):** The IC is a point estimate of the toxicant concentration that would cause a given percent reduction in a non-lethal, non-quantal biological measurement, such as growth. For example, an IC25 is the estimated concentration of toxicant that would cause a 25 percent reduction in average young per female or growth. IC values may be calculated using a linear interpolation method such as EPA's Bootstrap procedure.

**Instantaneous Maximum Effluent Limitation:** the highest allowable value for any single grab sample or aliquot (i.e., each grab sample or aliquot is independently compared to the instantaneous maximum limitation).

**Instantaneous Minimum Effluent Limitation:** the lowest allowable value for any single grab sample or aliquot (i.e., each grab sample or aliquot is independently compared to the instantaneous minimum limitation).

**Maximum Daily Effluent Limitation (MDEL):** the highest allowable daily discharge of a pollutant.

**Minimum Level (ML):** The Minimum Level is the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all the method specified sample weights, volumes, and processing steps have been followed.

**No Observed Effect Concentration (NOEC):** The NOEC is the highest tested concentration of an effluent or a toxicant at which no adverse effects are observed on the aquatic test organisms at a specific time of observation.

**No Observed Effect Level (NOEL):** For compliance determination the NOEL equals IC25 or EC25. If the IC25 and EC25 cannot be statistically determined, the NOEL shall be equal to the NOEC derived using a statistical analysis (hypothesis testing).

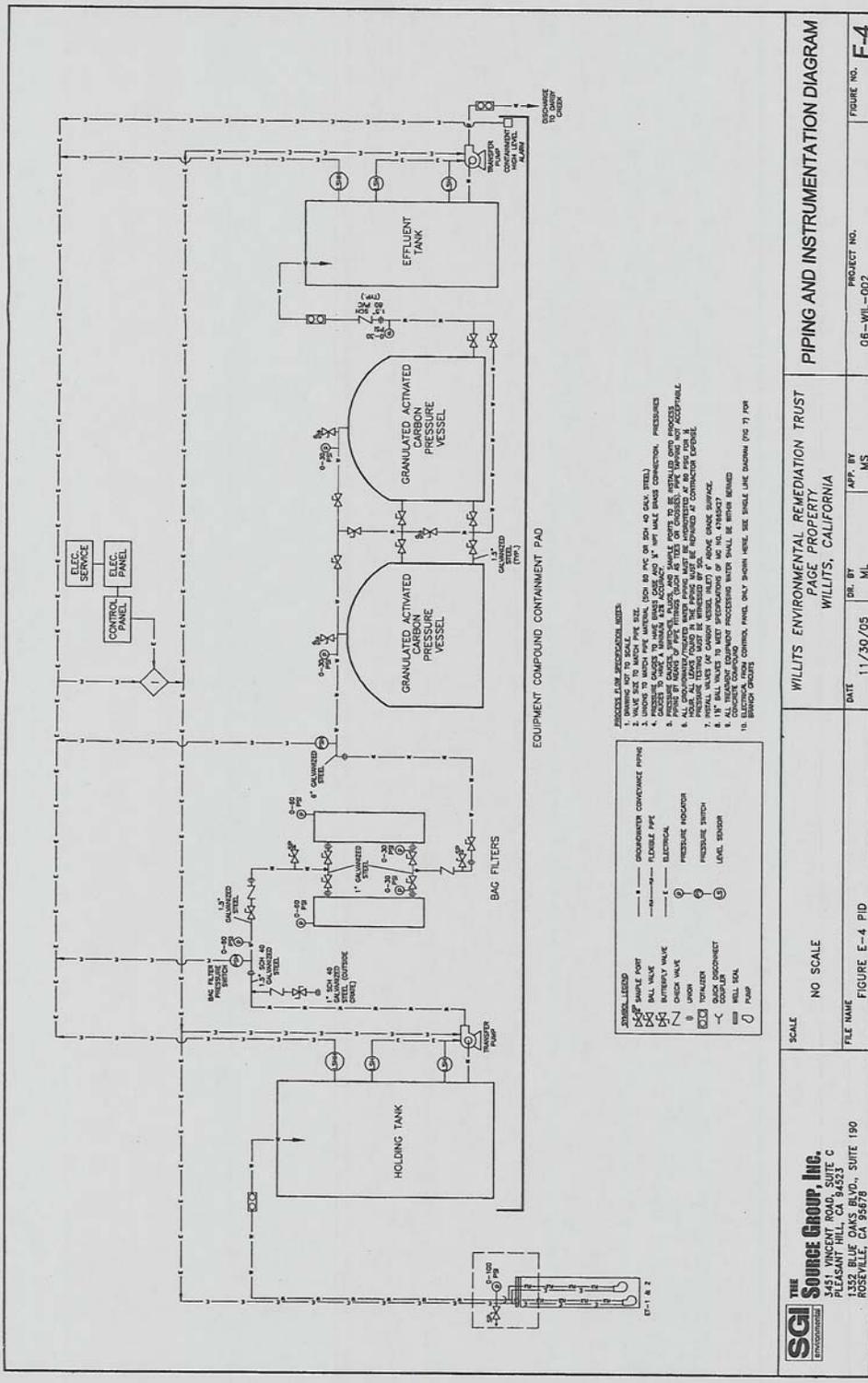
**Six-month Median Effluent Limitation:** the highest allowable moving median of all daily discharges for any 180-day period.

**TUc (chronic toxicity unit):** TUc equals  $100 / \text{NOEL}$  (e.g., if NOEL = 100, then chronic toxicity = 1 TUc)



 <b>THE SOURCE GROUP, Inc.</b> 1352 Blue Oaks Blvd., Ste 190 Roseville, CA 95678	TITLE: <b>SITE LOCATION MAP</b>	DATE: 9/23/05
	LOCATION: <b>PAGE PROPERTY                  MENDOCINO COUNTY, CALIFORNIA</b>	FIGURE: <b>1-1</b>

ATTACHMENT B



ATTACHMENT C

## **ATTACHMENT D – FEDERAL STANDARD PROVISIONS**

### **I. STANDARD PROVISIONS – PERMIT COMPLIANCE**

#### **A. Duty to Comply**

1. The Discharger must comply with all of the conditions of this Order. Any noncompliance constitutes a violation of the CWA and the California Water Code (CWC) and is grounds for enforcement action, for permit termination, revocation and reissuance, or denial of a permit renewal application [40 CFR §122.41(a)].
2. The Discharger shall comply with effluent standards or prohibitions established under Section 307(a) of the CWA for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions, even if this Order has not been modified to incorporate the requirement [40 CFR §122.41(a)(1)].

#### **B. Need to Halt or Reduce Activity Not a Defense**

It shall not be a defense for a Discharger in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Order [40 CFR §122.41(c)].

#### **C. Duty to Mitigate**

The Discharger shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this Order that has a reasonable likelihood of adversely affecting human health or the environment [40 CFR §122.41(d)].

#### **D. Proper Operation and Maintenance**

The Discharger shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Discharger to achieve compliance with the conditions of this Order. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems that are installed by a Discharger only when necessary to achieve compliance with the conditions of this Order [40 CFR §122.41(e)].

#### **E. Property Rights**

1. This Order does not convey any property rights of any sort or any exclusive privileges [40 CFR §122.41(g)].
2. The issuance of this Order does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations [40 CFR §122.5(c)].

## **F. Inspection and Entry**

The Discharger shall allow the Regional Water Quality Control Board (REGIONAL WATER BOARD), State Water Resources Control Board (SWRCB), United States Environmental Protection Agency (USEPA), and/or their authorized representatives (including an authorized contractor acting as their representative), upon the presentation of credentials and other documents, as may be required by law, to [40 CFR §122.41(i)] [CWC 13383(c)]:

1. Enter upon the Discharger's premises where a regulated facility or activity is located or conducted, or where records are kept under the conditions of this Order [40 CFR §122.41(i)(1)];
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order [40 CFR §122.41(i)(2)];
3. Inspect and photograph, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order [40 CFR §122.41(i)(3)];
4. Sample or monitor, at reasonable times, for the purposes of assuring Order compliance or as otherwise authorized by the CWA or the CWC, any substances or parameters at any location [40 CFR §122.41(i)(4)].

## **G. Bypass**

1. Definitions
  - a. “Bypass” means the intentional diversion of waste streams from any portion of a treatment facility [40 CFR §122.41(m)(1)(i)].
  - b. “Severe property damage” means substantial physical damage to property, damage to the treatment facilities, which causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production [40 CFR §122.41(m)(1)(ii)].
2. Bypass not exceeding limitations – The Discharger may allow any bypass to occur which does not cause exceedances of effluent limitations, but only if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions listed in Standard Provisions – Permit Compliance I.G.3 and I.G.5 below [40 CFR §122.41(m)(2)].
3. Prohibition of bypass – Bypass is prohibited, and the Regional Board may take enforcement action against a Discharger for bypass, unless [40 CFR §122.41(m)(4)(i)]:

- a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage [40 CFR §122.41(m)(4)(A)];
  - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance [40 CFR §122.41(m)(4)(B)]; and
  - c. The Discharger submitted notice to the Regional Board as required under Standard Provision – Permit Compliance I.G.5 below [40 CFR §122.41(m)(4)(C)].
4. The Regional Board may approve an anticipated bypass, after considering its adverse effects, if the Regional Board determines that it will meet the three conditions listed in Standard Provisions – Permit Compliance I.G.3 above [40 CFR §122.41(m)(4)(ii)].
5. Notice
    - a. Anticipated bypass. If the Discharger knows in advance of the need for a bypass, it shall submit a notice, if possible at least 10 days before the date of the bypass [40 CFR §122.41(m)(3)(i)].
    - b. Unanticipated bypass. The Discharger shall submit notice of an unanticipated bypass as required in Standard Provisions - Reporting V.E below [40 CFR §122.41(m)(3)(ii)].

## H. Upset

Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation [40 CFR §122.41(n)(1)].

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph H.2 of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review [40 CFR §122.41(n)(2)].
2. Conditions necessary for a demonstration of upset. A Discharger who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that [40 CFR §122.41(n)(3)]:

- a. An upset occurred and that the Discharger can identify the cause(s) of the upset [40 CFR §122.41(n)(3)(i)];
  - b. The permitted facility was, at the time, being properly operated [40 CFR §122.41(n)(3)(i)];
  - c. The Discharger submitted notice of the upset as required in Standard Provisions – Reporting V.E.2.b [40 CFR §122.41(n)(3)(iii)]; and
  - d. The Discharger complied with any remedial measures required under Standard Provisions – Permit Compliance I.C above [40 CFR §122.41(n)(3)(iv)].
3. Burden of proof. In any enforcement proceeding, the Discharger seeking to establish the occurrence of an upset has the burden of proof [40 CFR §122.41(n)(4)].

## II. STANDARD PROVISIONS – PERMIT ACTION

### A. General

This Order may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Discharger for modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any Order condition [40 CFR §122.41(f)].

### B. Duty to Reapply

If the Discharger wishes to continue an activity regulated by this Order after the expiration date of this Order, the Discharger must apply for and obtain a new permit [40 CFR §122.41(b)].

### C. Transfers

This Order is not transferable to any person except after notice to the Regional Board. The Regional Board may require modification or revocation and reissuance of the Order to change the name of the Discharger and incorporate such other requirements as may be necessary under the CWA and the CWC [40 CFR §122.41(l)(3)] [40 CFR §122.61].

## III. STANDARD PROVISIONS – MONITORING

- A. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity [40 CFR §122.41(j)(1)].
- B. Monitoring must be conducted according to test procedures under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR Part 503 unless other test procedures have been specified in this Order [40 CFR §122.41(j)(4)] [40 CFR §122.44(i)(1)(iv)].

#### **IV. STANDARD PROVISIONS – RECORDS**

- A.** The Discharger shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the application for this Order, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the Regional Board Executive Officer at any time [40 CFR §122.41(j)(2)].
- B.** Records of monitoring information shall include:
1. The date, exact place, and time of sampling or measurements [40 CFR §122.41(j)(3)(i)];
  2. The individual(s) who performed the sampling or measurements [40 CFR §122.41(j)(3)(ii)];
  3. The date(s) analyses were performed [40 CFR §122.41(j)(3)(iii)];
  4. The individual(s) who performed the analyses [40 CFR §122.41(j)(3)(iv)];
  5. The analytical techniques or methods used [40 CFR §122.41(j)(3)(v)]; and
  6. The results of such analyses [40 CFR §122.41(j)(3)(vi)].
- C.** Claims of confidentiality for the following information will be denied [40 CFR §122.7(b)]:
1. The name and address of any permit applicant or Discharger [40 CFR §122.7(b)(1)]; and
  2. Permit applications and attachments, permits and effluent data [40 CFR §122.7(b)(2)].

#### **V. STANDARD PROVISIONS – REPORTING**

##### **A. Duty to Provide Information**

The Discharger shall furnish to the Regional Board, SWRCB, or USEPA within a reasonable time, any information which the Regional Board, SWRCB, or USEPA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order or to determine compliance with this Order. Upon request, the Discharger shall also furnish to the Regional Board, SWRCB, or USEPA copies of records required to be kept by this Order [40 CFR §122.41(h)] [CWC 13267].

##### **B. Signatory and Certification Requirements**

1. All applications, reports, or information submitted to the Regional Board, SWRCB, and/or USEPA shall be signed and certified in accordance with paragraph (2.) and (3.) of this provision [40 CFR §122.41(k)].

2. All permit applications shall be signed as follows:
  - a. For a corporation: By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures [40 CFR §122.22(a)(1)];
  - b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively [40 CFR §122.22(a)(2)]; or
  - c. For a municipality, State, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this provision, a principal executive officer of a federal agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of USEPA) [40 CFR §122.22(a)(3)].
3. All reports required by this Order and other information requested by the Regional Board, SWRCB, or USEPA shall be signed by a person described in paragraph (b) of this provision, or by a duly authorized representative of that person. A person is a duly authorized representative only if:
  - a. The authorization is made in writing by a person described in paragraph (2.) of this provision [40 CFR §122.22(b)(1)];
  - b. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company (a duly authorized representative may thus be either a named individual or any individual occupying a named position) [40 CFR §122.22(b)(2)]; and
  - c. The written authorization is submitted to the Regional Board, SWRCB, or USEPA [40 CFR §122.22(b)(3)].

4. If an authorization under paragraph (3.) of this provision is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph (3.) of this provision must be submitted to the Regional Board, SWRCB or USEPA prior to or together with any reports, information, or applications, to be signed by an authorized representative [40 CFR §122.22(c)].
5. Any person signing a document under paragraph (2.) or (3.) of this provision shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations” [40 CFR §122.22(d)].

### **C. Monitoring Reports**

1. Monitoring results shall be reported at the intervals specified in the Monitoring and Reporting Program in this Order [40 CFR §122.41(l)(4)].
2. If the Discharger monitors any pollutant more frequently than required by this Order using test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR Part 503, or as specified in this Order, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Regional Board [40 CFR §122.41(l)(4)(ii)].
3. Calculations for all limitations, which require averaging of measurements, shall utilize an arithmetic mean unless otherwise specified in this Order [40 CFR §122.41(l)(4)(iii)].

### **D. Compliance Schedules**

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this Order, shall be submitted no later than 14 days following each schedule date [40 CFR §122.41(l)(5)].

### **E. Twenty-Four Hour Reporting**

1. The Discharger shall report any noncompliance that may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the Discharger becomes aware of the circumstances. A written submission shall also be provided within five (5) days of the time the Discharger becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance [40 CFR §122.41(l)(6)(i)].
2. The following shall be included as information that must be reported within 24 hours under this paragraph [40 CFR §122.41(l)(6)(ii)]:
  - a. Any unanticipated bypass that exceeds any effluent limitation in this Order [40 CFR §122.41(l)(6)(ii)(A)].
  - b. Any upset that exceeds any effluent limitation in this Order [40 CFR §122.41(l)(6)(ii)(B)].
  - c. Violation of a maximum daily discharge limitation for any of the pollutants listed in this Order to be reported within 24 hours [40 CFR §122.41(l)(6)(ii)(C)].
3. The Regional Board may waive the above-required written report under this provision on a case-by-case basis if an oral report has been received within 24 hours [40 CFR §122.41(l)(6)(iii)].

### **F. Planned Changes**

The Discharger shall give notice to the Regional Board as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required under this provision only when [40 CFR §122.41(l)(1)]:

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR §122.29(b) [40 CFR §122.41(l)(1)(i)]; or
2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in this Order nor to notification requirements under 40 CFR Part 122.42(a)(1) (see Additional Provisions—Notification Levels VII.A.1) [40 CFR §122.41(l)(1)(ii)].
3. The alteration or addition results in a significant change in the Discharger's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during

the permit application process or not reported pursuant to an approved land application plan [40 CFR §122.41(l)(1)(iii)].

#### **G. Anticipated Noncompliance**

The Discharger shall give advance notice to the Regional Board or SWRCB of any planned changes in the permitted facility or activity that may result in noncompliance with General Order requirements [40 CFR §122.41(l)(2)].

#### **H. Other Noncompliance**

The Discharger shall report all instances of noncompliance not reported under Standard Provisions – Reporting E.3, E.4, and E.5 at the time monitoring reports are submitted. The reports shall contain the information listed in Standard Provision – Reporting V.E [40 CFR §122.41(l)(7)].

#### **I. Other Information**

When the Discharger becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Regional Board, SWRCB, or USEPA, the Discharger shall promptly submit such facts or information [40 CFR §122.41(l)(8)].

### **VI. STANDARD PROVISIONS – ENFORCEMENT**

- A. The CWA provides that any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the CWA, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the CWA, is subject to a civil penalty not to exceed \$25,000 per day for each violation. The CWA provides that any person who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 of the CWA, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the CWA, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the CWA, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than one (1) year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than two (2) years, or both. Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than three (3) years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than six (6) years, or both. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the CWA, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the CWA, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent

conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions [*40 CFR §122.41(a)(2)*] [*CWC 13385 and 13387*].

- B. Any person may be assessed an administrative penalty by the Regional Board for violating section 301, 302, 306, 307, 308, 318 or 405 of the CWA, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the CWA. Administrative penalties for Class I violations are not to exceed \$10,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$25,000. Penalties for Class II violations are not to exceed \$10,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$125,000 [*40 CFR §122.41(a)(3)*].
- C. The CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than 4 years, or both [*40 CFR §122.41(j)(5)*].
- D. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this Order, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or by both [*40 CFR §122.41(k)(2)*].