

- a. If present or future investigations demonstrate that the discharge(s) governed by this Order will have, or will cease to have, a reasonable potential to cause or contribute to adverse impacts on water quality and/or beneficial uses of the receiving waters.
- b. If new or revised WQOs or total maximum daily loads (TMDLs) come into effect for the San Francisco Bay estuary and contiguous water bodies (whether statewide, regional, or site-specific). In such cases, effluent limitations in this Order will be modified as necessary to reflect updated WQOs and waste load allocations in TMDLs. Adoption of effluent limitations contained in this Order is not intended to restrict in any way future modifications based on legally adopted WQOs, TMDLs, or as otherwise permitted under federal regulations governing NPDES permit modifications.
- c. If translator or other water quality studies provide a basis for determining that a permit condition(s) should be modified.
- d. If the receiving water does not meet promulgated ammonia objectives.
- e. If State Water Board precedential decisions, new policies, new laws, or new regulations on chronic toxicity or total chlorine residual become available.
- f. If administrative or judicial decision on a separate NPDES permit or WDR that addresses requirements similar to this discharge.
- g. Or as otherwise authorized by law.

The Discharger may request permit modification based on the above. The Discharger shall include in any such request an antidegradation and anti-backsliding analysis.

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

### **a. Effluent Characterization for Selected Constituents**

The Discharger shall continue to monitor and evaluate the discharge from Discharge Point 001 (measured at EFF-001) for the constituents listed in the Regional Standard Provisions (Attachment G) according to the sampling frequency specified in the attached MRP (Attachment E).

The Discharger shall evaluate on an annual basis if concentrations of any constituents increase over past performance. The Discharger shall investigate the cause of the increase. The investigation may include, but need not be limited to, an increase in the effluent monitoring frequency, monitoring of internal process streams, and monitoring of influent sources. This requirement may be satisfied through identification of these constituents as "pollutants of concern" in the Discharger's Pollutant Minimization Program, described in Provision VI.C.3, below. A summary of the annual evaluation of data and source investigation activities shall also be provided in the annual self-monitoring report.

A final report that presents all the data shall be submitted to the Regional Water Board no later than 180 days prior to the Order expiration date. This final report shall be submitted with the application for permit reissuance.

**b. Ambient Background Receiving Water Study**

The Discharger shall collect or participate in collecting background, receiving water monitoring data for priority pollutants that are required to perform a reasonable potential analysis and to calculate effluent limitations. Data for conventional water quality parameters (pH, salinity, and hardness) shall be sufficient to characterize these parameters in the receiving water at a point after the discharge has mixed with the receiving waters. This provision may be met through participation in the Collaborative Bay Area Clean Water Agencies (BACWA) Study or a similar ambient monitoring program for San Francisco Bay, such as the Regional Monitoring Program. This Order may be reopened, as appropriate, to incorporate effluent limits or other requirements based on Regional Water Board review of these data.

The Discharger shall submit, or cause to have submitted on its behalf, a final report that presents all such data to the Regional Water Board 180 days prior to expiration of this Order. This final report shall be submitted with the application for permit reissuance.

**c. Avian Botulism Control Program**

The Discharger shall continue to monitor the facility oxidation ponds, and Moffett Channel, Guadalupe Slough, and South San Francisco Bay for the presence of avian botulism, and to control outbreaks through the prompt collection of sick and dead vertebrates. The Discharger shall continue to submit annual reports by February 28 each year regarding its Avian Botulism Control Program to the Regional Water Board, the California Department of Fish and Game (CDFG), and the U.S. Fish and Wildlife Service (USFWS).

**d. Chronic Toxicity Identification and Toxicity Reduction Study**

**i. Focused Chronic Toxicity Identification and Reduction Tasks and Schedule to Address Chronic Toxicity Measured in the Discharge**

The Discharger shall comply with the following tasks and schedule to identify and reduce chronic toxicity in its effluent. The deadlines established below are not a compliance schedule or an allowance by the Regional Water Board of any toxicity violations that occur during the course of the toxicity identification and reduction efforts.

**Table 10. Chronic Toxicity Identification and Reduction Tasks and Schedule**

| Task   | Compliance Date  |
|--|------------------|
| (1) Review Plant practices and conditions, and past Toxicity Identification Evaluation (TIE) efforts, to identify all possible causes of previously observed effluent chronic toxicity. Submit a report on the findings of this review.  | December 1, 2009 |
| (2) Submit a TIE/TRE study plan acceptable to the Executive Officer for a program to identify the cause including possible reduction measures of observed chronic toxicity and to examine whether the receiving water is impacted by the discharge with respect to toxicity. The study plan shall consist at a minimum of the following elements:<br><br>(a) Investigate procedures for collecting and handling samples used for whole effluent toxicity tests to ensure that samples are representative | December 1, 2009 |

| Task   | Compliance Date  |
|--|--|
| <p>and uncontaminated.</p> <p>(b) Investigate effects of oxidation pond algae and related by-products on effluent chronic toxicity, and possible ways to reduce toxicity from those effects.</p> <p>(c) Investigate polymers used in air flotation tanks and their effects on chronic toxicity, and possible ways to reduce toxicity from those effects.</p> <p>(d) Investigate elevated sulfur dioxide concentrations on chronic toxicity, and possible ways to reduce toxicity caused by sulfur dioxide if it is found to be a source of toxicity.</p> <p>(e) Investigate any other possible circumstances and pollutants present in the wastewater that may cause chronic toxicity, and the sources and possible ways to reduce the sources.</p> <p>(f) Collect samples of intermediate waste streams for chronic toxicity testing to determine if treatment processes or its chemical contribute to observed toxicity.</p> <p>(g) Conduct chronic toxicity tests at least twice per month during December, January, February, and March. Conduct chronic toxicity test at least once per month during other times of the year. If any test result is above the TRE workplan trigger, initiate a TIE to identify the cause. Monitoring conducted pursuant to a TIE/TRE shall satisfy the requirements for routine and accelerated monitoring while the TIE/TRE is underway. Tests shall consist of effluent with laboratory water as diluent, and effluent with receiving water as diluent. Receiving water samples may be collected in Moffett Channel or further away from influence of the discharge.</p> <p>(h) Identify a schedule to implement the TIE/TRE study plan. The study length shall be a minimum of two years (including two full wet and dry seasons).</p> |  |
| <p>(3) Initiate the study described in Task (2) above. If at any time the Discharger identifies and confirms a cause (or causes) of toxicity, it shall immediately initiate all reasonable efforts to reduce that toxicity and shall not delay or wait until required to do so by the tasks and deadlines identified below.</p>  | <p>January 15, 2010</p>  |
| <p>(4) Submit a final report including all the findings and identified causes of toxicity. Based on these findings and consideration of past TRE efforts, prepare and submit a work plan to reduce chronic toxicity and include an implementation schedule.</p>  | <p>March 1, 2012.</p>  |
| <p>(5) Begin implementation of the work plan to reduce chronic toxicity as described in Task (4) above.</p>  | <p>April 15, 2012</p>  |
| <p>(6) Report status of efforts annually, including any necessary revision or updates to the work plan. The Discharger may request to the Executive Officer to stop submitting annual status reports after June 30, 2013, if it has successfully addressed the chronic toxicity issue.</p>   | <p>Annually on June 30 with first report due June 30, 2010</p> |
| <p>(7) Submit a final report documenting the efforts to reduce chronic toxicity; propose additional measures if the discharge is still above the chronic toxicity triggers specified in IV.D.2.c.(2).</p>  | <p>October 1, 2013</p>   |

**ii. General Chronic Toxicity Reduction Evaluation (TRE) Requirements**

- (1) The TRE shall be specific to the discharge and be prepared in accordance with current technical guidance and reference materials, including USEPA guidance materials. The TRE shall be conducted as a tiered evaluation process, such as summarized below:
  - (a) Tier 1 consists of basic data collection (routine and accelerated monitoring).
  - (b) Tier 2 consists of evaluation of optimization of the treatment process, including operation practices and in-Plant process chemicals.
  - (c) Tier 3 consists of a toxicity identification evaluation (TIE).
  - (d) Tier 4 consists of evaluation of options for additional effluent treatment processes.
  - (e) Tier 5 consists of evaluation of options for modifications of in-Plant treatment processes.
  - (f) Tier 6 consists of implementation of selected toxicity control measures, and follow-up monitoring and confirmation of implementation success.
- (2) During the TIE/TRE process, the Discharger shall collect effluent samples and conduct chronic toxicity tests at least twice per month. Monitoring conducted pursuant to a TIE/TRE shall satisfy the requirements for routine and accelerated monitoring while the TIE/TRE is underway.
- (3) The TRE may be ended at any stage if monitoring finds there is no longer consistent toxicity except as required by Provision VI.C.2.d.i.
- (4) The objective of the TIE shall be to identify the substance or combination of substances causing the observed toxicity. All reasonable efforts using currently available TIE methodologies shall be employed.
- (5) As toxic substances are identified or characterized, the Discharger shall continue the TRE by determining the source(s) and evaluating alternative strategies for reducing or eliminating the substances from the discharge. All reasonable steps shall be taken to reduce toxicity to levels consistent with chronic toxicity evaluation parameters.
- (6) Many recommended TRE elements parallel required or recommended efforts of source control, pollution prevention and storm water control programs. TRE efforts should be coordinated with such efforts. To prevent duplication of efforts, evidence of complying with requirements or recommended efforts of such programs may be acceptable to comply with TRE requirements.
- (7) The Regional Water Board recognizes that chronic toxicity may be episodic and identification of causes of and reduction of sources of chronic toxicity may not be successful in all cases. 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 consistent toxicity.

**e. Receiving Water Ammonia Characterization Study**

The Discharger shall comply with the following tasks and schedule to evaluate the concentrations of total ammonia and un-ionized ammonia in the effluent and receiving waters, the variability in the discharge, any mixing and dilution in the receiving waters, and any more-stringent ammonia criteria that may become effective in the foreseeable future.

**Table 11. Receiving Water Ammonia Characterization Study Tasks and Schedule**

| Tasks  | Compliance Date  |
|--|--|
| (1) Submit a study plan for a minimum two-year study that includes the following elements: <ul style="list-style-type: none"> <li>(a) effluent and receiving water sampling locations (receiving water locations, at a minimum, 200, 500, 1000, and 2000 feet downstream from the outfall in Moffet Channel; an upstream station that is not impacted by the discharge in Moffet Channel, if applicable; and stations upstream and downstream of the confluence of Moffett Channel in Guadalupe Slough, which may be the same stations in the <i>City of Sunnyvale WPCP Receiving Water Ammonia Investigations 2001 Final Report, June 29, 2001</i>),</li> <li>(b) sampling and analysis protocols (including means to evaluate diurnal conditions, such as continuous monitoring),</li> <li>(c) sampling parameters (including, at a minimum, pH, salinity, temperature, hardness, and total ammonia),</li> <li>(d) data interpretation models and other methods to be used (representing conservative, reasonable worst case conditions), and</li> <li>(e) implementation schedule.</li> </ul>   | December 1, 2009   |
| (2) Begin implementation of the study plan developed for Task (1).   | January 15, 2010   |
| (3) Submit annual status reports for all the tasks required by this Provision that contain, at minimum, monitoring data collected during the previous year and necessary updates to all the study plans specified in this provision.   | Annually, on February 1, with the annual self-monitoring reports (SMRs) required by MPR (Attachment E) |
| (4) Submit a final study report that includes the following elements: <ul style="list-style-type: none"> <li>(a) sampling results, data interpretation, and conclusions, such as receiving water characterization, seasonal/diurnal variability, etc.;</li> <li>(b) proposed mixing zone (consistent with <i>Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California</i> § 1.4.2.2) and dilution credit, if any;</li> <li>(c) determination if there is reasonable potential for the discharge to cause receiving water to exceed applicable ammonia objectives (based on any proposed dilution and based on a no dilution scenario) using procedures outlined in the Technical Document for Toxics Control (also see Fact Sheet, Attachment F, Pages F-24 to F-28);</li> <li>(d) if there is reasonable potential, total ammonia effluent concentration goals that account for applicable ammonia objectives and WQC that may foreseeably become applicable standards or objectives within the term of this permit or the next permit term, such as USEPA's <i>1999 Update of Ambient Water Quality Criteria for Ammonia</i> (EPA-822-R-99-014); and</li> <li>(e) Compliance attainability with the total ammonia concentration goals described above.</li> </ul> | April 15, 2012   |

| Tasks  | Compliance Date   |
|--|---|
| (5) If there is reasonable potential and there would be compliance difficulty with the total ammonia concentration goals in task (4), submit a study plan that includes the following elements: (1) investigate treatment options to achieve compliance with the ammonia concentration goals, including a description and summary of the treatment options with a discussion of the pros and cons of each, (2) plan for bench scale tests or pilot scale tests or both, and (3) implementation schedule.   | June 15, 2012   |
| (6) Begin implementation of the study plan developed for Task (5) for those tasks necessary to comply with the total ammonia effluent concentration goals based on the ammonia objectives in effect at that time.  | August 1, 2012  |
| (7) After completion of Task (6), submit a report summarizing results of Task (6) and a study plan that includes the following elements:<br>(a) measures the Discharger will take to comply with the ammonia concentration goals, including the following, as relevant:<br>i. development of preliminary design specifications,<br>ii. development of final design specifications,<br>iii. procurement of funding,<br>iv. acquisition of necessary permits and approvals, and<br>v. construction; and<br>(b) implementation schedule for the above measures. | August 1, 2013  |
| (8) Begin implementation of the study plan developed for Task (7).   | September 15, 2013  |
| (9) Submit annual status reports and a final report documenting results of Task (8).   | Annually by February 1 with the annual SMR required by Attachment E; final report is due within 90 days of completing Task (8). |

**f. Optional Mass Offset**

If the Discharger can demonstrate that further net reductions of the total mass loadings of 303(d)-listed pollutants to the receiving water cannot be achieved through economically feasible measures such as aggressive source control, wastewater reuse, and treatment Plant optimization, but only through a mass offset program, the Discharger may submit to the Regional Water Board for approval a mass offset plan to reduce 303(d)-listed pollutants to the same watershed or drainage basin. The Regional Water Board may modify this Order to allow an approved mass offset program.

**g. Optional Near-Field Site-Specific Translator Study**

The Discharger has the option to conduct a receiving water study, near-field to the discharge, during the term of this Order for determination of new, near-field site-specific translators for chromium, zinc, and lead for use during the next permit reissuance. If the Discharger plans to perform the study, then it shall follow the tasks and schedules below.

**Table 12. Optional Site-Specific Translator Study Tasks and Schedule**

| Task   | Schedule                       |
|--|--------------------------------|
| (1) Submit a study plan acceptable to the Executive Officer. | At the Discharger's discretion |

| Task   | Schedule                                       |
|--|--|
| (2) Commence data collection.  | Within 45 days after submitting the study plan |
| (3) Submit a final study report documenting the study and proposing translators for the discharge. | Within 60 days after data collection.          |

**h. Total Suspended Solids (TSS) Removal**

This Order retains the TSS effluent limitations of 20/30 mg/L (monthly average/daily maximum) from the previous Order; however, the Regional Water Board has established more stringent TSS effluent limitations (10/20 mg/L) for other nearby major dischargers with advanced-secondary treatment (filters).

At least 180 days prior to the expiration date of this Order, the Discharger shall submit to the Regional Water Board a report that addresses removal of TSS by the Plant. The report shall include, but not be limited to the following components:

- A summary of influent and effluent TSS data for the previous five-year period,
- Description of existing components of wastewater treatment, including processes employed and equipment/treatment units age,
- Discussion of TSS removals achieved versus expected, in light of the specific treatment processes employed and/or then available at the Plant, and
- Evaluation of operational changes to enhance TSS removal.

**3. Best Management Practices and Pollution Minimization**

**a. Pollution Minimization Program (PMP)**

The Discharger shall continue to improve, in a manner acceptable to the Executive Officer, its PMP to reduce pollutant loadings to the treatment Plant and therefore to the receiving waters.

**b. Annual Pollution Prevention (P2) Report**

The Discharger shall submit an annual report, acceptable to the Executive Officer, no later than February 28th of each calendar year. The annual report shall cover January through December of the preceding year. Each annual report shall include at least the following information:

- (1) *A brief description of the treatment Plant, treatment Plant processes and service area.*
- (2) *Discussion of current pollutants of concern.* Periodically, the Discharger shall determine which pollutants are currently a problem and/or which pollutants may be potential future problems. This discussion shall address why the pollutants were identified as pollutants of concern.
- (3) *Identification of sources of pollutants of concern.* This discussion shall address how the Discharger identifies pollutant sources. The Discharger should also identify

sources or potential sources not directly within its ability or authority to control, such as pollutants in the potable water supply and air deposition.

- (4) *Identification and implementation of measures to reduce the sources of the pollutants of concern.* This discussion shall identify and prioritize tasks to address the Discharger's pollutants of concern. The Discharger may implement the tasks themselves or participate in a regional, State, or national group to address its pollutants of concern whenever it is efficient and appropriate to do so. A time line shall be included for the implementation of each task.
- (5) *Outreach to employees.* The Discharger shall inform its employees regarding pollutants of concern, potential sources, and how they might be able to help reduce the discharge of these pollutants. The Discharger may provide a forum for employees to provide input to the program.
- (6) *Continuation of Public Outreach Program.* The Discharger shall prepare a public outreach program to communicate pollution minimization measures to its service area. Outreach may include participation in existing community events such as county fairs, initiating new community events such as displays and contests during Pollution Prevention Week, conducting school outreach programs, conducting Plant tours, and providing public information in various media. Information shall be specific to target audiences. The Discharger shall coordinate with other agencies as appropriate.
- (7) *Discussion of criteria used to measure the PMP's and tasks' effectiveness.* The Discharger shall establish criteria to evaluate the effectiveness of its PMP. This discussion shall address specific criteria used to measure the effectiveness of each task identified in Provision VI.C.3.b.(3-6), above.
- (8) *Documentation of efforts and progress.* This discussion shall detail all of the Discharger's activities in the PMP during the reporting year.
- (9) *Evaluation of the PMP's and tasks' effectiveness.* The Discharger shall use the criteria established in b.(7), above, to evaluate the PMP's and tasks' effectiveness.
- (10) *Identification of specific tasks and time schedules for future efforts.* Based on the evaluation of effectiveness, the Discharger shall describe how it will continue or change its PMP tasks to more effectively reduce the loading of pollutants to the treatment Plant and therefore in its effluent.

**c. PMP for Pollutants with Effluent Limitations**

The Discharger shall develop and conduct a PMP as further described below when there is evidence (e.g., sample results reported as DNQ when the effluent limitation is less than the MDL, sample results from analytical methods more sensitive than those methods required by this Order, presence of whole effluent toxicity, health advisories for fish consumption, results of benthic or aquatic organism tissue sampling) that a priority pollutant is present in the effluent above an effluent limitation and either:

- (1) A sample result is reported as DNQ and the effluent limitation is less than the RL; or

- (2) A sample result is reported as ND and the effluent limitation is less than the MDL, using definitions described in the SIP.

**d. PMP Submittals for Pollutants with Effluent Limitations**

If triggered by the reasons in c, above, the Discharger's PMP shall include, but not be limited to, the following actions and submittals acceptable to the Regional Water Board:

- (1) An annual review and semi-annual monitoring of potential sources of the reportable priority pollutant(s), which may include fish tissue monitoring and other bio-uptake sampling, or alternative measures approved by the Executive Officer when it is demonstrated that source monitoring is unlikely to produce useful analytical data;
- (2) Quarterly monitoring for the reportable priority pollutant(s) in the influent to the wastewater treatment system, or alternative measures approved by the Executive Officer, when it is demonstrated that influent monitoring is unlikely to produce useful analytical data;
- (3) Submittal of a control strategy designed to proceed toward the goal of maintaining concentrations of the reportable priority pollutant(s) in the effluent at or below the effluent limitation;
- (4) Implementation of appropriate cost-effective control measures for the reportable priority pollutant(s), consistent with the control strategy; and
- (5) The annual report required by 3.b. above, shall specifically address the following items:
  - i. All PMP monitoring results for the previous year,
  - ii. A list of potential sources of the reportable priority pollutant(s),
  - iii. A summary of all actions undertaken pursuant to the control strategy, and
  - iv. A description of actions to be taken in the following year.

**4. Construction, Operation and Maintenance Specifications**

**a. Wastewater Facilities, Review and Evaluation, and Status Reports**

- (1) The Discharger shall operate and maintain its wastewater collection, treatment, and disposal facilities in a manner to ensure that all facilities are adequately staffed, supervised, financed, operated, maintained, repaired, and upgraded as necessary, in order to provide adequate and reliable transport, treatment, and disposal of all wastewater from both existing and planned future wastewater sources under the Discharger's service responsibilities.
- (2) The Discharger shall regularly review and evaluate its wastewater facilities and operation practices in accordance with section a(1), above. Reviews and evaluations

shall be conducted as an ongoing component of the Discharger's administration of its wastewater facilities.

- (3) The Discharger shall provide the Executive Officer, upon request, a report describing the current status of its wastewater facilities and operation practices, including any recommended or planned actions and an estimated time schedule for these actions. The Discharger shall also include, in each annual self-monitoring report, a description or summary of review and evaluation procedures, and applicable wastewater facility programs or capital improvement projects.

**b. Operations and Maintenance Manual (O&M), Review, and Status Reports**

- (1) The Discharger shall maintain an O&M Manual for the Discharger's wastewater facilities. The O&M Manual shall be maintained in usable condition and be available for reference and use by all applicable personnel.
- (2) The Discharger shall regularly review, revise, or update, as necessary, the O&M Manual(s) to ensure that the document(s) may remain useful and relevant to current equipment and operation practices. Reviews shall be conducted annually, and revisions or updates shall be completed as necessary. For any significant changes in treatment facility equipment or operation practices, applicable revisions shall be completed within 90 days of completion of such changes.
- (3) The Discharger shall provide the Executive Officer, upon request, a report describing the current status of its O&M manual, including any recommended or planned actions and an estimated time schedule for these actions. The Discharger shall also include, in each annual self-monitoring report, a description or summary of review and evaluation procedures and applicable changes to its operations and maintenance manual.

**c. Reliability Status Report**

- (1) The Discharger shall maintain a Reliability Status Report for the Discharger's wastewater facilities, which will allow the Regional Water Board to evaluate the reliability of the Discharger's system in preventing inadequately treated wastewater from being discharged into the receiving waters. The Reliability Status Report shall be maintained in usable condition and be available for reference and use by all applicable personnel.
- (2) The Discharger shall regularly review, revise, or update, as necessary, the Reliability Status Report to ensure that the document may remain useful and relevant to current equipment and operation practices. Reviews shall be conducted annually, and revisions or updates shall be completed as necessary. For any significant changes in treatment facility equipment or operation practices, applicable revisions shall be completed as soon as practical.
- (3) The Discharger shall provide the Executive Officer, upon request, a report describing the current status of its Reliability Status Report, including any recommended or planned actions and an estimated time schedule for these actions. The Discharger shall also include, in each annual self-monitoring report, a description or summary of

review and evaluation procedures and applicable changes to its Reliability Status Report.

**d. Contingency Plan, Review, and Status Reports**

- (1) The Discharger shall maintain a Contingency Plan as required by Regional Water Board Resolution No. 74-10 (see Regional Standard Provisions [Attachment G]) and as prudent in accordance with current municipal facility emergency planning. The discharge of pollutants in violation of this Order where the Discharger has failed to develop and/or adequately implement a Contingency Plan will be the basis for considering such discharge a willful and negligent violation of this Order pursuant to Section 13387 of the CWC.
- (2) The Discharger shall regularly review and update, as necessary, the Contingency Plan so that the plan may remain useful and relevant to current equipment and operation practices. Reviews shall be conducted annually, and updates shall be completed as necessary.
- (3) The Discharger shall provide the Executive Officer, upon request, a report describing the current status of its Contingency Plan review and update. The Discharger shall also include, in each annual self-monitoring report, a description or summary of review and evaluation procedures and applicable changes to its Contingency Plan.

**5. Special Provisions for POTWs**

**a. Pretreatment Program**

- (1) The Discharger shall implement and enforce its approved pretreatment program in accordance with federal Pretreatment Regulations (40 CFR 403), pretreatment standards promulgated under Sections 307(b), 307(c), and 307(d) of the CWA, pretreatment requirements specified under 40 CFR 122.44(j), and the requirements in Attachment H, "Pretreatment Requirements." The Discharger's responsibilities include, but are not limited to:
  - i. Enforcement of National Pretreatment Standards of 40 CFR 403.5 and 403.6;
  - ii. Implementation of its pretreatment program in accordance with legal authorities, policies, procedures, and financial provisions described in the General Pretreatment regulations (40 CFR 403) and its approved pretreatment program;
  - iii. Submission of reports to USEPA, the State Water Board, and the Regional Water Board, as described in Attachment H "Pretreatment Requirements".
  - iv. Evaluate the need to revise local limits under 40 CFR 403.5(c)(1); and within 180 days after the effective date of this Order, submit a report acceptable to the Executive Officer describing the changes with a plan and schedule for implementation. To ensure no significant increase in the discharge of copper, and thus compliance with antidegradation requirements, the Discharger shall not consider eliminating or relaxing local limits for copper in this evaluation.

- (2) The Discharger shall implement its approved pretreatment program and the program shall be an enforceable condition of this Order. If the Discharger fails to perform the pretreatment functions, the Regional Water Board, the State Water Board, or the USEPA may take enforcement actions against the Discharger as authorized by the Clean Water Act.

**b. Biosolids Management Practices Requirements**

- (1) All biosolids generated by the Discharger must be disposed of in a municipal solid waste landfill, used as part of a waste-to-energy facility, reused by land application, or disposed of by surface disposal or in a sludge-only landfill (such as the City of Sunnyvale's Biosolids Monofill) in accordance with 40 CFR 503. If the Discharger desires to dispose of biosolids by a different method, a request for permit modification must be submitted to USEPA 180 days before start-up of the alternative disposal practice. All the requirements in 40 CFR 503 are enforceable by USEPA whether or not they are stated in an NPDES permit or other permit issued to the Discharger. The Regional Water Board should be copied on relevant correspondence and reports forwarded to USEPA regarding biosolids management practices.
- (2) Biosolids treatment, storage and disposal or reuse shall not create a nuisance, such as objectionable odors or flies, or result in groundwater contamination.
- (3) The Discharger shall take all reasonable steps to prevent or minimize any biosolids use or disposal which has a likelihood of adversely affecting human health or the environment.
- (4) The discharge of biosolids shall not cause waste material to be in a position where it is or can be carried from the sludge treatment and storage site and deposited in waters of the State.
- (5) The biosolids treatment and storage site shall have facilities adequate to divert surface runoff from adjacent areas, to protect boundaries of the site from erosion, and to prevent any conditions that would cause drainage from the materials in the temporary storage site. Adequate protection is defined as protection from at least a 100-year storm and protection from the highest possible tidal stage that may occur.
- (6) For biosolids applied to the land, placed on a surface disposal site, or fired in a biosolids incinerator as defined in 40 CFR 503, the Discharger shall submit an annual report to USEPA and the Regional Water Board containing monitoring results and pathogen and vector attraction reduction requirements as specified by 40 CFR 503, postmarked February 15 of each year, for the period covering the previous calendar year.
- (7) Biosolids disposed of in a municipal solid waste landfill must meet the requirements of 40 CFR 258. In the annual self-monitoring report, the Discharger shall include the amount of sludge disposed of and the landfill(s) to which it was sent.
- (8) Permanent on-site biosolids storage or disposal activities are not authorized by this Order. A Report of Waste Discharge shall be filed and the site brought into

compliance with all applicable regulations prior to commencement of any such activity by the Discharger.

- (9) Biosolids Monitoring and Reporting Provisions of the Regional Standard Provisions (Attachment G), apply to biosolids handling, disposal and reporting practices.
- (10) The Regional Water Board may amend this Order prior to expiration if changes occur in applicable State and federal biosolids regulations.

**c. Sanitary Sewer Overflows and Sewer System Management Plan**

The Discharger's collection system is part of the facility that is subject to this Order. As such, the Discharger must properly operate and maintain its collection system (Attachment D, Standard Provisions - Permit Compliance, subsection I.D). The Discharger must report any noncompliance (Attachment D, Standard Provisions - Reporting, subsections V.E.1 and V.E.2), and mitigate any discharge from the Discharger's collection system in violation of this Order (Attachment D, Standard Provisions - Permit Compliance, subsection I.C). The General Waste Discharge Requirements for Collection System Agencies (General Collection System WDR, Order No. 2006-0003 DWQ) has requirements for operation and maintenance of collection systems and for reporting and mitigating sanitary sewer overflows. While the Discharger must comply with both the General Collection System WDR and this Order, the General Collection System WDR more clearly and specifically stipulates requirements for operation and maintenance and for reporting and mitigating sanitary sewer overflows.

Implementation of the General Collection System WDR requirements for proper operation and maintenance and mitigation of spills will satisfy the corresponding federal NPDES requirements specified in this Order. Following reporting requirements in the General Collection System WDR will satisfy NPDES reporting requirements for sewage spills. Furthermore, the Discharger shall comply with the schedule for development of sewer system management plans (SSMPs) as indicated in the letter issued by the Regional Water Board on July 7, 2005, pursuant to CWC section 13267; and with the sanitary sewer overflow and unauthorized discharge notification and reporting requirements of the letter issued by the Regional Water Board on May 1, 2008, pursuant to CWC Section 13267. The Discharger fulfilled this requirement by August 31, 2008. The Discharger shall report sanitary sewer overflows electronically using the State Water Board's statewide online reporting system.

**6. Other Special Provisions**

**a. Cyanide Action Plan**

The Discharger shall implement monitoring and surveillance, pretreatment, source control and pollution prevention for cyanide in accordance with the following tasks and time schedule.

**Table 13. Cyanide Action Plan**

| Task   | Compliance Date                                     |
|--|---|
| <p><b>(1) Review Potential Cyanide Contributors</b></p> <p>The Discharger shall submit an inventory of potential contributors of cyanide to the wastewater treatment facility (e.g., metal plating operations, hazardous waste recycling, etc.). If no contributors of cyanide are identified, Tasks 2 and 3 are not required, unless the Discharger receives a request to discharge detectable levels of cyanide to the sanitary sewer. If so, the Discharger shall notify the Executive Officer and implement Tasks (2) and (3).</p>   | <p>December 1, 2009</p>                             |
| <p><b>(2) Implement Cyanide Control Program</b></p> <p>The Discharger shall submit a plan for, and begin implementation of, a program to minimize cyanide discharges to the sanitary sewer system consisting, at a minimum, of the following elements:</p> <ul style="list-style-type: none"> <li>i. Inspect each potential contributor to assess the need to include that contributing source in the control program.</li> <li>ii. Inspect contributing sources included in the control program annually. Inspection elements may be based on USEPA guidance, such as Industrial User Inspection and Sampling Manual for POTWs (EPA 831-B-94-01).</li> <li>iii. Develop and distribute educational materials to contributing sources and potential contributing sources regarding the need to prevent cyanide discharges.</li> <li>iv. Prepare an emergency monitoring and response plan to be implemented if a significant cyanide discharge occurs.</li> <li>v. If ambient monitoring shows cyanide concentrations of 1.0 µg/L or higher in the main body of San Francisco Bay, undertake actions to identify and abate cyanide sources responsible for the elevated ambient concentrations.</li> </ul> | <p>February 28, 2010 with 2009 annual P2 report</p> |
| <p><b>(3) Report Status of Cyanide Control Program</b></p> <p>Submit a report to the Regional Water Board documenting implementation of the cyanide control program.</p>   | <p>Annually with P2 reports due February 28</p>     |

**b. Copper Action Plan**

The Discharger shall implement pretreatment, source control, and pollution prevention for copper in accordance with the following tasks and time schedule.

**Table 14. Copper Action Plan**

| Task  | Compliance Date         |
|---|-------------------------|
| <p><b>(1) Review Potential Copper Sources</b></p> <p>The Discharger shall submit an inventory of potential copper sources to the wastewater treatment facility.</p> | <p>December 1, 2009</p> |

| Task  | Compliance Date                              |
|---|--|
| <p><b>(2) Implement Copper Control Program</b></p> <p>The Discharger shall submit a plan for and begin implementation of a program to reduce copper discharges identified in Task (1) consisting, at a minimum, of the following elements:</p>  | February 28, 2010 with 2009 annual P2 report |
| <p>i. Provide education and outreach to the public (e.g., focus on proper pool and spa maintenance and plumbers' roles in reducing corrosion).</p> <p>ii. If corrosion is determined to be a significant copper source, work cooperatively with local water purveyors to reduce and control water corrosivity, as appropriate, and ensure that local plumbing contractors implement best management practices to reduce corrosion in pipes.</p> <p>iii. Educate plumbers, designers, and maintenance contractors for pools and spas to encourage best management practices that minimize copper discharges.</p> |  |
| <p><b>(3) Implement Additional Measures</b></p> <p>If the three-year rolling mean copper concentration of South Bay exceeds 4.2 µg/L, evaluate the effluent copper concentration trend, and if it is increasing, develop and implement additional measures to control copper discharges.</p>  | Within 90 days of exceedance                 |
| <p><b>(4) Report Status of Copper Control Program</b></p> <p>Submit a report to the Regional Water Board documenting implementation of the copper control program.</p>  | Annually with P2 reports due February 28     |

**c. Compliance Schedules for Dioxin-TEQ**

The following table outlines actions to be completed in order to meet the final limits for dioxin-TEQ.

**Table 14. Dioxin-TEQ Compliance Schedule**

| Task  | Deadline  |
|---|---|
| <p>(1) The Discharger shall continue its semi-annual dioxin monitoring at monitoring point EFF-001 and comply with the reporting requirements contained in the MRP. The Discharger shall also comply with the following interim effluent limit:<br/>Dioxin-TEQ: AMEL = <math>6.3 \times 10^{-5}</math> µg/L</p>   | Upon Order effective date   |
| <p>(2) If dioxin-TEQ effluent monitoring data show that the Discharger is out of compliance, as described in Section 2.4.5, Compliance Determination, of the SIP, the Discharger shall submit a plan to identify dioxin-TEQ sources to the discharge and identify source control measures to reduce concentrations of these pollutants to the treatment Plant, and therefore to receiving waters.</p> | No later than 12 months after monitoring data show that the Discharger is out of compliance |
| <p>(3) Implement the plan developed in task (2), including both pollutant source identification and source control.</p>   | Within 30 days of the deadline for task 2   |
| <p>(4) Submit a report that contains an inventory of the pollutant sources.</p>   | No later than four months after the deadline for task 2                                     |

| Task   | Deadline  |
|--|---|
| <p>(5) Submit a report documenting development and initial implementation of a program to reduce and prevent the pollutants of concern in the discharge. The program shall consist, at a minimum, of the following elements:</p> <ul style="list-style-type: none"> <li>i. Maintain a list of sources of pollutants of concern.</li> <li>ii. Investigate each source to assess the need to include it in the program.</li> <li>iii. Identify and implement targeted actions to reduce or eliminate each source included in the program.</li> <li>iv. Develop and distribute, as appropriate, educational materials regarding the need to prevent sources to the sewer system.</li> </ul> | <p>No later than six months after the deadline for task 2</p>   |
| <p>(6) Continue to implement the program described in task (5) and submit annual status reports that evaluate its effectiveness and summarize planned changes. Report whether the program has successfully brought the discharge into compliance with the effluent limits in this Order.</p>   | <p>Annually with P2 reports due February 28</p>   |
| <p>(7) In the event that source control measures are insufficient for meeting final WQBELs specified in Effluent Limitations and Discharge Specifications IV.B for or dioxin-TEQ, the Discharger shall submit a schedule for implementation of additional actions to reduce the concentrations of these pollutants.</p>  | <p>No later than 4 months after the most recent annual P2 report that identifies that additional actions are needed</p> |
| <p>(8) The Discharger shall commence implementation of the identified additional actions in accordance with the schedule submitted in task (7).</p>  | <p>Within 45 days after the deadline for task 7</p>   |
| <p>(9) Full Compliance with IV.B Effluent Limitations and Discharger Specifications for dioxin-TEQ. Alternatively, the Discharger may comply with the limits through implementation of a mass offset strategy for dioxin-TEQ in accordance with policies in effect at that time. Alternatively, the Discharger may comply with the limits through implementation of a mass offset strategy for dioxin-TEQ in accordance with policies in effect at that time.</p>  | <p>October 1, 2019 (10 years from Order effective date)</p>   |

**VII. COMPLIANCE DETERMINATION**

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

**A. General**

Compliance with effluent limitations for priority pollutants shall be determined using sample reporting protocols defined in the MRP, Attachment A and Section VI of the Fact Sheet of this Order. For purposes of reporting and administrative enforcement by the Regional and State Water Boards, the Discharger shall be deemed out of compliance with effluent limitations if the concentration of the priority pollutant in the monitoring sample is greater than the effluent limitation and greater than or equal to the reporting level (RL).

**B. Multiple Sample Data**

When determining compliance with an AMEL or MDEL for priority pollutants and more than one sample result is available, 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**

**Arithmetic Mean ( $\mu$ )**, also called the average, is the sum of measured values divided by the number of samples. For ambient water concentrations, the arithmetic mean is calculated as follows:

$$\text{Arithmetic mean} = \mu = \Sigma x / n$$

where:  $\Sigma x$  is the sum of the measured ambient water concentrations, and  $n$  is the number of samples.

**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.

**Bioaccumulative** pollutants are those substances taken up by an organism from its surrounding medium through gill membranes, epithelial tissue, or from food and subsequently concentrated and retained in the body of the organism.

**Carcinogenic** pollutants are substances that are known to cause cancer in living organisms.

**Coefficient of Variation (CV)** is a measure of the data variability and is calculated as the estimated standard deviation divided by the arithmetic mean of the observed values.

**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 Order), 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.

**Detected, but Not Quantified (DNQ)** are those sample results less than the RL, but greater than or equal to the laboratory's MDL.

**Dilution Credit** is the amount of dilution granted to a discharge in the calculation of a water quality-based effluent limitation, based on the allowance of a specified mixing zone. It is calculated from the dilution ratio or determined through conducting a mixing zone study or modeling of the discharge and receiving water.

**Effluent Concentration Allowance (ECA)** is a value derived from the water quality criterion/objective, dilution credit, and ambient background concentration that is used, in conjunction with the coefficient of variation for the effluent monitoring data, to calculate a long-term average (LTA) discharge concentration. The ECA has the same meaning as waste load allocation (WLA) as used in USEPA guidance (Technical Support Document For Water Quality-based Toxics Control, March 1991, second printing, EPA/505/2-90-001).

**Enclosed Bays** means indentations along the coast that enclose an area of oceanic water within distinct headlands or harbor works. Enclosed bays include all bays where the narrowest distance between the headlands or outermost harbor works is less than 75 percent of the greatest dimension of the enclosed portion of the bay. Enclosed bays include, but are not limited to, Humboldt Bay, Bodega Harbor, Tomales Bay, Drake's Estero, San Francisco Bay, Morro Bay, Los Angeles-Long Beach Harbor, Upper and Lower Newport Bay, Mission Bay, and San Diego Bay. Enclosed bays do not include inland surface waters or ocean waters.

**Estimated Chemical Concentration** is the estimated chemical concentration that results from the confirmed detection of the substance by the analytical method below the ML value.

**Estuaries** means waters, including coastal lagoons, located at the mouths of streams that serve as areas of mixing for fresh and ocean waters. Coastal lagoons and mouths of streams that are temporarily separated from the ocean by sandbars shall be considered estuaries. Estuarine waters shall be considered to extend from a bay or the open ocean to a point upstream where there is no significant mixing of fresh water and seawater. Estuarine waters included, but are not limited to, the Sacramento-San Joaquin Delta, as defined in Water Code section 12220, Suisun Bay, Carquinez Strait downstream to the Carquinez Bridge, and appropriate areas of the Smith, Mad, Eel, Noyo, Russian, Klamath, San Diego, and Otay rivers. Estuaries do not include inland surface waters or ocean waters.

**Inland Surface Waters** are all surface waters of the State that do not include the ocean, enclosed bays, or estuaries.

**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)** means the highest allowable daily discharge of a pollutant, over a calendar day (or 24-hour period). For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the arithmetic mean measurement of the pollutant over the day.

**Median** is the middle measurement in a set of data. The median of a set of data is found by first arranging the measurements in order of magnitude (either increasing or decreasing order). If the number of measurements ( $n$ ) is odd, then the median =  $X_{(n+1)/2}$ . If  $n$  is even, then the median =  $(X_{n/2} + X_{(n/2)+1})/2$  (i.e., the midpoint between the  $n/2$  and  $n/2+1$ ).

**Method Detection Limit (MDL)** is the minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero, as defined in title 40 of the Code of Federal Regulations, Part 136, Attachment B, revised as of July 3, 1999.

**Minimum Level (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 specified sample weights, volumes, and processing steps have been followed.

**Mixing Zone** is a limited volume of receiving water that is allocated for mixing with a wastewater discharge where water quality criteria can be exceeded without causing adverse effects to the overall water body.

**Not Detected (ND)** are those sample results less than the laboratory's MDL.

**Ocean Waters** are the territorial marine waters of the State as defined by California law to the extent these waters are outside of enclosed bays, estuaries, and coastal lagoons. Discharges to ocean waters are regulated in accordance with the State Water Board's California Ocean Plan.

**Percent Removal** is a percentage expression of the removal efficiency across a treatment plant for a given pollutant parameter, as determined from the 30-day average values of the raw wastewater influent pollutant concentrations to the facility and the 30-day average values of the effluent pollutant concentrations for a given time period (40 CFR 133.101).

**Persistent** pollutants are substances for which degradation or decomposition in the environment is nonexistent or very slow.

**Pollutant Minimization Program (PMP)** means waste minimization and pollution prevention actions that include, but are not limited to, product substitution, waste stream recycling, alternative waste management methods, and education of the public and businesses. The goal of the PMP shall be to reduce all potential sources of a priority pollutant(s) through pollutant minimization (control) strategies, including pollution prevention measures as appropriate, to maintain the effluent concentration at or below the water quality-based effluent limitation. Pollution prevention measures may be particularly appropriate for persistent bioaccumulative priority pollutants where there is evidence that beneficial uses are being impacted. The Regional Water Board may consider cost effectiveness when establishing the requirements of a PMP. The completion and implementation of a Pollution Prevention Plan, if required pursuant to Water Code section 13263.3(d), shall be considered to fulfill the PMP requirements.

**Pollution Prevention** means any action that causes a net reduction in the use or generation of a hazardous substance or other pollutant that is discharged into water and includes, but is not limited to, input change, operational improvement, production process change, and product reformulation (as defined in Water Code section 13263.3). Pollution prevention does not include actions that merely shift a pollutant in wastewater from one environmental medium to another environmental medium, unless clear environmental benefits of such an approach are identified to the satisfaction of the State or Regional Water Board.

**Reporting Level (RL)** is the ML (and its associated analytical method) chosen by the Discharger for reporting and compliance determination from the MLs included in this Order. The MLs included in this Order correspond to approved analytical methods for reporting a sample result that are selected by the

Regional Water Board either from Appendix 4 of the SIP in accordance with section 2.4.2 of the SIP or established in accordance with section 2.4.3 of the SIP. The ML is based on the proper application of method-based analytical procedures for sample preparation and the absence of any matrix interferences. Other factors may be applied to the ML depending on the specific sample preparation steps employed. For example, the treatment typically applied in cases where there are matrix-effects is to dilute the sample or sample aliquot by a factor of ten. In such cases, this additional factor must be applied to the ML in the computation of the RL.

**Satellite Collection System** is the portion, if any, of a sanitary sewer system owned or operated by a different public agency than the agency that owns and operates the wastewater treatment facility that a sanitary sewer system is tributary to.

**Source of Drinking Water** is any water designated as municipal or domestic supply (MUN) in a Regional Water Board Basin Plan.

**Standard Deviation ( $\sigma$ )** is a measure of variability that is calculated as follows:

$$\sigma = (\sum[(x - \mu)^2]/(n - 1))^{0.5}$$

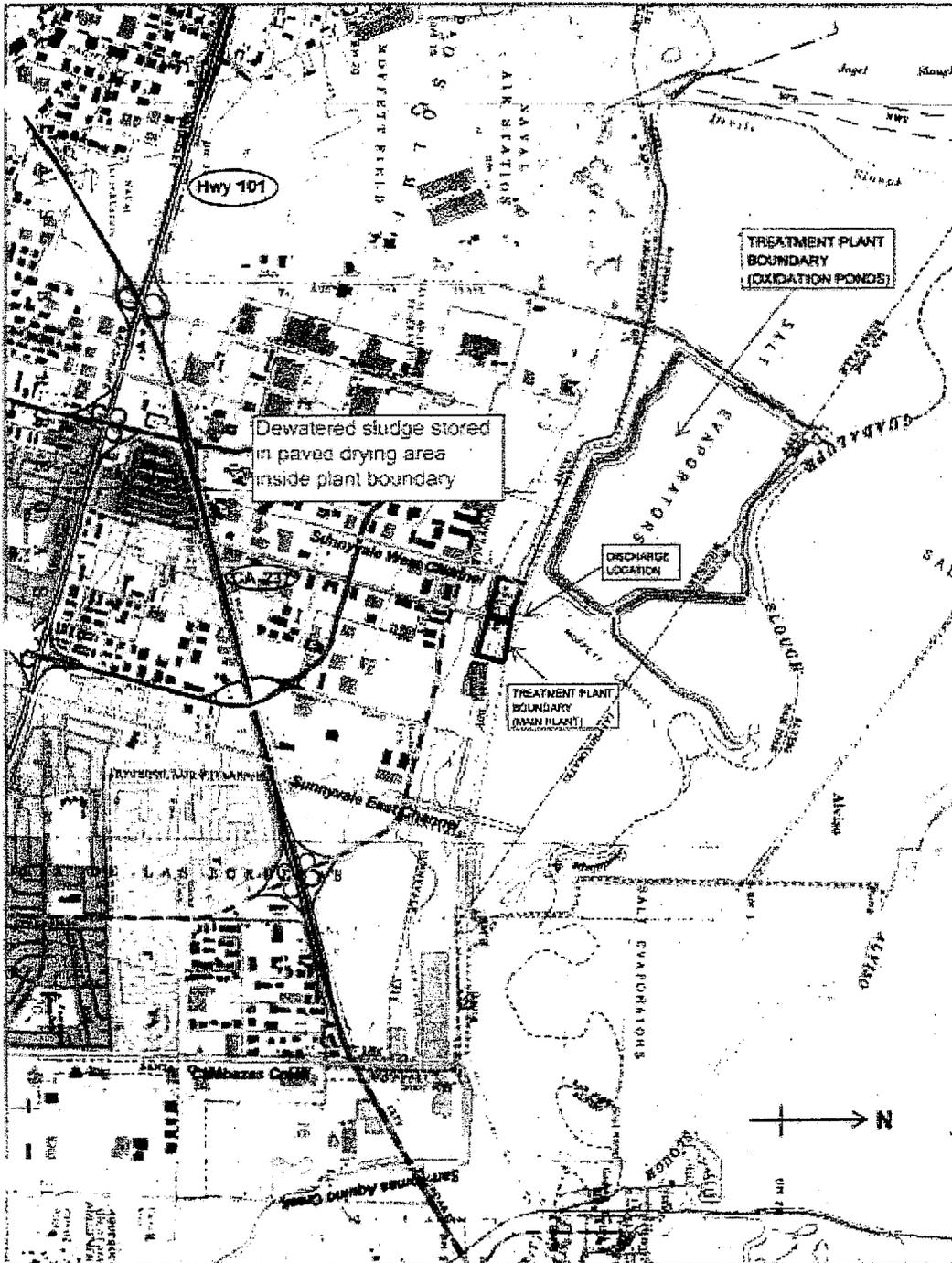
where:

- x is the observed value;
- $\mu$  is the arithmetic mean of the observed values; and
- n is the number of samples.

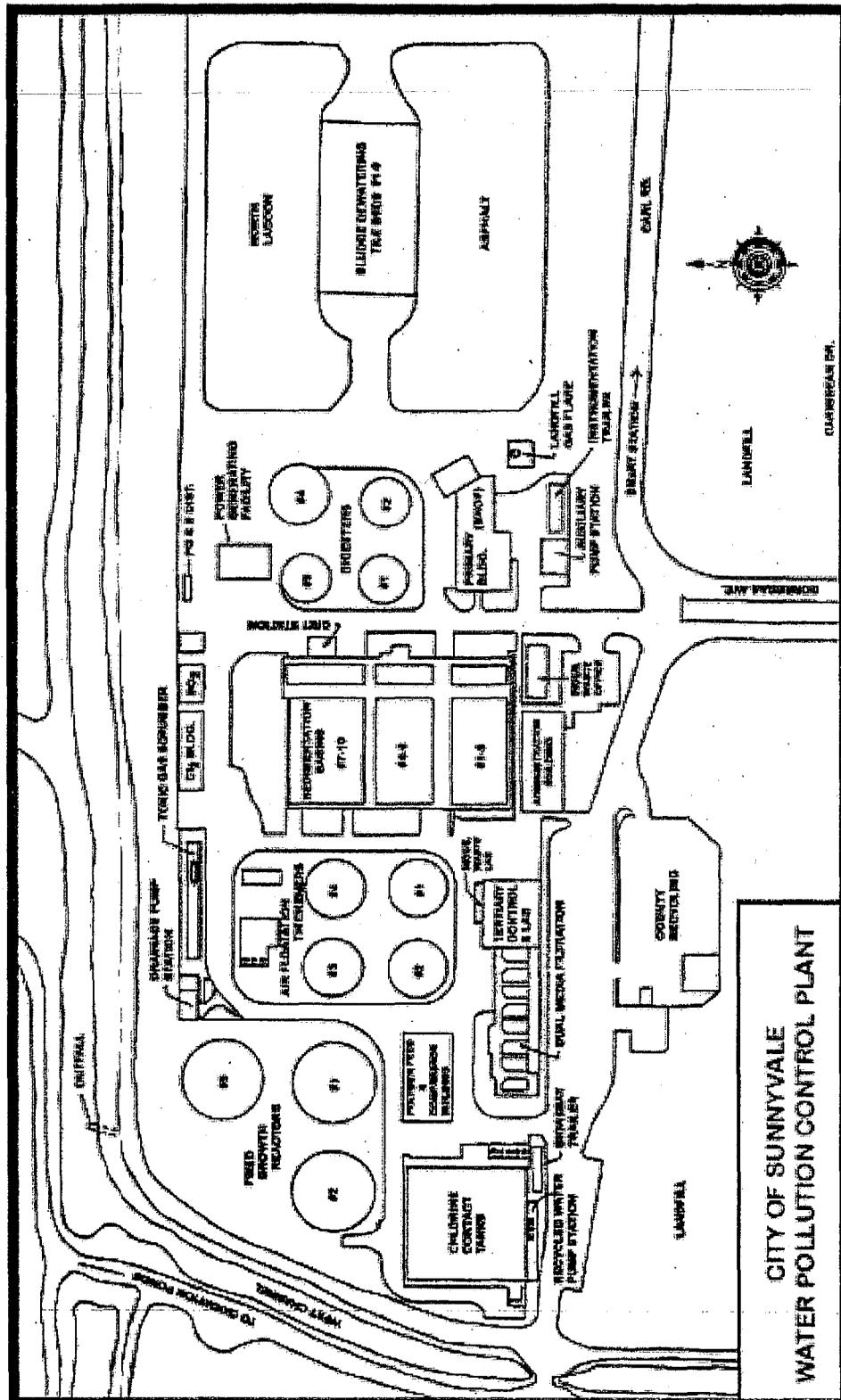
**Toxicity Reduction Evaluation (TRE)** is a study conducted in a step-wise process designed to identify the causative agents of effluent or ambient toxicity, isolate the sources of toxicity, evaluate the effectiveness of toxicity control options, and then confirm the reduction in toxicity. The first steps of the TRE consist of the collection of data relevant to the toxicity, including additional toxicity testing, and an evaluation of facility operations and maintenance practices, and best management practices. A Toxicity Identification Evaluation (TIE) may be required as part of the TRE, if appropriate. (A TIE is a set of procedures to identify the specific chemical(s) responsible for toxicity. These procedures are performed in three phases (characterization, identification, and confirmation) using aquatic organism toxicity tests.)

ATTACHMENT B (1) – LOCATION MAP

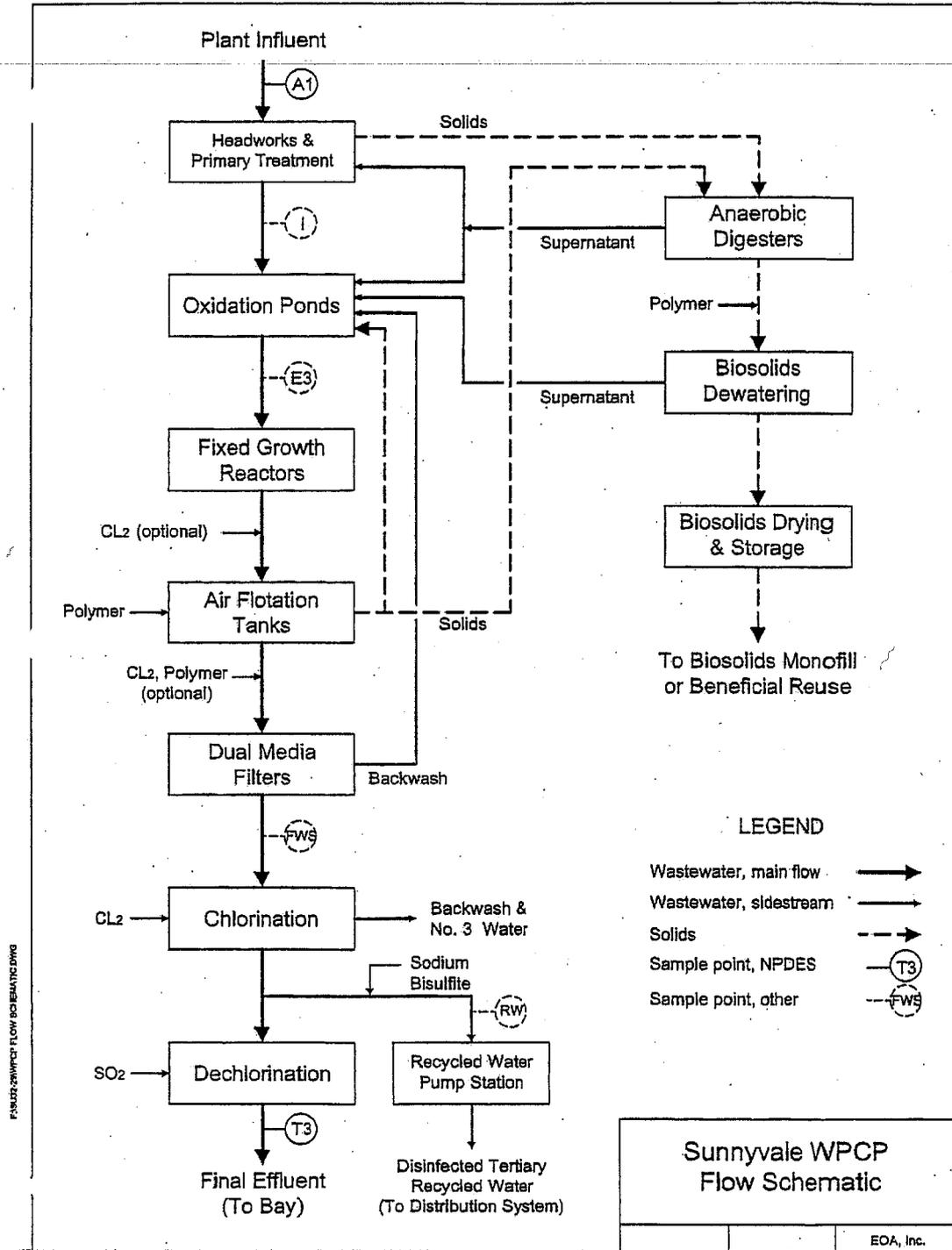
Sunnyvale WPCP CA0037621



ATTACHMENT B(2) – FACILIT MAP



**ATTACHMENT C – PROCESS FLOW DIAGRAM**



**ATTACHMENT D –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 Clean Water Act (CWA) and the CWC and is grounds for enforcement action, for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. (40 C.F.R. § 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 yet been modified to incorporate the requirement. (40 C.F.R. § 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 C.F.R. § 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 C.F.R. § 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 C.F.R. § 122.41(e)).

**E. Property Rights**

1. This Order does not convey any property rights of any sort or any exclusive privileges. (40 C.F.R. § 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 C.F.R. § 122.5(c).)

**F. Inspection and Entry**

The Discharger shall allow the Regional Water Board, State Water Board, 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 C.F.R. § 122.41(i); Wat. Code, § 13383):

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 C.F.R. § 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 C.F.R. § 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 C.F.R. § 122.41(i)(3)); and
4. Sample or monitor, at reasonable times, for the purposes of assuring Order compliance or as otherwise authorized by the CWA or the Water Code, any substances or parameters at any location. (40 C.F.R. § 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 C.F.R. § 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 C.F.R. § 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, I.G.4, and I.G.5 below. (40 C.F.R. § 122.41(m)(2).)
3. Prohibition of bypass. Bypass is prohibited, and the Regional Water Board may take enforcement action against a Discharger for bypass, unless (40 C.F.R. § 122.41(m)(4)(i)):
  - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage (40 C.F.R. § 122.41(m)(4)(i)(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 C.F.R. § 122.41(m)(4)(i)(B)); and

- c. The Discharger submitted notice to the Regional Water Board as required under Standard Provisions – Permit Compliance I.G.5 below. (40 C.F.R. § 122.41(m)(4)(i)(C).)
4. The Regional Water Board may approve an anticipated bypass, after considering its adverse effects, if the Regional Water Board determines that it will meet the three conditions listed in Standard Provisions – Permit Compliance I.G.3 above. (40 C.F.R. § 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 C.F.R. § 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 (24-hour notice). (40 C.F.R. § 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 Discharger. 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 C.F.R. § 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 Standard Provisions – Permit Compliance I.H.2 below 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 C.F.R. § 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 C.F.R. § 122.41(n)(3)):
  - a. An upset occurred and that the Discharger can identify the cause(s) of the upset (40 C.F.R. § 122.41(n)(3)(i));
  - b. The permitted facility was, at the time, being properly operated (40 C.F.R. § 122.41(n)(3)(ii));

- c. The Discharger submitted notice of the upset as required in Standard Provisions – Reporting V.E.2.b below (24-hour notice) (40 C.F.R. § 122.41(n)(3)(iii)); and
  - d. The Discharger complied with any remedial measures required under Standard Provisions – Permit Compliance I.C above. (40 C.F.R. § 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 C.F.R. § 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 C.F.R. § 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 C.F.R. § 122.41(b).)

### C. Transfers

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

## III. STANDARD PROVISIONS – MONITORING

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

## IV. STANDARD PROVISIONS – RECORDS

- A. Except for records of monitoring information required by this Order related to the Discharger's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by Part 503), 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 Water Board Executive Officer at any time. (40 C.F.R. § 122.41(j)(2).)

**B. Records of monitoring information shall include:**

1. The date, exact place, and time of sampling or measurements (40 C.F.R. § 122.41(j)(3)(i));
2. The individual(s) who performed the sampling or measurements (40 C.F.R. § 122.41(j)(3)(ii));
3. The date(s) analyses were performed (40 C.F.R. § 122.41(j)(3)(iii));
4. The individual(s) who performed the analyses (40 C.F.R. § 122.41(j)(3)(iv));
5. The analytical techniques or methods used (40 C.F.R. § 122.41(j)(3)(v)); and
6. The results of such analyses. (40 C.F.R. § 122.41(j)(3)(vi).)

**C. Claims of confidentiality for the following information will be denied (40 C.F.R. § 122.7(b)):**

1. The name and address of any permit applicant or Discharger (40 C.F.R. § 122.7(b)(1)); and
2. Permit applications and attachments, permits and effluent data. (40 C.F.R. § 122.7(b)(2).)

**V. STANDARD PROVISIONS – REPORTING****A. Duty to Provide Information**

The Discharger shall furnish to the Regional Water Board, State Water Board, or USEPA within a reasonable time, any information which the Regional Water Board, State Water Board, 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 Water Board, State Water Board, or USEPA copies of records required to be kept by this Order. (40 C.F.R. § 122.41(h); Wat. Code, § 13267.)

**B. Signatory and Certification Requirements**

1. All applications, reports, or information submitted to the Regional Water Board, State Water Board, and/or USEPA shall be signed and certified in accordance with Standard Provisions – Reporting V.B.2, V.B.3, V.B.4, and V.B.5 below. (40 C.F.R. § 122.41(k))
2. All permit applications shall be signed 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 C.F.R. § 122.22(a)(3)).
3. All reports required by this Order and other information requested by the Regional Water Board, State Water Board, or USEPA shall be signed by a person described in Standard Provisions – Reporting V.B.2 above, 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 Standard Provisions – Reporting V.B.2 above (40 C.F.R. § 122.22(b)(1));
  - b. The authorization specifies 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 C.F.R. § 122.22(b)(2)); and
  - c. The written authorization is submitted to the Regional Water Board and State Water Board. (40 C.F.R. § 122.22(b)(3).)
4. If an authorization under Standard Provisions – Reporting V.B.3 above 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 Standard Provisions – Reporting V.B.3 above must be submitted to the Regional Water Board and State Water Board prior to or together with any reports, information, or applications, to be signed by an authorized representative. (40 C.F.R. § 122.22(c).)
  5. Any person signing a document under Standard Provisions – Reporting V.B.2 or V.B.3 above 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 C.F.R. § 122.22(d).)

### **C. Monitoring Reports**

1. Monitoring results shall be reported at the intervals specified in the Monitoring and Reporting Program (Attachment E) in this Order. (40 C.F.R. § 122.22(l)(4).)
2. Monitoring results must be reported on a Discharge Monitoring Report (DMR) form or forms provided or specified by the Regional Water Board or State Water Board for reporting results of monitoring of sludge use or disposal practices. (40 C.F.R. § 122.41(l)(4)(i).)
3. If the Discharger monitors any pollutant more frequently than required by this Order using test procedures approved under Part 136 or, in the case of sludge use or disposal, approved under Part 136 unless otherwise specified in 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 Water Board. (40 C.F.R. § 122.41(l)(4)(ii).)

4. Calculations for all limitations, which require averaging of measurements, shall utilize an arithmetic mean unless otherwise specified in this Order. (40 C.F.R. § 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 C.F.R. § 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 C.F.R. § 122.41(l)(6)(i).)
2. The following shall be included as information that must be reported within 24 hours under this paragraph (40 C.F.R. § 122.41(l)(6)(ii)):
  - a. Any unanticipated bypass that exceeds any effluent limitation in this Order. (40 C.F.R. § 122.41(l)(6)(ii)(A).)
  - b. Any upset that exceeds any effluent limitation in this Order. (40 C.F.R. § 122.41(l)(6)(ii)(B).)
3. The Regional Water 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 C.F.R. § 122.41(l)(6)(iii).)

#### **F. Planned Changes**

The Discharger shall give notice to the Regional Water 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 C.F.R. § 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 section 122.29(b) (40 C.F.R. § 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 that are not subject to effluent limitations in this Order. (40 C.F.R. § 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 C.F.R. § 122.41(l)(1)(iii).)

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

The Discharger shall give advance notice to the Regional Water Board or State Water Board of any planned changes in the permitted facility or activity that may result in noncompliance with General Order requirements. (40 C.F.R. § 122.41(l)(2).)

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

The Discharger shall report all instances of noncompliance not reported under Standard Provisions – Reporting V.C, V.D, and V.E above at the time monitoring reports are submitted. The reports shall contain the information listed in Standard Provision – Reporting V.E above. (40 C.F.R. § 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 Water Board, State Water Board, or USEPA, the Discharger shall promptly submit such facts or information. (40 C.F.R. § 122.41(l)(8).)

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

The Regional Water Board is authorized to enforce the terms of this Order under several provisions of the Water Code, including, but not limited to, sections 13385, 13386, and 13387.

### **VII. ADDITIONAL PROVISIONS – NOTIFICATION LEVELS**

All POTWs shall provide adequate notice to the Regional Water Board of the following (40 C.F.R. § 122.42(b)):

1. Any new introduction of pollutants into the POTW from an indirect discharger that would be subject to sections 301 or 306 of the CWA if it were directly discharging those pollutants (40 C.F.R. § 122.42(b)(1)); and
2. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of adoption of this Order. (40 C.F.R. § 122.42(b)(2).)
3. Adequate notice shall include information on the quality and quantity of effluent introduced into the POTW as well as any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW. (40 C.F.R. § 122.42(b)(3).)

**ATTACHMENT E – MONITORING AND REPORTING PROGRAM**

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**ATTACHMENT E – MONITORING AND REPORTING PROGRAM (MRP)**

40 CFR 122.48 requires that all NPDES permits specify monitoring and reporting requirements. California Water Code (CWC) sections 13267 and 13383 also authorize the Regional Water Board to require technical and monitoring reports. This MRP establishes monitoring and reporting requirements that implement the federal and California regulations.

**I. GENERAL MONITORING PROVISIONS**

- A. The Discharger shall comply with the MRP for this Order as adopted by the Regional Water Board, and with all of the requirements contained in the Regional Standard Provisions (Attachment G). The MRP may be amended by the Executive Officer pursuant to 40 CFR 122.62, 122.63, and 124.5. If any discrepancies exist between the MRP and the Regional Standard Provisions, the MRP prevails.
- B. All analyses shall be conducted using current USEPA methods, or methods that have been approved by the USEPA Regional Administrator pursuant to 40 CFR 136.4 and 40 CFR 136.5, or equivalent methods that are commercially and reasonably available and that provide quantification of sampling parameters and constituents sufficient to evaluate compliance with applicable effluent limits and to perform reasonable potential analysis. Equivalent methods must be more sensitive than those specified in 40 CFR 136, must be specified in the permit, and must be approved for use by the Executive Officer, following consultation with the State Water Board's Quality Assurance Program.
- C. Sampling and analysis of additional constituents is required pursuant to the Regional Standard Provisions (Attachment G).
- D. Laboratories analyzing monitoring samples shall be certified by the Department of Public Health, in accordance with CWC section 13176, and must include quality assurance/quality control data with their reports.
- E. For compliance and reasonable potential monitoring, analyses shall be conducted using commercially available and reasonably achievable detection levels that are lower than the WQOs/WQC or the effluent limitations, whichever are lower. The objective is to provide quantification of constituents sufficient to allow evaluation of observed concentrations with respect to the Minimum Levels given below. Table E-1 lists the test methods the Discharger may use for compliance and reasonable potential monitoring for the toxic pollutants with effluent limits.

**Table E-1. Test Methods and Minimum Levels for Pollutants with Reasonable Potential**

| CTR #  | Constituent               | Types of Analytical Methods <sup>(1)</sup> |      |    |       |     |      |     |       |        |         |      |     |
|--------|---------------------------|--|------|----|-------|-----|------|-----|-------|--------|---------|------|-----|
|        |                           | Minimum Levels (µg/L)                      |      |    |       |     |      |     |       |        |         |      |     |
|        |                           | GC   | GCMS | LC | Color | FAA | GFAA | ICP | ICPMS | SPGFAA | HYDRIDE | CVAF | DCP |
| 6      | Copper                    |  |      |    |       |     | 5    |     | 0.5   | 2      |         |      |     |
| 9      | Nickel                    |  |      |    |       |     | 5    | 20  | 1     | 5      |         |      |     |
| 14     | Cyanide                   |  |      |    | 5     |     |      |     |       |        |         |      |     |
| 16-TEQ | Dioxin-TEQ <sup>(2)</sup> |  |      |    |       |     |      |     |       |        |         |      |     |
| 23     | Chlorodibromomethane      | 0.5  | 2    |    |       |     |      |     |       |        |         |      |     |
| 115    | Endrin                    | 0.01                                       |      |    |       |     |      |     |       |        |         |      |     |

| CTR # | Constituent                | Types of Analytical Methods <sup>(1)</sup> |      |    |       |     |      |     |       |        |         |      |     |
|-------|----------------------------|--|------|----|-------|-----|------|-----|-------|--------|---------|------|-----|
|       |                            | Minimum Levels (µg/L)                      |      |    |       |     |      |     |       |        |         |      |     |
|       |                            | GC   | GCMS | LC | Color | FAA | GFAA | ICP | ICPMS | SPGFAA | HYDRIDE | CVAF | DCP |
| ---   | Tributyltin <sup>(3)</sup> | 0.005                                      |      |    |       |     |      |     |       |        |         |      |     |
| ---   | Total Ammonia              | 0.2 mg/L (as N) using titration method     |      |    |       |     |      |     |       |        |         |      |     |

Footnotes for Table E-1:

(1) Analytical Methods / Laboratory techniques are defined as follows:

- Color = Colorimetric;
- CVAF = Cold Vapor Atomic Fluorescence.
- DCP = Direct Current Plasma
- FAA = Furnace Atomic Absorption;
- GC = Gas Chromatography
- GCMS = Gas Chromatography Mass Spectroscopy
- GFAA = Graphite Furnace Atomic Absorption;
- ICP = Inductively Coupled Plasma
- ICPMS = Inductively Coupled Plasma/Mass Spectrometry;
- LC = Liquid Chromatography
- SPGFAA = Stabilized Platform Graphite Furnace Atomic Absorption (i.e. EPA 200.9)

(2) Use USEPA Method 1613. Minimum Levels (MLs) shall be those specified by Table 8 of this Order for each congener.

(3) Analysis of tributyltin shall be by GC-FPD, GS-MS, or a USEPA approved method; the method shall be capable of speciating organotins and have limits of detection for tributyltin of 5 nanograms per liter (ng/L). Alternative methods of analysis must be approved by the Executive Officer.

## II. MONITORING LOCATIONS

The Discharger shall establish the following monitoring locations to demonstrate compliance with the effluent limitations, discharge specifications, and other requirements in this Order.

**Table E-2. Monitoring Station Locations**

| Type of Sampling Location    | Monitoring Location Name | Monitoring Location Description  |
|------------------------------|--------------------------|--|
| Influent                     | INF-001                  | At any point in the treatment facility headworks at which all waste tributary to the treatment system is present, and preceding any phase of treatment, and exclusive of any return flows or process side streams that would significantly impact the quantity or quality of the influent. |
| Effluent                     | EFF-001                  | At any point in the outfall from the treatment facility, following treatment, including disinfection, and before contact with receiving water, where all waste streams tributary to Discharge Point 001 are present.   |
| Effluent (flow only station) | EFF-002                  | At the point after filtration but before chlorination where all effluent flows are present (after flow diversion for filter backwash and Plant No. 3 water)  |