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10 **CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD**
11 **CENTRAL VALLEY REGION**

12) Complaint No. R5-2016-0512
13)
14 In the Matter of the Administrative Civil) **OBJECTION TO THE HEARING**
15 Liability Complaint) **PROCEDURES, EVIDENCE, AND**
16) **POLICY STATEMENT**
17)

Hearing: April 21 / 22, 2016

18 The Malaga County Water District ("District" or "Malaga"), hereby objects to the
19 Central Valley Regional Water Quality Control Board's ("CVRB") hearing procedure for
20 Administrative Civil Liability Complaint R5-2016-0512 ("Hearing Procedure") and the
21 CVRB's Prosecution Teams evidence submittal, Witness list, and Policy Statement
22 lodged and/or mailed on or about February 18, 2016, and Attachments A and B to the
23 Administrative Civil Liability Complaint ("ACL").

24 **I.**

25 **OBJECTIONS TO THE HEARING PROCEDURES.**

26 The hearing procedures are objected to on the grounds that they fail to comply
27 with the Regional Water Control Board's Rules of Practice and Procedure related to
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1 adjudicative proceedings and serve to deny rather than protect the District's right to full,
2 fair and meaningful hearing and to dispute and/or rebut the allegations against it as
3 more particularly set forth below.
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5 On or about January 27, 2016, the CVRB, through its Assistant Executive
6 Director issued and mailed the ACL to the District. The ACL was delivered with a
7 number of exhibits and attachments comprising several hundred pages of documents.
8 Nowhere in the hundreds of pages of documents is a document titled Notice of Hearing
9 or Hearing Notice. The only notice given is on page 12 of the Complaint which reads,
10 as follows:
11

12 **MALAGA COUNTY WATER DISTRICT IS HEREBY GIVEN NOTICE THAT:**

13 1. The Assistant Executive Officer of the Central Valley Water Board
14 proposes that the Discharger be assessed administrative civil liability in
15 the amount of one million thirty six thousand seven hundred twenty eight
16 dollars (\$1,360,728.00).

17 2. A hearing on this matter will be held at the Central Valley Water Board
18 meeting scheduled on **21/22 April 2016**, unless Discharger does one of
19 the following things by **16 February 2016**:

- 20 a. The Discharger waives the hearing by completing the attached
21 form (checking off the box next to option 1) and returning it to
22 the Central Valley Water Board, along with payment of the
23 proposed civil liability; or
24 b. The Central Valley Water Board agrees to postpone any
25 necessary hearing after the Discharger requests to engage in
26 settlement discussions by checking off the box next to option 2
27 of the attached form, and returning it to the Board along with a
28 letter describing the issues to be discussed;
29 c. The Central Valley Water Board agrees to postpone any
30 necessary hearing after the Discharger requests a delay by
31 checking of the box next to option 3 on the attached form, and
32 returning it to the Board along with a letter describing the
33 issues to be discussed.

34 3. If a hearing on this matter is conducted, the Central Valley Water
35 Board will consider whether to affirm, reject, or modify the proposed

1 administrative civil liability, or whether to refer the matter to the Attorney
2 General for recovery of judicial civil liability.

3 If this matter proceeds to hearing, the Assistant Executive Officer
4 reserves the right to amend the proposed amount of civil liability to
5 conform to the evidence presented, including but not limited to,
6 increasing the proposed amount to account for the costs of enforcement
(including staff, legal and expert witness costs) incurred after the date of
the issuance of this Complaint through completion of the hearing....date
and signature omitted....

7 Attachment A: Calculations for pretreatment violations (and Exhibits 1
8 and 2)

9 Attachment B: Economic benefit table”

10 This page 12 of the ACL, which is referred to herein as the (“Hearing Notice”)
11 makes no reference to specific procedures applicable to the ACL nor does it identify a
12 Hearing Officer or a Presiding Officer for the hearing and by the language set forth in
13 the Hearing Notice it appears that all decisions to be made regarding the hearing would
14 be made by the CVRB. Instead, it appears that the CVRB is requiring the District, to
15 search through the hundreds of pages of documents served with the ACL to find the
16 purported Hearing Procedures.
17

18 The Hearing Procedures were included, separately, with the ACL and the
19 Hearing Notice set forth in the ACL. Those Hearing Procedures do not state who or
20 whom they were issued by so the District must speculate that they were issued by the
21 Assistant Executive Officer who issued the Complaint who is also a member of the
22 Board’s Prosecution Team. The Hearing Procedures prescribe a number of
23 requirements for the submission of evidence, technical arguments or analysis and
24 policy statements, rebuttal evidence and also prescribe at page 6, various deadlines.
25 These deadlines include January 27, 2016, as the deadline for the Prosecution Team
26 to issue the ACL Complaint and Hearing Procedure and a February 5, 2016, for
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1 objections to the Hearing Procedures or to request "designated party" status. This
2 February 5, 2016, deadline is arbitrary, unreasonable, not authorized by any statute,
3 violates the District's statutory and constitutional rights to a full and fair hearing and
4 serves only as an apparent attempt by the Prosecution Team to deny the District its
5 right to a fair and meaningful hearing.
6

7 This deadline to object to the Hearing Procedures requires the District, a Public
8 Agency, to respond to the ACL and the Hearing Procedures in only nine (9) calendar
9 days following the mailing of the ACL. The District is a Public Agency and can only
10 conduct meetings for this purpose pursuant to the Brown Act including the
11 requirements for a quorum and Public Notice. The arbitrary deadline buried in the mass
12 of documents that comprise this Complaint is invalid. The District submits its objections
13 to those procedures now.
14

15 The Hearing Procedures also require that the District, and other designated
16 parties by March 11, 2016, to "submit all materials required under "IV. submittal of
17 evidence, legal and technical arguments or analysis, and policy statement." This
18 requires the District to submit all of its legal argument, technical arguments, evidence,
19 and a list of all witnesses the District intends to call and all other information as
20 required under Section IV (ACL at page 3) of the Hearing Procedures less than three
21 weeks after receiving the evidence from the Prosecution Team. The evidence
22 submitted by the Prosecution Team, consists of more than two hundred (200) exhibits
23 and attachments comprised of approximately six thousand five hundred (6,500) pages.
24 This requirement is not only clearly unreasonable, it also violates the procedures for
25 this adjudicative proceeding as set forth below.
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1 Although neither the Hearing Notice nor the Hearing Procedures identifies the
2 ACL as an adjudicative proceeding, the Hearing Procedures under Section V. titled
3 “miscellaneous matters” does state under the subheading “Applicable Regulations” that
4 the “Regulations Governing Adjudicative Hearings before the Board may be found at
5 California Code of Regulations, Title 23, §648 et. sec.” and goes on to state that
6 “Any procedures not provided by this Hearing Procedure are not applicable to this
7 hearing. Except as provided in §648(b) and herein, Chapter 5 of the California
8 Administrative Procedures Act (Government Code, §11500 et. sec.) does not apply to
9 this hearing.” The assertion that any procedure not set forth in the Hearing Procedures
10 is not applicable to the hearing is in direct conflict with the State Water Board’s Rules
11 of Practice and Procedure for Adjudicative Proceedings (23CCR §648 et. sec.) and
12 Chapter 4.5 of the Administrative Procedures Act (Government Code §11400 et. sec.
13 “APA”), §801-805 of the Evidence Code, and §11513 of the Government Code.
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17 The Hearing Procedure also states that “[w]ith the exception of the “hearing time
18 limits” section, the Board Chair has approved this Hearing Procedure for the
19 adjudication of ACL matter.” This indicates that it was the Prosecution Team that has
20 set the hearing time limits and restricted Malaga’s time allotted for presenting evidence
21 and testimony, cross-examining adverse witnesses, and making a closing statement, to
22 60 minutes. As for the remaining “procedures” set forth in the Hearing Procedures,
23 including those set forth in Section IV., these procedures are not properly established
24 pursuant to the Rules of Practice and Procedure for Adjudicative Proceedings as
25 §648.4(b) which states:
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28 “The Hearing Notice may require that all Parties intended to present
evidence at a hearing shall submit the following information to the Board

1 prior to the hearing: The name of each witness whom the Party intends to
2 call at the hearing, the subject of each witnesses proposed testimony, the
3 estimated time required by the witness to present direct testimony, and the
4 qualifications of each expert witness. The required information shall be
5 submitted in accordance with the procedure specified in the Hearing
6 Notice.”

7 As stated above, the Hearing Notice at page 12 of the ACL, does not provide
8 any such information. Further, this section does not provide for the setting of any
9 deadlines for such submissions, or set a time limit for the presentation of evidence, or
10 require the advance submission of rebuttal evidence. Similarly, 23CCR §648.4(c)
11 provides that

12 “[t]he Hearing Notice may require that direct testimony be submitted in
13 writing prior to the hearing. Copies of written testimony and exhibits shall
14 be submitted to the Board and to other parties designated by the Board in
15 accordance with provision of the Hearing Notice or other written
16 instructions provided by the Board. The Hearing Notice may require
17 multiple copies of written testimony and other exhibits for use by Board
18 and Board staff. Copies of general vicinity maps or large, non-technical
19 photographs generally will not be required to be submitted prior to the
20 hearing.”

21 Nothing in either 23 CCR §648.4(b) or (c) requires that the parties submit all of
22 their legal and technical arguments or analysis or all evidence that the designated party
23 would like the Board consider. Further, not only do these sections not provide a
24 requirement that rebuttal evidence be submitted prior to the hearing, 23 CCR §648.4(f)
25 specifically prohibits a requirement that rebuttal evidence be submitted prior to the
26 hearing: “[r]ebuttal will generally not be required to be submitted in writing, nor will
27 rebuttal testimony and exhibits be required to be submitted prior to the start of the
28 hearing.”

Therefore, the requirement that the designated parties submit any rebuttal
evidence and the names of each rebuttal witnesses are in clear violation of the Board’s

1 own Rules of Practice and Procedure as are the requirements for all legal and
2 technical arguments and analysis and the sixty (60) minute time for the District to
3 present evidence and testimony, cross-examine adverse witnesses, and making a
4 closing statement. There are patently invalid requirements, that were inconsistent with
5 the requirements imposed by law and should all be stricken from the purported Hearing
6 Procedures.
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8 Moreover, even with in the limited discretion allocated to the CVRB or the
9 Presiding Officer, which in this case is not identified in the Hearing Notice, that
10 discretion is governed by 23 CCR §648(d) which allows the Presiding Officer to waive
11 requirements rather than impose them, "so long as those requirements are not
12 mandated by State or Federal statute or by the State or Federal Constitutions."
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14 Government Code §11425.10 reads, in pertinent part, as follows:
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16 "(a) the governing procedure by which any agency conducts an
17 Adjudicative Proceeding is subject to all of the following requirements:

18 (1) The agency shall give the person for which the agency action is
19 directed notice and opportunity to be heard, including the opportunity to
20 present and rebut evidence.

21 (2) The Agency shall make available to the person to which the agency
22 action is directed a copy of the governing procedure including a statement
23 whether Chapter 5 (commencing with §11500) is applicable to the
24 proceeding....

25 (4) The adjudicative function shall be separated from the investigative
26 prosecutorial and advocacy functions within the Agency as provided in
27 §11425.30."

28 The governing procedure adopted by an agency may include provisions
equivalent to, or more protective of the rights of the person, in this case
the District, to which the Agency action is directed, than the requirements
of §11425.10, which proscribes the minimum requirements."

By the Hearing Procedures apparently issued by the Prosecution Team, or the
CVRB is not only dictating what form the District's evidence is to take, when such

1 evidence is to be produced, how the evidence is to be provided, and the amount of
2 time to which Malaga will be allowed to present evidence, but is, in effect, altering the
3 required procedures set by statute or regulation, to create what amounts to a hearing
4 by briefs where the trier of fact, the CVRB, does not actually hear any substantive
5 evidence or argument. This directly contravenes Malaga's right to an opportunity to be
6 heard including the opportunity to present and rebut evidence to the CVRB. Moreover,
7 the issuance of the Hearing Procedures in whole, or in part, by the Advisory Team or
8 by the Prosecution Team, violates the requirements of Government Code
9 §11425.10(a)(4) that the adjudicative, investigative, prosecutorial, and advocacy
10 functions within the CVRB be separate.
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13 The CVRB is required to give Malaga notice and a meaningful opportunity to be
14 heard, including the opportunity to present and rebut evidence. (Government Code
15 §11425.10(a)(1).) Pursuant to Government Code §11415.10, the CVRB must either
16 conduct its hearing in accordance with the procedures set by its Regulations, or, if it
17 fails to set those procedures by regulations, then the provisions of the APA apply. The
18 provisions of the APA apply in the event of any conflict with the provisions of the
19 CVRB's Regulations. (Government Code §11425.10(b).) The procedures set by the
20 purported Hearing Procedures do not conform to either the CVRB's Rules of Practice
21 and Procedure for Adjudicative Proceedings (23 CCR §648 et. sec.) or the procedures
22 required by the APA and are, as such, a nullity and invalid. (see *Niles Freeman
23 Equipment v. Joseph* (2008) 161 Cal. App. 4th 765, 789-790.) Further, the limitations
24 set by the Hearing Procedure are not appropriate to the character of this proceeding
25 and there has been no separate consideration by the CVRB of what procedure is
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1 required to conform with the APA and with the requirements of procedural due process.
2 (see *Petrillo v. Bay Area Rapid Transit District* (1998) 197 Cal. App. 3rd 798, 807-808;
3 *Smith v. Organizations of Foster Families for the Equality etc.* (1977) 431 U.S. 816;
4 *Shacket v. Osteopathic Medical Board* (1996) 51 Cal. App. 4th 223,230.)

5
6 The District not only objects to and refuses to consent to these Hearing
7 Procedures, but also objects to the Prosecution Team and/or the CVRB's issuance of
8 these Hearing Procedures without affording Malaga notice and an opportunity to be
9 heard on the suitability of the procedures purportedly mandated by the Hearing
10 Procedures which were not included in a Hearing Notice as required by law. Malaga is
11 plainly entitled to such notice and opportunity to be heard on the suitability of any
12 procedure which restricts the right of a person to have the opportunity to be heard or
13 places duties or burdens on that person not permitted by the applicable procedures
14 which is illustrated by the discussion of 23 CCR §648(d) whereby the Presiding Officer
15 may waive certain requirements pertaining to the conduct of adjudicative proceedings
16 but there is no provision for imposing new or different requirements as discussed
17 above.
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20 Based on the foregoing, the "Hearing Procedure" which was not included in the
21 Hearing Notice as required by the Water Board's Procedure for adjudicative
22 proceedings, does not conform with the requirements of the CVRB's Procedures (§648
23 et. sec.) or the APA, should be vacated in its entirety, and the District afforded notice
24 and an opportunity to be heard on any procedure which the Prosecution Team or the
25 Board proposes prior to the issuance of any such procedures. Malaga will proceed and
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1 present its case as it deems necessary as permitted and required by the governing
2 procedure including, but not limited to, Government Code §11425.10.

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4 **II.**

5 **OBJECTION TO EVIDENCE**

6 The Malaga County Water District received what is purported to be the
7 Prosecution Team's evidence which was sent to the District via mail on or about
8 February 18 or 19, 2016. As stated above, this evidence consisted of more than 200
9 exhibits and attachments in excess of an estimated six thousand five hundred (6,500)
10 pages to which the District is, according to the Hearing Procedures, respond to in less
11 than twenty one (21) calendar days. This is yet another example of the Prosecution
12 Team using the Hearing Procedure to deny the District the right and opportunity to be
13 heard rather than provide for the District to be meaningfully heard on the ACL as
14 required by law. Needless to say, the District has not had an opportunity to review and
15 analyze all of the evidence submitted by the Prosecution Team. However, a cursory
16 review of the evidence along with the attachments to the ACL, makes clear that much
17 of the evidence submitted by the Prosecution Team is simply irrelevant and, of the
18 evidence that is ever arguably relevant, it amounts to hearsay testimony in the form of
19 reports and other documents which provide summary conclusions, statement of
20 opinions, and testimony by unknown and unidentified witnesses. Such evidence, which
21 amounts to testimony, must identify the person making the statements and the person
22 must appear at the hearing and affirm that the written testimony is true and correct. (23
23 CCR §648.4.) By submitting this evidence, which amounts to testimony by unidentified
24 persons, the CVRB and/or Prosecution Team is denying the District its right and
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1 making it impossible to cross-examine said witnesses and rebut the testimony by
2 concealing the identity of the witness(es). (see 23 CCR §648.5(a)(6), Government
3 Code §11513 (b), and 11425.10(a)(1).) To the extent that the evidence, including
4 attachments to the ACL, submitted by the Prosecution Team contains testimony, the
5 District objects now, and will in more particularity at or before the hearing and move to
6 exclude such evidence as it fails to identify the person or persons giving such
7 testimony, the testimony is not given under oath. The District cannot rebut testimony of
8 or cross-examine unidentified witnesses. To the extent that the evidence contains
9 hearsay or hearsay upon hearsay, District objects to all such hearsay evidence and will
10 object to such hearsay evidence, with more particularity, and move that all such
11 hearsay evidence be excluded on the ground that it is being presented as evidence
12 rather than for the purpose of supplementing or explaining other evidence. Such
13 objections are timely if made before the submissions of the case. (Government Code
14 §11513(d).) To the extent the evidence is irrelevant; the District will move to have such
15 evidence stricken.
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19 To the extent that the evidence contains public records or records the CVRB or
20 Presiding Officer may take official notice of, such evidence is objected to on the ground
21 that such evidence has not been identified, notice has not been given to the District of
22 submission of such evidence, the District has not been provided with a reasonable
23 opportunity to refute official notice of such evidence, and the CVRB or the Presiding
24 Officer has not made a determination that any such evidence shall be taken notice of
25 as required by 23 CCR §648.2. The District objects to all such evidence and does and
26 will move that all such evidence be stricken at the hearing.
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1 As stated above, the District has not had an opportunity to fully review and
2 analyze all of the purported evidence submitted by the Prosecution Team and therefore
3 reserves the right to object to and move to strike any and all evidence submitted by the
4 Prosecution Team at any time up to and including the submission of the case to the
5 Board for consideration and decision.
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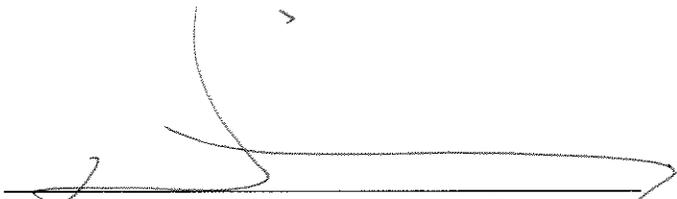
7 **II.**

8 **OBJECTION TO THE POLICY STATEMENT.**

9 The District hereby objects to and will move to strike the policy statement
10 submitted by the Prosecution Team on the ground that the policy statement amounts to
11 testimony by an unidentified person or persons and that there is no procedure for a
12 party to provide a policy statement to the Board. 23 CCR §648.10(d) provides that the
13 "Board or Presiding Officer may provide an opportunity for presentation of policy
14 statements or comments, either orally or in writing, by interested persons who are not
15 participating as parties in the proceeding." §648.1(d) goes on to describe such policy
16 statements as "non-evidentiary" and provides that the Board or Presiding Officer may
17 set forth, in the Hearing Notice, procedures for interested persons to present such non-
18 evidentiary policy statements. As such, these policy statements clearly do not apply to
19 parties to the action and, even if they did, the policy statement presented by the
20 Prosecution Team amounts to testimony by an unidentified person and must be
21 stricken from the record.
22

23 Respectfully submitted,

24 Dated: 3-11-14

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26
27 Neal E. Costanzo, Attorney for
28 Malaga County Water District

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10 **CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD**
11 **CENTRAL VALLEY REGION**

12) Complaint No. R5-2016-0512
13)
14 In the Matter of the Administrative) **APPLICATION OR MOTION TO**
15 Civil Liability Complaint) **DISMISS THE COMPLAINT FOR**
16) **FAILURE TO COMPLY WITH WATER**
17) **CODE §13323 OR FOR A SEPARATE**
18) **HEARING TO DETERMINE IF THE**
19) **ACL IS BARRED BY LACHES**
20)
21 _____) Hearing: April 21 / 22, 2016

22 The Malaga County Water District ("District"), the party against whom the
23 Administrative Civil Liability Complaint RS-2016-0512 ("ACL" or "Complaint") is
24 directed, applies for an order of this Regional Board (the "CVRB" or "Board") to dismiss
25 the Complaint described herein for failure to comply with requirements of §13323 or to
26 schedule a separate hearing to determine whether the ACL is barred by laches. This
27 Motion or Application is based on this Motion, the Memorandum of Points and
28 Authorities submitted herewith, and all of the documents lodged with the Board in the

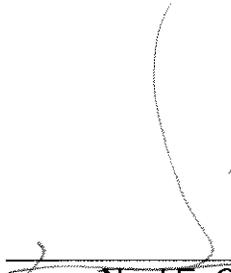
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1 matter herein.

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3 Dated: March 16, 2016

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Neal E. Costanzo, Attorney for
Malaga County Water District

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1 **MEMORANDIUM OF POINTS AND AUTHORITIES IN SUPPORT OF THE MOTION**
2 **OR APPLICATION TO DISMISS.**

3 **I.**
4 **INTRODUCTION**

5 California Water Code ("WC") §13323(a) reads as follows: "Any Executive
6 Officer of a Regional Board may issue a Complaint to any person on whom
7 Administrative Civil Liability may be imposed pursuant to this Article. The Complaint
8 shall allege the act or failure to act that constitutes a violation of the law, the provision
9 of law authorizing civil liability to be imposed pursuant to this Article, and the proposed
10 civil liability."
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12 The Complaint which was mailed by certified mail on or about January 27, 2016,
13 consists of the Complaint, along with two attachments which contain several hundred
14 pages of attached or "tabbed" documents. The Complaint appears to be a new type of
15 Complaint specifically designed to target the Malaga County Water District and in fact
16 states that "[t]his is the first Administrative Civil Liability Complaint for violations of a
17 Pretreatment Program the Central Valley Water Board has undertaken." The ACL also
18 states that "the Assistant Executive Officer has elected to treat all of the Code of
19 Federal Regulation and 2008 permit pretreatment violations as a single group violation-
20 Violation 1. (ACL at p.10.) "But the ACL fails to state, on its face, with any particularity
21 or clarity, the act or failure to act by the District that constitutes a violation of the law
22 and the provision of law authorizing civil liability to be imposed.
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24

25 **II.**
26 **GOVERNING LAW AND PROCEDURE**
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1 As stated above, the ACL is issued pursuant to Water Code §13323. (ACL at
2 page.1) According to the ACL, “[t]his Complaint is based on findings that the
3 Discharger violated provisions of waste discharge requirements (“WDRs”) Order #R5-
4 2008-0033 (NPDES #CA0084239)(the “2008 permits”), and Cease and Desist Order
5 (“CDO”) #R5-2008-0032 (the “2008 CDO”).) (Ibid) The ACL recites several provisions
6 or excerpts from the Water Code and the Federal Pretreatment Requirements of 40
7 CFR part 403. The ACL under the heading “**SUMMARY OF ALLEDGED VIOLATIONS**
8 **AND MAXIMUM AND MINIMUM ADMINISTRATIVE CIVIL LIABILITY**” at paragraph
9 27 states “The violations and corresponding proposed penalty amounts that are
10 27 states “The violations and corresponding proposed penalty amounts that are
11 summarized here are described in detail in Attachment A. The maximum penalties
12 represent the statutory maximum imposed per day pursuant to Water Code §13385
13 and Water Code §13350, respectively. The minimum penalties are based on the
14 Enforcement Policy’s requirement to assess a liability of at least the amount of
15 economic benefit associated with the violation plus 10%. The proposed penalties take
16 into account the factors proscribed under Water Code §13385(e) and the Enforcement
17 Policy.” Then, as described above, the ACL states, at paragraph 28, that, “Essentially,
18 and for the limited purpose of this particular proceeding only, the Assistant Executive
19 Officer has elected to treat all of the Code of Federal Regulation and 2008
20 Pretreatment Violations as a single, group violation – Violation #1.” Violation #2 is
21 described as addressing the Discharger’s separate and distinct violations of the Central
22 Valley Water Board’s 2008 CDO.” (ACL at paragraph 28.) Violation #1 is listed as
23 “**Violation 1:** Failure to implement a legally sufficient pretreatment program[.]” and then
24 lists seven purported violations A through G.” Violation #2 is listed as “**Violation 2:**
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1 Failure to submit Pretreatment and Disposal Capacity Study and propose a work plan
2 as required by the 2008 CDO.”

3 4 III. ARGUMENT.

5 A. THE COMPLAINT SHOULD BE DISMISSED BECAUSE THE COMPLAINT
6 FAILS TO ALLEGE THE ACT OR FAILURE TO ACT THAT CONSTITUTES A
7 VIOLATION OF LAW, AND THE PROVISION OF LAW AUTHORIZING CIVIL
8 LIABILITY TO BE IMPOSED.

9
10 As stated above, WC §13323 requires that a ACL allege the act or failure to act
11 that constitutes a violation of law and the provision of law authorizing civil liability to be
12 imposed pursuant to Article 2.5 of Chapter 5 of Division 7 of the Water Code. While the
13 ACL, including Exhibit 1 described as the detailed analysis of the individual permit
14 component and CDL violations, references numerous statutes or excerpts of statutes, it
15 fails to specifically allege what law or statute was violated and the provision of law
16 authorizing civil liability to be imposed. For example, Violation 2 is set forth as follows:

17
18 **“Violation 2:** Failure to submit Pretreatment and Disposal Capacity Study
19 and propose a work plan as required by the 2008 CDO.

20 The Discharger failed to submit a report required by the 2008 CDO evaluating
21 WWTF Treatment and Disposal Capacity and to propose a work plan identifying
22 short and long term measures to secure adequate treatment and disposal
23 capacity for the volume, type and concentrations of wastes in the influent. The
24 Discharger failed to comply with these 2008 CDO requirements since 14 June
25 2008, the first date of non-compliance in regard to Task 3 of the 2008 CDO,
26 through 4 December 2014 when the 2008 CDO was rescinded and replaced.
27 The period of violation totals 2,365 days, which the prosecution team
28 recommends reducing to 1,640 days as detailed in Attachment A. The maximum
penalty for this violation is eight million two hundred thousand dollars.
(\$8,200,000.00) The recommended total base liability for this violation is two
hundred sixty one thousand three hundred sixty dollars (\$261,360.00).”

1 This purported violation simply fails to state what statute was violated and the
2 provision of law authorizing the civil liability to be imposed which imposes an undue
3 burdensome requirement on the District to read through the Complaint and the
4 hundreds of pages attached thereto in an attempt to ascertain what violation, if any
5 occurred and what provision of law authorizes a civil liability to be imposed on it.
6

7 To carry the example a bit further, and assuming, for arguments sake, that
8 Violation 2 is a failure or refusal to furnish technical or monitoring program reports as
9 required by Subdivision (b) of WC §13267, it would follow that an administrative civil
10 penalty may be imposed pursuant to WC §13268(a)(1). This is consistent with
11 paragraph 19 of the ACL which states that "The Discharger's failure to timely submit
12 monitoring and technical reports required by the 2008 CDO and 2008 Permit subjects it
13 to civil liabilities under Water Code §13268." However, paragraph 27 of the ACL sets
14 forth that the proposed penalty amounts, or at least the maximum penalties calculated,
15 are calculated pursuant to WC §13385 and 13350. The calculation of the maximum
16 penalty as set forth in Exhibit 1 for Violation 2 (referred to in Exhibit 1 as Violation #8)
17 at page 38, references WC §13350 as permitting a civil liability in an amount up to five
18 thousand dollars (\$5,000.) per day for the alleged violation which, as stated above,
19 directly contradicts paragraph 19 of the ACL. Because the CVRB has failed to set
20 forth, with any clarity or particularity, the alleged act or failure to act that constitutes a
21 violation of law, and the provision of law authorizing a civil liability to be imposed as
22 required by WC §13323 within the ACL, it fails to state any claim which the Board has
23 authority to adjudicate. Moreover, by failing to identify the basis of the claim, the CVRB
24 is imposing a burden on the District to search through hundreds of pages of
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1 attachments and exhibits in order to determine what the alleged act or failure to act is
2 and what provision of law the CVRB is alleging the District violated, even if it does so,
3 as demonstrated above, the District cannot tell with any certainty what it is that it has
4 allegedly done to violate any law.
5

6 B. THE PROCEEDING IS BARRED BY LACHES. THE ANALOGOUS
7 STATUTE OF LIMITATIONS IS THE ONE YEAR PROVISION OF CCP §340(1) AND
8 (2) AND THE EXISTENCE OF THIS ANALOGOUS STATUTE OF LIMITATIONS
9 MAKES THE AGENCY'S DELAY INEXCUSABLE AS A MATTER OF LAW AND
10 SHIFTS TO THE AGENCY THE BURDEN OF SHOWING MALAGA HAS NOT BEEN
11 PREJUDICED BY THE DELAY. THE LACHES ISSUE IS REQUIRED TO BE TRIED
12 BEFORE CONSIDERATION OF THE MERITS.

13 Statutes of limitations found in the Code of Civil Procedure do not literally apply
14 to administrative proceeding because those statutes apply to civil actions and special
15 proceedings of a civil nature and administrative proceedings are neither. (See *City of*
16 *Oakland v. PERS* (2002) 95 Cal.App.4th 29; *Bernard v. Fong Eu* (1979) 100
17 Cal.App.3d 511, 515; *Little Company of Mary Hospital v. Belshe* (1997) 53 Cal.App.4th
18 325, 329).

19 Under appropriate circumstances, the defense of laches, however, operates in
20 the same manner to bar a claim by a public administrative agency such as this Board if
21 the requirements of unreasonable delay and resulting prejudice are met. (*Fountain*
22 *Valley Regional Hospital and Medical Center v. Bonta* (1999) 75 Cal.App.4th 316, 323-
23 324). Laches is designed to promote justice by preventing surprises through the
24 revival of claims that have been allowed to slumber until evidence has been lost,
25 memories have faded and witnesses have disappeared. It is unjust not to put the
26 advisory on notice to defend even a just claim within the period of limitations and the
27
28

1 right to be free of stale claims in time comes to prevail over the right to prosecute them.
2 (*Robert J. v. Catherine D.* (2009) 171 Cal.App.4th 1500, 1521).

3
4 It is well established that the elements of laches, unreasonable delay and
5 resulting prejudice may be met in one of two ways. First, they may be demonstrated
6 by the evidence, with the person arguing in favor of laches presenting proof of
7 unreasonable delay and resulting prejudice. Second, the element of prejudice may be
8 "presumed" whenever there exists a statute of limitations that is sufficiently analogous
9 to the facts of the case and the period of that statute of limitations has been exceeded
10 by the public administrative agency in making its claim. (See *Robert J.*, *supra*, at p.
11 1522; *Fountain Valley*, *supra*, at p. 324; *Brown v. State Personnel Board* (1985) 166
12 Cal.App.3d 1151, 1158-1161; *Stevedoring Services v. Prudential Lines Inc* (1986) 181
13 Cal.App.3d 154, 158; *Gates v. Department of Motor Vehicles* (1979) 94 Cal.App.3d
14 921).

15
16
17 In this second situation, the limitations is "borrowed" from the analogous statute
18 and the burden of proof shifts to the administrative agency. To defeat the finding of
19 laches, the agency, here this Regional Board, must show that the delay involved in the
20 case was excusable and rebut the presumption that such delay resulted in prejudice to
21 the opposing party, Malaga. (*Id.*) In cases where there is no directly applicable statute
22 of limitations such as administrative proceedings but a statute of limitations governs an
23 analogous action of law, the statute of limitations time period is borrowed as the
24 measure of the outer limit of reasonable delay in determining laches. (See *Brown*,
25 *supra*, 166 Cal.App.3d at p. 1159-1160). Whether such borrowing occurs and whether
26 there is a consequent transfer of the burden of proof on the claim of laches to the
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28

1 administrative agency depends upon the strength of the analogy. (*Fountain Valley*,
2 *supra*, at p. 325). The effect of the violation of an analogous statute of limitations is to
3 shift the burden of proof to the plaintiff to establish that the delay was excusable and
4 that the defendant was not prejudiced thereby. (*Id*; *Robert J.*, *supra*, at p. 1522). This
5 is because the statute of limitations reflects a "legislative policy judgment that a delay"
6 exceeding the time limit is "inherently unreasonable in the prosecution" of an
7 administrative proceeding. (*Brown*, *supra*, at p. 1160).

8
9 It is established law that where, as here, an administrative agency pursues a
10 civil penalty, there is a directly analogous statute of limitations which is CCP §340. It
11 provides that an action "upon a statute for penalty or forfeiture, when the action is given
12 to an individual, or to an individual and the state, is one year. Subdivision (2) of that
13 section provides that an action upon a statute for a forfeiture or penalties to the people
14 of this state must be commenced within one year. (See *Myers v. Eastwood Care*
15 *Center Inc.* (1981) 124 Cal.App.3d 491).

16
17 It appears, although it is difficult, if not impossible to determine from the face of
18 the Complaint, that all of the alleged violations took place between 2008 and 2012.
19 Although there are vague references to some of the violations continuing into 2014,
20 this appears to be nothing more than a sham effort to resurrect claims which are clearly
21 barred by the doctrine of laches.
22

23
24 This is unreasonable delay as a matter of law. There is no excuse for this
25 extreme delay, and the evidence submitted by the Prosecution Team offers no such
26 excuse. Prejudice is presumed. Even if it were not, the CVRB as demonstrated by the
27 "evidence" submitted by the Prosecution Team, has routinely been unresponsive or
28

1 responds only after extreme delay to the District including to responses to its purported
2 Notices of Violation detailing why none of the violations ever even occurred. The CVRB
3 cannot possibly overcome the presumption of prejudice and actual prejudice is
4 apparent from the evidence that the Prosecution Team has submitted, including a
5 provision in the 2008 Permit, which requires the retention of documents and records for
6 a period of only three (3) years which makes it impossible, so many years after the
7 alleged violations, for the District to marshal the evidence necessary to defend itself
8 against the allegations in the ACL. (2008 NPDES Permit at p. D-5 at Section IV(A).)
9
10

11 Most importantly, in these circumstances where the existence of a defense to a
12 claim which depends upon a determination of facts has been raised, that defense must
13 be tried before the agency proceeds to any hearing on the merits. A hearing on the
14 merits is patently premature and the agency has ministerial obligation to address the
15 laches claim first, before proceeding to consideration of any other matter. (See
16 *Piscioneri v. City of Ontario* (2002) 95 Cal.App.4th 1037, 1045-1049 ("factual
17 underpinnings of a laches claim should initially be considered at an administrative
18 hearing").
19

20 Given the presence of a directly analogous statute of limitations, without any
21 evidence by the Prosecution Team that the extreme delay involved here is any sense
22 excusable or that it can overcome the presumption of prejudice that clearly applies
23 here, the CVRB is obligated to rule on the matter based on the undisputed facts shown
24 above and dismiss this claim. If the agency takes any action other than dismissing this
25 claim because it is barred by laches, Malaga is entitled to and hereby gives this agency
26 notice of its intent to initiate a proceeding under Water Code §13320 based on the
27
28

1 action or failure to act by the CVRB and have a court order the CVRB to dismiss this
2 proceeding.

3 In the analogous civil context, Malaga would be entitled to a separate prior trial
4 on the laches question. (See CCP § 597; *Sahadi v. Soheaffer* (2007) 155 Cal.App.th
5 709, 721). Further, in the analogous civil context, and in this administrative
6 proceeding, Malaga is entitled to and does object to all of the Prosecution Team's
7 evidence on the ground that none of it is relevant because the claim is completely
8 barred by laches. (*Mize v. Reserve Life Insurance* (1975) 48 Cal.App.3d 487, 491).
9 Malaga requests a separate hearing for a determination on the laches claim at the
10 threshold of this proceeding.
11
12

13 **IV.**

14 **CONCLUSION.**

15 Based on the forgoing, the ACL fails to comply with Water Code §13323 in that
16 the ACL does not allege the act or failure to act that constitutes a violation of law and
17 the provision of law authorizing a civil liability to be imposed and therefore the
18 Complaint should be dismissed. In the alternative, the CVRB should schedule a
19 hearing to determine whether the Complaint should be dismissed because it is barred
20 by the doctrine of laches before it conducts a hearing on the merits of the ACL.
21
22

23 //

24 Respectfully submitted,

25
26
27 Date: _____

28 Neal E. Costanzo, Attorney for
Malaga County Water District

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2 Michael G. Slater SBN 247302
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9 Attorneys for Malaga County Water District

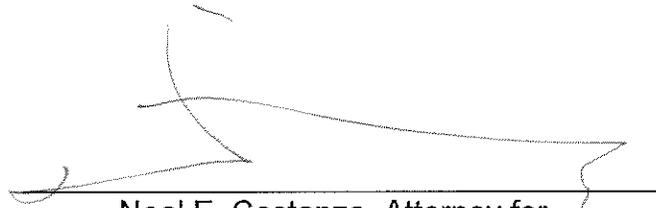
10 **CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD**
11 **CENTRAL VALLEY REGION**

12) Complaint No. R5-2016-0512
13)
14 In the Matter of the Administrative Civil) **APPLICATION OR MOTION TO STAY**
15 Liability Complaint) **THE ACL OR FOR AN ORDER THAT**
16) **THE MATTER BE HEARD IN THE**
17) **SUPERIOR COURT OR BEFORE AN**
18) **ALJ AND WAIVER OF A HEARING**
19) **WITHIN 90 DAYS.**
20)
21)
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26)
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28)
_____) Hearing: April 21 / 22, 2016

19 The Malaga County Water District ("District" or "Malaga"), the party against
20 whom the Administrative Civil Liability Complaint ("ACL" or "Complaint") is directed,
21 applies for and order of California Regional Water Quality Control Board, Central Valley
22 Region ("CVRB" or "Board") to stay proceeding on the Complaint until the action
23 between the District and Board in Madera County Case Number MCV071280 ("Writ
24 Petition") is complete, or, in the alternative, for an order of the Board that the ACL be
25 dismissed and the matter referred to the Attorney General to pursue in the Superior
26 Court, County of Madera, as provided by the applicable sections of the Water Code.

1 This Motion or Application is based on this Motion, the Memorandum of Points and
2 Authorities submitted herewith, and on all of the documents lodged with the Board in
3 the matter herein.
4

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6 Dated: 3-16-16



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8 Neal E. Costanzo, Attorney for
Malaga County Water District
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1 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT**
2 **OF THE MOTION OR APPLICATION**

3 **I.**
4 **INTRODUCTION**

5 There is currently pending, in the Madera County Superior Court, a Writ Petition
6 filed by the District seeking to review and overturn the CVRB’s decision imposing
7 Administrative Civil Liability in Order No. R5-2013-0527 (the “2013 ACL”). The Petition
8 raises a number of issues including the legality or validity of CVRB’s hearing
9 procedures relating to admission and sufficiency of evidence, the District’s right to be
10 heard including to present evidence, cross-examine witnesses and rebut evidence, the
11 separation and/or neutrality of the Prosecution Team, Advisory Team, Presiding
12 Officer, and whether the doctrine of laches or estoppel applies to the CVRB. The
13 District has, through separate submissions raised the same or similar objections in this
14 ACL proceeding and anticipates the same response from the CVRB, Prosecution
15 Team, Advisory Team or whoever shall ultimately make a decision or ruling on the
16 District’s various Applications or Motions and Objections.
17
18

19 **II.**

20 **ARGUMENT.**

21 **A. THE ACL SHOULD BE STAYED UNTIL THE WRIT PETITION**
22 **CURRENTLY PENDING THE MADERA COUNTY SUPERIOR COURT**
23 **IS CONCLUDED.**
24
25

26 The Writ Petition will be dispositive on most, if not all of the issues raised by the
27 ACL and would require a change in the manner in which the parties proceed in the
28 ACL proceeding. A ruling in favor of Malaga or the Writ Petition. Because the Writ

1 Petition would be dispositive on the issues raised in the current ACL action, neither
2 party would be prejudiced by waiting until the outcome of that Writ Petition. Further, as
3 the Complaint admits, the alleged violations, even if they exist, have had no negative
4 impact on the environment so that staying this action will not result in any negative
5 impact on the environment.
6

7 The District requests that the CVRB stay the hearing on the ACL until
8 conclusion of the Writ Proceeding.
9

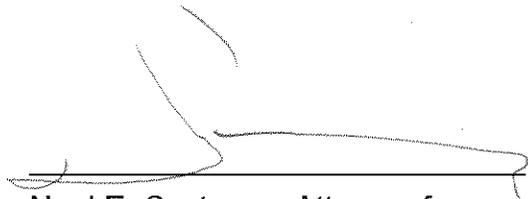
10 **B. REQUEST THAT THE ATTORNEY GENERAL PETITION THE SUPERIOR**
11 **COURT TO IMPOSE PROPOSED LIABILITY OR ASSIGN THE ACTION TO**
12 **AN ADMINISTRATIVE LAW JUDGE.**
13

14 The ACL, at page 12, describes the options the Board may take following the
15 hearing including “whether to refer the matter to the Attorney General for recovery of
16 Judicial Civil Liability.” District assumes that this is a reference to the provisions in both
17 Water Code §13350 and 13385 providing an alternative method to impose a civil
18 liability by requesting the Attorney General to Petition to the Superior Court to impose
19 such liability. Given the complexity of the issues raised in the ACL, the volume of
20 evidence submitted by the Prosecution Team, the number and complexity of objections
21 to the evidence and hearing procedures presented by the District, and the amount of
22 time necessary for the District to be heard as required by the applicable statutes and
23 the California and U.S. Constitutions, the CVRB simply does not have the practices
24 and procedures in place to conduct a hearing in the manner required by law. The
25 Complaint is much better suited to referral to an Administrative Law Judge or to the
26 Superior Court. As an alternative to staying the ACL until such time as the Writ Petition
27
28

1 Proceeding has concluded, the District requests the CVRB refer this matter to the
2 Attorney General to petition to the Superior Court for the imposition of the civil liability
3 or to an Administrative Law Judge.
4

5 Respectfully submitted,

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8 Date: 3-11-14



Neal E. Costanzo, Attorney for
Malaga County Water District

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10 **CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD**
11 **CENTRAL VALLEY REGION**

12) Complaint No. R5-2016-0512
13)
14 In the Matter of the Administrative Civil)
15 Liability Complaint) **EVIDENCE AND WITNESS LIST**
16)
17) Hearing: April 21 / 22, 2016
18)
19)
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19 The Malaga County Water District ("District" or "Malaga") has not had an
20 opportunity to review the more than two hundred (200) Exhibits and Attachments
21 consisting of approximately six thousand five hundred (6,500.) pages of evidence
22 submitted by the Prosecution Team via mail merely twenty one (21) days ago and as
23 such it is impossible for the District to have examined all such evidence, analyze all
24 such evidence, develop legal and technical arguments related to such evidence,
25 identify witnesses, or to identify rebuttal witnesses or evidence, and as such reserves
26 the right, as provided by the Regional Water Quality Control Boards ("CVRB") Rules of
27 Practice and Procedure or Adjudicative Proceedings and the Administrative
28

1 Adjudicative Bill of Rights and other applicable statutes and the U.S. and California
2 Constitutions to have an opportunity to be heard and present evidence and to rebut
3 evidence up to the submission of the case to the CVRB. Subject to the Objections to
4 the Hearing Procedures, Evidence, and other objections made by the District served
5 separately with this Evidence and Witness List, and without waiving any objections
6 contained therein, the District provides the following list of witnesses and evidence
7 along with time estimates for each witness:
8

9
10 A. Evidence

- 11 1. 2015 Malaga County Water District Pretreatment Program Report.
- 12 2. 2015 Malaga County Water District Rate Study.
- 13 3. Current Slug Control Evaluations.
- 14 4. Response to September 10, 2015, Notice of Violation.
- 15 5. CVRB's Response to the District's Response to the September 10, 2015,
16 Notice of Violation.

17
18 B. Witnesses

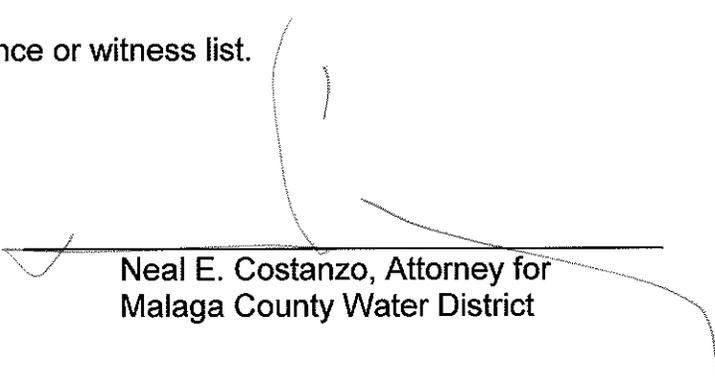
- 19 1. James Anderson, General Manager, rebuttal evidence. Estimated time
20 for testimony (6) hours.
- 21 2. Michael Taylor, PE, District Contract Engineer, rebuttal evidence.
22 Estimated time for testimony (4) hours.
- 23 3. Salvador Cerrillo, District Board Vice President, rebuttal testimony.
24 Estimated time for testimony (45) minutes.
- 25 4. The District anticipates cross-examining each and every witness listed by
26 the Prosecution Team and each witness listed by the Prosecution Team
27
28

1 shall be available for examination or cross-examination whether or not
2 they provide testimony at the hearing. Estimated time for examining or
3 cross-examining the Prosecution Team's witnesses, not less than (40)
4 hours.
5

6 As stated above, the information provided, is done so without a waiver of any
7 objection raised to the evidence presented by the Prosecution Team or the District's
8 objection to the Hearing Procedure for the ACL and maintains that such Hearing
9 Procedures are invalid and in violation of applicable statutes and the California and
10 United States Constitutions. Further, by submitting this document and evidence, the
11 District does not waive any right to make any objection at or before the hearing, or to
12 amend or supplement the evidence or witness list.
13

14 Respectfully submitted,
15

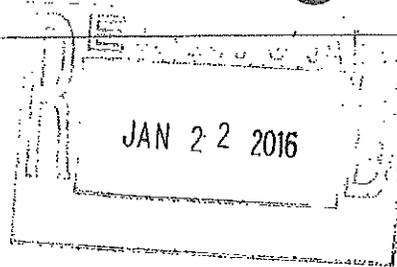
16 Dated: 3-11-16

17 
18 _____
19 Neal E. Costanzo, Attorney for
20 Malaga County Water District
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Central Valley Regional Water Quality Control Board

21 January 2016



James Anderson, General Manager
Malaga County Water District
3580 South Frank Avenue
Fresno, CA 93725

**PRETREATMENT PROGRAM COMPLIANCE, MALAGA COUNTY WATER DISTRICT,
WASTEWATER TREATMENT FACILITY, WIDID 5D100124001, NPDES NO. CA0084239, RM
402804, FRESNO COUNTY**

Central Valley Water Board Staff received on 9 November 2015 your comments (dated 26 October 2015) in response to our 10 September 2015 Notice of Violation (NOV).

Following review of correspondence between Central Valley Water Board staff and Malaga County Water District (District) staff regarding pretreatment program modifications, we believe some clarification regarding the regulatory definition of a significant modification and actions taken by the District may be helpful.

Title 40 of the Code of Federal Regulations (CFR) part 403.18(b) defines substantial modifications to publicly-owned treatment works (POTW) pretreatment programs. 40 CFR 403.18(b)(2) specifies the following as a substantial modification:

“Modifications that relax local limits, except for the modifications to local limits for pH and reallocations of the Maximum Allowable Industrial Loading of a pollutant that do not increase the total industrial loadings for the pollutant, which are reported pursuant to paragraph (d) of this section. Maximum Allowable Industrial Loading means the total mass of a pollutant that all Industrial Users of a POTW (or a subgroup of Industrial Users identified by the POTW) may discharge pursuant to limits developed under §403.5(c)”.

On 25 February 2014, the District adopted a new Ordinance Code as Ordinance No. 2013-1. The District correctly notes that the removal of the iron local limit guideline and the increase of various metal local limit guidelines did not constitute a substantial modification as these numbers were noted in the Ordinance as guidelines rather than enforceable limits or prohibitions. The Ordinance Code did, however, relax the local limit (referred to in the Ordinance as a prohibition on wastewater discharges) for oil and grease from 100 mg/l to 200 mg/l for the District's POTW pretreatment program. This limit relaxation constitutes a substantial modification pursuant to 40 CFR 403.18(b)(2).

40 CFR 403.18(c) sets forth the approval procedures for substantial modifications and is included below for reference:

“(1) The POTW shall submit to the Approval Authority a statement of the basis for the desired program modification, a modified program description (see §403.9(b)), or such

KARL E. LONGLEY ScD, P.E., CHAIR | PAMELA C. CREEDON P.E., BOEE, EXECUTIVE OFFICER

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other documents the Approval Authority determines to be necessary under the circumstances.

(2) The Approval Authority shall approve or disapprove the modification based on the requirements of §403.8(f) and using the procedures in §403.11(b) through (f), except as provided in paragraphs (c) (3) and (4) of this section. The modification shall become effective upon approval by the Approval Authority.

(3) The Approval Authority need not publish a notice of decision under §403.11(e) provided: The notice of request for approval under §403.11(b)(1) states that the request will be approved if no comments are received by a date specified in the notice; no substantive comments are received; and the request is approved without change.

(4) Notices required by §403.11 may be performed by the POTW provided that the Approval Authority finds that the POTW notice otherwise satisfies the requirements of §403.11."

Note that unlike the approval procedures for non-substantial modifications specified in 40 CFR 403.18(d), there is no timeframe within which the Approval Authority (here, the Central Valley Regional Water Quality Control Board) must act or provide notification.

The District's responses to Requirements 12 and 18 of the NOV suggest that the District may have overlooked the central point of the requirements. The District must inspect each Significant Industrial User (SIU) at least once a year (Requirement 12 of the NOV) and the District must analyze reports it receives from industrial users (Requirement 18 of the NOV).

We hope an improved understanding of the regulatory definitions and requirements will lead to an improved record of compliance for the District's pretreatment program.

If you have any questions regarding this matter, please contact me at (559) 445-5128 or at Warren.Gross@waterboards.ca.gov.



WARREN W. GROSS
Senior Engineering Geologist

cc: Naomi Kaplowitz, OE (e-mail only)



MALAGA COUNTY WATER DISTRICT

3580 SOUTH FRANK STREET - FRESNO, CALIFORNIA 93725

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BOARD OF DIRECTORS

CHARLES E. GARABEDIAN JR SALVADOR CERRILLO IRMA CASTANEDA FRANK CERRILLO JR CARLOS TOVAR JR.

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October 26, 2015

Warren W. Gross, Senior Engineering Geologist
Central Valley Regional Water Quality Control Board
1685 E. Street
Fresno, California 93706

Pamela C. Creedon, PE, Executive Officer
Central Valley Regional Water Quality Control Board

Carl E. Longly, SCD, PE, Chairman
Central Valley Regional Water Quality Control Board

Dear Mr. Gross:

This letter is in response to the document entitled "Notice of Violation " issued by the Central Valley Regional Water Quality Control Board ("CVRWQCB"), signed by you, dated September 10, 2015, which requested that the Malaga County Water District ("District") "submit a written description of the measures the District has implemented or will implement to resolve the above violations and in response to the requirements and recommendations in section of the PCI report [.]" by October 26, 2015. Further, it was requested that the District include a proposed schedule for implementation of changes in the District's Pretreatment Program for each requirement and as applicable, for each recommendation. The NOV lists twenty one "violations" or "threatened violations" whatever may be meant by the term "threatened violations" most of which, which will be shown below, are based on misunderstandings, erroneous conclusions, omitted facts, or outright false factual assertions.

Over the last two years, the District has taken a number of affirmative actions in order to bring its Pretreatment Program into full compliance with all State and Federal statutes, acts and

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regulations. While first encouraged by the CVRWQCB's initial cooperation in helping the District achieve full compliance, the District is now taken aback by the CVRWQCB's continued insistence that the District's current Sewer Use Ordinance ("SUO") is somehow invalid and instead has applied the rescinded, non-existent 2004 Ordinance in spite of clear and uncontested facts to the contrary which the CVRWQCB simply and repeatedly ignores. This, along with the CVRWQCB's refusal or inability to communicate with the District does nothing more than serve as an impediment to the District's constant and significant progress which the District has and continues to make in spite of this uncooperative, unhelpful, and frankly disingenuous step backwards by the CVRWQCB.

The CVRWQCB's conclusion that the District's current Ordinance is invalid appears to be based on the following facts:

1. "According to information provided on the District's website, the Ordinance had been passed on December 9, 2014." (Report at Section 2.2, pg 5)

This fact is false.

The website does not say that the District's SUO was passed on December 9, 2014. The District's Ordinance Code, which is available for viewing at www.codepublishing.com/ca/malagacwd/ states "the Malaga County Water District Code is current through Ordinance 2014-2 passed December 9, 2014."

The CVRWQCB's confusion appears to stem from its fundamental lack of understanding of what an Ordinance Code is and how it works. The District, like the State of California and hundreds of counties, cities, and special districts therein, maintains an Ordinance Code. This Ordinance Code contains various rules and regulations relating to all of the services within the jurisdiction of the District including recreation, sanitation, water, and the District's SUO. This Ordinance Code is amended from time to time by Ordinance of the District's Board of Directors. The last amendments to the District's Ordinance Code were made on December 9, 2014, as stated on the aforementioned website Ordinance No. 2014-1 dealt with changes to title two of the Ordinance Code relating to water, and Title Four of the District's Ordinance Code pertaining to park rules. Ordinance No. 2014-2 made non-significant changes to the District's SUO, which, as will be shown below, were permitted by the CVRWQCB.

2. "The Central Valley Water Board notified the District that it was required to request and receive approval from the Central Valley [sic] Water Board prior to implementing significant changes to the SUO." (Report at Section 202, page 5.)

This fact is false.

The District has twice given the CVRWQCB notice that it intended to make non-significant changes to its SUO. As shown below, the CVRWQCB did not respond to the first notice as required by 40CFR403.18 (d) and the response to the second notice was based solely on a completely baseless factual assertion. These issues were

addressed in the District's response to the Supplemental Notice of Violation which is attached to the report as Attachment B.3; the Districts November 25, 2014, response to the CVRWQCB's October 24, 2014, letter regarding the Districts notice of non-substantial changes and are further addressed as follows:

Modifications Effective February 25, 2014 (Ordinance No. 2013-1)

As set forth in detail to the District's response to the CVRWQCB's Supplemental Notice of Violation dated September 23, 2014, attached as Attachment B.3 to the Report, the District underwent a comprehensive review of its Ordinances, which included the District's SUO. As part of this review, the District made a number of changes to its Pretreatment Program. The District interpreted those changes then, as it does now, as non-substantial modifications to the District's Pretreatment Program. On December 2, 2013, the District provided a notice of non-substantial modifications to the Malaga County Water District's Pretreatment Program to the Central Valley Regional Water Quality Control Board along with a copy of its proposed Ordinance which was also made available to the public. The District held a public workshop on the proposed Ordinance on December 16, 2013. The procedures as set forth in 40CFR403.18(d) for Non-Substantial modifications of a Pretreatment Program provide:

“(1) The POTW shall notify the approval authority of any non-substantial modification at least forty five (45) days prior to implantation by the POTW, any statement similar to that provided for in (c) (1) of this section.

(2) Within forty five (45) days after the submission of the POTW statement, the approval of authority **shall notify the POTW of its decision to approve or disapprove the non-substantial modification.**

(3) If the approval authority **does not notify the POTW within forty five (45) days of its decision to approve or deny the modification or to treat the modification as substantial (d)(7) of this section, the POTW may implement the modification.**” [Emphases added]

Because §40CFR403.18(d)(3) provides that if the approval authority, in this case the CVRWQCB, does not notify the POTW, in this case the District, that it will treat the proposed modification as substantial, the POTW may implement the modification.

The CVRWQCB first gave the District notice that it considered the District's Ordinance effective February 25, 2014, to be a substantial modification on July 7, 2014. This was nearly six (6) months after the forty five (45) day review period provided in §40CFR403.18(d) had expired.

- The CVRWQCB has never disputed the fact that the District gave it notice of non-substantial modifications on December 2, 2013 and provided the CVRWQCB with all documents, including the Ordinance related thereto. Those documents were also made available for public review.

- The CVRWQCB has never disputed the fact that it did not notify the District that it intended to treat the District’s proposed modifications to its Pretreatment Program as significant as required by §40CFR403.18(d)(3).

Modification to the Pretreatment Program December 9, 2014 (Ordinance 2014-2).

On September 24, 2014, the District gave the CVRWQCB notice of non-substantial modifications to the District’s Pretreatment Program pursuant to 40CFR403.18(d) and provided the CVRWQCB with a copy of its proposed Ordinance 2014-2. The Ordinance was also made available for public review.

On October 24, 2014, the CVRWQCB provided a response to the District’s notice of non-substantial modification to its Pretreatment program. In the response, the CVRWQCB stated that it was treating the proposed modification as a substantial modification based on the fact that the “Draft Ordinance Code” “has removed the iron limit, as well as the limits for several other metals, from section 3.05.040, local limitations on wastewater discharges.” The ordinance which accompanied the notice of non-substantial modifications, was Ordinance No. 2014-2. Ordinance 2014-2 did not make any reference or change to section 3.05.040. As stated in the District’s November 25, 2014, response, the Water Board was clearly relying on completely baseless fact for its assertion that the District proposed changes were substantial. It appears obvious from the CVRWQCB’s reference to the “Draft Ordinance Code” that the CVRWQCB is attempting to, belatedly, respond to the First Notice of Non-Substantial Change to the District’s Pretreatment Program in response to the District’s Second Notice of Non-Substantial Change. The First Notice of Substantial Change was accompanied by a copy of the Draft Ordinance Code (Ordinance 2013-1) as referred to in the October 24, 2014, letter and the PCI Report. The Second Notice of Non-Substantial Modification was accompanied by a copy proposed (Ordinance No. 2014-2).

- The CVRWQCB has not disputed the fact that it received a notice of non-substantial modifications related to the District’s Ordinance 2014-2 on September 24, 2014.
 - The CVRWQCB has not disputed the fact that the bases of its conclusion that the District’s modification of its Pretreatment program by District Ordinance No. 2014-2 was a substantial change was based on a clearly erroneous factual conclusion by the CVRWQCB that the District was amending §305.040 of its Ordinance Code.
 - These facts are conspicuously omitted from the Pretreatment Compliance Inspection Report (“Report”).¹
3. “Due to the District not receiving approval from the Central Valley Water Board, the District repealed some of the significant changes.”

This assertion is false.

¹ The Report does not identify who or whom authorized the Report. Because the NOV is being issued by Mr. Gross, it is assumed that the CVRWQCB is responsible for the content of that Report.

The District has not made any significant changes in its Pretreatment Program. Further, the District has not repealed any of the changes it has made from its SUO and the Report does and cannot identify any such alleged changes.

In spite of the clearly erroneous facts and assertions made by the CVRWQCB and the conspicuous absence of undisputed incontrovertible facts to the contrary, the CVRWQCB determined that “since the 2004 SUO is the version most recently approved by the Central Valley Water Board, this is the version that was considered to be in effect at the time of the 2015 inspection and continues to be in effect.” (Report at §3.1 Pg. 8) This creates an additional problem with the report in that by its Ordinance 2013-1 adopted on February 25, 2014, the District repealed the 2004 Sewer Use Ordinance. Therefore, the 2004 Sewer Use Ordinance upon which the report and Notice of Violation are based does not exist.

Because the CVRWQCB twice failed to provide notice to the District as required by 40CFR403.18(d)(3) prior to the adoption of non-substantial modifications to the District’s Pretreatment Program (Ordinance No.s 2013-1 and 2014-2), the District’s current Sewer Use Ordinance and Pretreatment Program are the Sewer Use Ordinance and Pretreatment Program that are in effect. The CVRWQCB has no authority to and has cited no authority to consider any other Pretreatment Program or Sewer Use Ordinance to be in effect at the time of the inspection. Further, there may have been legal avenues available to the CVRWQCB to challenge the District’s adoption of Ordinance No.s 2013-1 and 2014-2 along with the repeal of the 2004 Sewer Use Ordinance however the CVRWQCB did not avail itself of any of those processes.

Accordingly, because the CVRWQCB has erroneously based its Report and the NOV on the 2004 SUO, the Report and the NOV are invalid in their entirety and as such, both the PCI Summer Report and the September 10, 2015, Notice of Violation should be rescinded in their entirety in writing by the CVRWQCB immediately. ²

Notwithstanding the forgoing, and without admitting to the validity of the Report or the NOV and without admitting that any of the listed “requirements” or “recommendations” or “violations” or “threatened violations” whatever that may mean, are violations or have any validity, and reserving the right to use any procedure available at law to contest said report, requirements, recommendations, violations, or threatened violations and to the extent the District is able to understand the vague and inconsistent NOV and PCI Summary Report, the District submits the following “written description of the measures the District has implemented or will implement to resolve the above violations in response to the requirements and recommendations in Section 10 of the PCI Summary Report [.]” as apparently required by the September 10, 2015, Notice of Violation:

Response to Requirement No. 1: For the reasons set forth above, which are incorporated by this reference herein as though fully set forth at this point, it is the District’s position that its Ordinance and Pretreatment Program were validly adopted and are the current and effective Sewer

² Another by-product of the CVRWQCB basin the Report on the 2004 Ordinance is that the resulting Report intermingles references two or more different pretreatment standards rendering the Report at best, erroneous vague and internally inconsistent.

Use Ordinance and Pretreatment Program. Further, it is the District's position that the CVRWQCB's basing the PCI report and the NOV on the 2004 SUO, render the PCI Summary Report and the NOV invalid.

By not notifying the District that the CVRWQCB considered the proposed modification by the District as described above as substantial, as required by 40CFR403.18(d)(3), the District was, by the plain language of that section, permitted to implement the modifications. Therefore, there is no action required by the District at this time pursuant to requirement No. 1.

Response to Requirement No. 2: Requirement No. 2 does not appear to be a requirement in that it simply reminds the District that it must publish Notice of SIUs in significant non-compliance in accordance with 40CFR403.8(f)(2)(VIII). The response to Requirement No. 2 pertains to a point during the inspection when the inspectors questioned District staff about an inspection made to Fifth Wheel Truck Wash that resulted in the District preparing an administrative citation to Fifth Wheel for excess BOD, EC, and TSS. Enforcement actions against Fifth Wheel proceeded into stronger enforcement action by a compliance order and a show cause order. The District took these actions to demonstrate to Fifth Wheel the power of the District as the Control Authority to demand compliance so far as to terminate all services to Fifth Wheel for non-compliance. At that point Fifth Wheel made the necessary changes in the compliance order and further enforcement action was not applied. During this whole period of events, Fifth Wheel Truck Wash was not a significant industrial user. It was after this action that the District decided to designate not only Fifth Wheel but also the three other truck wash businesses the District serves as significant industrial users due to the potential for significant impact on the WWTF. The fact that Fifth Wheel Truck was not an SIU at the time of the violation was explained to the inspectors. At that point of the inspection the inspectors took the time to assist the District to explain the process to "perform SNC calculations" that the District knew how to do but the effort was recognized as a learning process and a cooperative point in the inspection that the inspectors and the District shared. The conversation proceeded as the inspectors discussed the requirement for publishing significant industrial user significant non-compliance, which the District also knew of and a general discussion of both requirements was shared. The District is surprised to see the event noted as a violation for being "unaware of how and when to perform SNC calculations" and the reminder "that is must publish" significant non-compliance of an SIU. The District again points out that this violation is also false and should be withdrawn.

Response to Requirement No. 3: This request appears to be a recommendation. The forgoing notwithstanding, the District is proceeding as required by CDOR5-2014-0146 (task 2a) in conducting a local limit evaluation and revising /developing local limits as necessary.³ For this requirement to be cited as a violation is to say the District is being cited for a violation for taking appropriate actions required in CDO R5-2014-0146 that it is doing in compliance with the Order. The District objects to being cited for taking the actions required in the Order.

³ It should be noted that the District is challenging the validity of CDOR5-2014-0146 and WRD Order R5-2014-0145 and any reference to these orders, or compliance therewith, is not and should not be construed as a waiver of that challenge or an admission to the validity of said orders.

Response to Requirement No. 4: The District's Pretreatment Program, at section 5.40 describes the process by which individual wastewater discharge permits are renewed / reissued. The District will update this section of the Pretreatment Program to include a requirement that permits are issued at least fifteen (15) days prior their effective dates. In response to the inspection teams lack of clarity as to whether or not the permits issued had been signed and dated, the District maintains electronic copies of those signed and dated permits however, did not scan the permit cover sheets prior to issuing the permits to users. The copies received by users were signed and dated. To avoid confusion in the future, the Pretreatment Program will be updated to require that hardcopies of the issued permits be maintained by the District and available for inspection.

Response to Requirement No. 5: As part of the District's permit issuance procedure, it was intended that a diagram of the facility indicating, among other things, the sampling location would be attached and incorporated into each permit with a condition for monitoring and sampling. The District will incorporate the identification of sampling points into each permit.

Response to Requirement No. 6: To the extent that this requirement refers to "parameters" included in the 2004 SUO and 2014 SIU Permits, see response to requirement No. 1, incorporated by reference. The inconsistency between the 2004 SUO, 2014 SIU Permits, and the 2015 SIU Permits appear to be a function of the improper application of the rescinded 2004 SUO. To the extent that this requirement refers to the need for the District to adopt technically based local limits, see Response to Request No. 3, incorporated by reference.

Response to Requirement No. 7: The District will update its Permits to clarify the required procedures, sampling type, and frequency. To the extent that this requirement requires application of local limits, see Response to Request No. 3, incorporated by this reference.

Response to Requirement No. 8: To the extent that this requirement refers to the 2004 SUO, See Response to Requirement No.1, incorporated by reference. To the extent that this requirement refers or relates to the development of technically based local limits, see Response to Requirement No. 3, incorporated by reference.

Response to Requirement No. 9: Bypass is specifically prohibited the District's Sewer Use Ordinance at §3.05.050(B). Part one section one of the permit in question requires that the user comply with "all of the provision, terms, and requirements of the Malaga Code ("Code"), the Pretreatment Program, the Clean Water Act ("Act")...." The permit also includes a definition of bypass. The foregoing notwithstanding, the District will revise its Permits to specifically prohibit bypass.

Response to Requirement No. 10: The District will revise its permits and permit issuing procedures to clarify the requirements for industrial users including whether or not they are subject to the District's Pretreatment Program requirements and if so, the applicable Pretreatment standards including any applicable requirements under Sections 204(b) and 405 of the Act and subtitles C and D of the Recourses Conservation and Recovery Act, notify each significant user of its status and of all applicable requirements as a result of that status.

Response to Requirement No. 11: As stated in Section 2.2 of the PCI Summary Report, the District has made a number of personnel changes designed to improve the implantation of the District's Pretreatment Program. As a result, the District has developed policies and procedures to ensure that samples are collected at each SIU at least once per year. Copies of inspection reports for each SIU for 2015 maintained at the District office and will be included in the District's 2015 Annual Pretreatment Program Report.

Response to Requirement No. 12: As necessary the District will re-train its inspection personnel to ensure that each inspection report is fully completed including, but not limited to, the date and time of each inspection and the name and signature of the inspector(s).

Response to Requirement No. 13: The District has reevaluated the sample point and/or probe location for PPG Industries and has required the user to relocate the sampling point to ensure that the sample is being collected in accordance with 40CFR403.12(b)(5)(ii). The District, as part of annual inspections and/or permit renewal process will reevaluate the sampling locations of each SIU.

Response to Requirement No. 14: As stated in the response to Requirement No. 13, the District will, as part of its annual inspection or permit reissuance procedures, reevaluate the sampling points for all SIU; and if necessary issue appropriate compliance order/schedules to relocate the sample points to comply with all applicable requirements.

Response to Requirement No. 15: The User identified in this requirement is doing the monitoring and reporting on a voluntary basis. The District conducts sampling and testing for this User independent of the sampling and reporting done by the User. For any User where the District requires monitoring and reporting the District will reevaluate each of those Users to ensure that the sample is representative of daily operations pursuant to 40CFR403.12(b)(5)(ii).

Response to Requirement No. 16: Both sampling locations referred to in this requirement are representative of the wastewater generated and discharged from the facility. The District will, as part of its inspection and/or permit renewal process, review each sampling location for each SIU, identify each sampling location clearly, incorporate those locations into that SIU's permit, and, in the event that there are more than one sampling points available, identify which sampling point(s) will be utilized.

Response to Requirement No. 17: The User identified in requirement No.17 is not required to submit monitoring reports to the District. The District conducts its own independent sampling and testing of this user's wastewater discharged into the District's system. However, the District does, as part of its inspection process, inspect the pretreatment equipment of all users required to have pretreatment equipment to ensure that that equipment is functioning properly. The District will review and reevaluate its inspection procedures and frequency to ensure that all user maintain all required pretreatment program equipment and records related thereto and if necessary issue an appropriate enforcement response.

Response to Requirement No. 18: The District has revised its self-reporting requirements to clarify the necessity to include chain of custody reports with self-monitoring reports. The

District has also revised its permit to specify the chain of custody requirement on self-monitoring reports.

Response to Requirement No. 19: This requirement is related the requirement that the District development technically bases local limits and include those limits, along with the sampling and monitoring requirements into user permits. As stated above, the District is in the process of conducting a local limits study and will develop appropriate local limits and a monitoring and reporting program necessary to enforce those limits as set forth in the response to requirement No. 3, which is incorporated by this reference herein. In the interim, the District will clarify the monitoring requirements in each industrial users permit who is required to conduct monitoring and reporting and of what constituents.

Response to Requirement No. 20: The District has in place a process for evaluating each industrial user to determine whether or not that user needs a slug discharge control plan and/or a spill containment plan. Those procedures are set forth in Chapter 7 of the District Pretreatment Program. The District has separate forms for evaluating whether each user will be required to have a slug discharge control plan and/or a spill containment plan. Each industrial user is required to be evaluated prior to the issuance of any individual wastewater discharge permit, the reissuance of any individual wastewater discharge permit, following any slug discharge or spill or at any time or frequency deemed necessary by the District. The Slug Discharge Control Plan Evaluation form is attached to the Pretreatment Program as Attachment J. The Pretreatment Program and its attachments are available on the District's website. The District will reevaluate its implementation of these procedures to ensure that the evaluations are completed as required by the District Pretreatment Program and the records of said evaluations are maintained in a manner that renders them readily available for inspection.

Response to Requirement No. 21: This is a repetition of Requirement No. 2. The District is in compliance with this requirement as the District has adopted and is properly implementing its enforcement plan. The basis for this requirement appears to be a misunderstanding of the actions taken by the District relating to a September 24, 2014 discharge by one of the District's Users. Following the discharge, the District did issue a letter to the User notifying them of the violation by written citation, flowed by a compliance order to take corrective action. When the compliance order was ignored, a Notice of an Order to Show Cause hearing was issued. The confusion seems to stem from purported statements that these actions were somehow "not officially issued". These action were officially issued and, as correctly stated in the PCI Summary Report quoting from the 2014 Annual Pretreatment Report, the District was able to obtain compliance of the User through a series of meetings rendering the need for an Order to Show Cause hearing moot.

The District does recognize that the use of the term "significant non-compliance" within the context of determining which enforcement action should be taken by the District can create confusion as the term "significant non-compliance" as used in this capacity is not the same meaning as significant non-compliance as defined in the District's Ordinance and at 40CFR403.8(f)(2)(viii)(A-H.). The District will revise its Pretreatment Program to include a different term to be used in place of "significant non-compliance" as a factor in determining the enforcement procedures to be applied.

Response to Recommendation No.1: The District will reevaluate RV sales facilities and other facilities which may allow or introduce hauled waste into the District's POTW. A compliance order is being developed for all RV sales facilities to maintain a log of the number of RV's allowed to dump waste at their facilities and the volume of waste discharged. If necessary, the District will require any and all users which may allow or introduce hauled waste into the District's POTW to be permitted as appropriate.

Response to Recommendation No.2: The District is in the process of conducting a study to determine technically based local limits which is expected to play a key role in identifying the source of Chromium at the WWTF and with Chromium is currently being introduced into the District's POTW. The District is also in the process of evaluating and performing necessary maintenance on its wastewater collection system in order to eliminate the possibility that the source of Chromium is legacy solids contained in the District's collection system. If the maintenance performed on the District's wastewater collection system does not eliminate the source of Chromium, and said source of Chromium is not identified during the local limits study, the District, through consultation with its engineer or other consultants as required, will develop a testing procedure to identify the source of Chromium.

Response to Recommendation No.3: The District has continued its investigation into the processes performed at the facility referred to in this recommendation and will make a determination and if necessary require that the facility apply for and receive a permit in the appropriate class, on or before January 1, 2016.

Response to Recommendation No.4: The General Manager signed the cover page of each permit issued to permittees however, it appears that the District did not scan and/or store the signature pages in an electronic format as intended. In order to avoid the possibility of this error again, the District will make a hard copy of each permit issued and maintain that hard copy in each users file.

Response to Recommendation No.5: As dated above, the District will review its inspection procedures and employee training to insure that each inspection report, slug discharge evaluation form, FSE evaluation form, or any other forms required during inspections or permit issuance or reissuance procedure will fully completed, signed, dated, and properly maintained in the District's records.

Response to Recommendation No.6: The District will upgrade its procedures related to the obtaining and reviewing/evaluating user records related to the maintenance and operation of the users pretreatment facilities.

Response to Recommendation No.7: The District will review each permit to determine whether or not the District needs to include in the permit, likely in the best practices requirements, that each facility develop SOP's to minimize the potential for an upset at the Districts WWTF.

Response to Recommendation No.8: See response to Recommendation No.7, incorporated by reference. The District, as part of its permit reissuance procedures, will require

all users to update their facility and process area schematics and keep said updated schematic on file in the District's records.

Response to Recommendation No.9: As part of the District's formulation of technically based local limits, the District will comprehensively review its EC limits and discharging methods and prohibitions.

Response to Recommendation No.10: As part of the District's permit reissuance process, the District will evaluate each permit to ensure that the permit clearly distinguishes between slug discharge and batch discharge and where necessary, clearly distinguish whether a slug discharge or batch discharge plan, or both, are required

Response to Recommendation No.11: The District will request a copy of the facilities SOP's related to general cleanup and spill response and will, as part of the District's permit reissuance procedures, perform an evaluation to determine whether or not the District will require the user to prepare or to revise a slug discharge control plan and/or a spill containment plan, pursuant to, among other things, Chapter 7 of the District's pretreatment program.

Response to Recommendation No.12: Following the incident described in Recommendation No. 12, the District performed multiple inspection at the facility, conducted interviews with facility representatives, and reviewed the facilities response to the incident and determined that although the incident caused a spill, the facilities secondary containment system prevented said spill from entering the District's POTW and therefore did not cause upset to the District's WWTF. However, the District will review the facilities emergency assists along with each SIU's emergency assists and facilities to minimize the potential for discharge into the District's POTW which would cause an upset at the District's WWTF.

Response to Recommendation No.13: As stated above, the District will review each users permit to determine whether or not each user should develop written SOP's and/or develop and utilize best management practices.

Response to Recommendation No.14: As state above, the District will review each industrial user to determine whether or not that user will be required to develop and implement a slug discharge control plan and/or spill response plan and specifically will review the user reference in this Recommendation. Further, as reference above, future district permits will clearly distinguish between slug discharge and batch discharge. See Response to Requirement No.21, incorporated by reference.

In summary, let me conclude this response by saying the dialog between the CVWQRCB is inconsistent related to the Districts Pretreatment Program and revisions to its Pretreatment Program which makes it difficult to provide a response to the NOV. The CVWRQCB persists that the District does not operate by an authorized sewer use ordinance and the most substantial portions of the NOV are related to that as well as a local limits study that the CVWRQCB already knows is underway yet cites the District for not having technically based local limits. The District is very frustrated working with CVWQRCB who on the phone or in person seem polite and listening who on paper are accusatory and have not heard a single word that was said. In person

the CVWQRCB recognizes the significance of changes the District has made to achieve compliance with its pretreatment program, but this NOV reads as though the District has no clue what pretreatment is even about. Slapping a child for spilling milk makes for more spilt milk. I do not berate enforcement, but I do suggest enforcement unevenly applied does not work well.

Malaga County Water District takes offense to most of this NOV, yet recognizes there is still work to be done. The District has a positive attitude about the significance of a working, fact based pretreatment program in compliance with the requirements of the EPA and the Clean Water Act and will forward updates and supplements to this response as they become available. It is hoped that the CVWRQCB will make a better effort to report the truth in facts rather than what appears to be picking on Malaga.

Respectfully submitted,

James D. Anderson

James D. Anderson
General Manager and
Legally Responsible Officer
of the Malaga County Water District



MALAGA COUNTY WATER DISTRICT

3580 SOUTH FRANK STREET FRESNO, CALIFORNIA 93725
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BOARD OF DIRECTORS

CHARLES E. GARABEDIAN JR. PRESIDENT SALVADOR CERRILLO VICE-PRESIDENT IRMA CASTANEDA DIRECTOR FRANK CERRILLO JR. DIRECTOR CARLOS TOVAR JR. DIRECTOR

James D. Anderson, General Manager

Central Valley Water Quality Control Board, Region 5
Matt Scroggins
Senior Water Resource Control Engineer
1685 E Street
Fresno, Ca 93725

MCWD 2015 ANNUAL PRETREATMENT REPORT

Report Date: 29 February 2016
Reporting Period: 1 January 2015 to 31 December 2015
Order No.: R5-2014-0145
NPDES Permit No.: CA0084239
WWTF: Malaga County Water District
Wastewater Treatment Facility (WWTF)
3749 S. Maple Avenue
Fresno, Ca 93725
Mailing Address: 3580 S. Frank Street
Fresno, Ca 93725
T: 559-485-7353
Attention: James D. Anderson
General Manager and Chief Plant Operator

Certification [40 CFR 122.22(d)]:

I certify under penalty of law that this document and all attachments were prepared under the 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 on 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.

James D. Anderson
Legally Responsible Official

MALAGA COUNTY WATER DISTRICT
2015 Pretreatment Program Annual Report

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Introduction and General Information

Malaga County Water District (“MCWD” or “District”) is a California Special District located south of the City of Fresno. The District covers an area of about 2.5 square miles and provides water distribution, wastewater collection, treatment and disposal, and solid waste collection and disposal services to a community of 239 residential units, 71 trailer park tenants, over 200 commercial businesses, and 11 industrial dischargers identified as Significant Industrial Users (SIUs).

The District operates a Recreation and Senior Citizen’s Center. MCWD meets all definitions of a disadvantaged community with a median household income of \$23,000 among all residents. The District has an annual operating budget of \$2.3 million with a staff of 15 full time employees.

The District is governed by a five-member elected Board of Directors and is organized and exists pursuant to §30000, et seq., of the California Water Code. The District’s General Manager, James D. Anderson, is responsible for the day-to-day operations of the District including the District’s Pretreatment Program. Mr. Anderson also serves as the Wastewater Treatment Facility’s Chief Plant Operator and the District’s Legally Responsible Official. Mr. Thomas Siphongsay is the District’s Environmental Compliance Inspector (ECI). He is a CWEA certified Grade 1 ECI and is registered to take the Grade 2 exam within the next three months. Mr. Siphongsay maintains the reports and records related to pretreatment and performs most of the field work for inspections, compliance review, education, outreach, and enforcement.

Total employment within the District is estimated to be 2,400 jobs from data collected during pretreatment program inspections of industrial and commercial customers. Six major industries include a plate glass manufacturer, a biomass energy producer, a gas turbine electrical energy peaking plant, a corrugated box and printing manufacturer, a vegetable oil re-packager, and a petroleum distributor of gasoline, diesel, and jet fuel. Most of the commercial businesses support freight services with truck washes and truck stops, truck sales and repair businesses, and a large number of warehouse facilities for storage and distribution. MCWD is a major hub for commercial freight and trucking for state and inter-state commerce. The services provided in MCWD have a large multiplier effect on jobs within and without the State of California.

MCWD is a vital center of activity to the economy of the State of California.

Pretreatment Program Overview

The District's Pretreatment Program is authorized by the District's Ordinance Code which is referred to herein as the "Malaga Code." (See, MC Sec. 3.01.030 and 3.05.020). The District's Ordinance Code was updated and codified on February 25, 2014. The Malaga Code is updated, revised, and/or modified by the Board of Directors in accordance with applicable law. The most recent change is incorporated in Ordinance 2016-1 that has since then been added to the Malaga Code. The Malaga Code is maintained and available online on the District's web page located at:

www.malagacwd.org.

The District's Pretreatment Program is a living document and is updated as necessary. Malaga has a myriad of commercial and industrial wastewater dischargers, and while most discharge only domestic type wastewater, it is the District's never ending diligence to track down other than domestic wastewater discharge and insure that such dischargers are properly permitted, monitored, and reported. A copy of the District's Pretreatment Program is also available on the District's web page.

The District's primary control mechanism is the Individual Wastewater Discharge Permits ("IWDP"). The District issues IWDPs (also referred to as "Non-Residential Discharge Permits) in five classes. All Non-Significant Industrial Users are issued a general permit (Attachment A: General Permit for Non-SIUs). Each Significant Industrial User is issued an IWDP as contained in the fourth quarter pretreatment report (Attachment M: Fourth Quarter Pretreatment Report).

Last year's annual pretreatment report stated that a Local Limit study was expected to be available in April 2015. The requirements for a Local Limit study turned out to be a much more complicated process than originally understood. Nevertheless, the District submitted a Local Limits sampling plan to the State Water Resources Control Board in April 2015 and a response was received in June 2015 that made recommendations and suggestions to the sampling plan. After revising the sampling plan, sample collection began in October 2015 and will continue into April 2016, leaving enough time to study the results and collect additional samples if necessary to submit a Local Limits study to the State Water Resources Control Board by the required date of 1 August 2016. The District Engineer will prepare the formal Local Limits study. Regular meetings are taking place to monitor the analytical reports as they become available.

2015 was the year the District's Pretreatment Program flexed its fledgling wings and began to fly. There were stumbles early on, but determination drove the District to overcome failure and adjust course. Public Outreach has been a critical factor in successes gained. The District gained the confidence of dischargers who were unfamiliar with pretreatment. The District learned early on that flyers were not enough to educate dischargers. It took a lot of time working with dischargers individually to gain their buy-in for the Pretreatment Program.

2015 Pretreatment Inspection

In April 2014, the District met with the Central Valley Water Resources Quality Control Board (CVWRQCB) to discuss a Notice of Violation with seventy-one violations from a pretreatment inspection held in January 2014. The District was severely reprimanded for those violations and was threatened with “being eliminated” by CLAY RODGERS who further stated “I intend to shut Malaga down to be absorbed by the City of Fresno”. The District attempted to explain that it was dedicated to resolving the violations, and inquired whether the CVWRQCB could offer technical assistance. CLAY RODGERS replied that the CVWRQCB did not have pretreatment technical experts on its staff, but that the Clean Water Act and EPA regulations clearly explain the requirements for pretreatment and the District was expected to comply with those regulations. The remainder of the meeting was a series of more threats from CLAY RODGERS and the District’s humble response to promise that compliance would be achieved.

In May 2014, JILL WALSH of the Central Valley Water Resources Quality Control Board asked whether Malaga would like to have an inspection of its Pretreatment Program in 2015. She stated this was an option, and would identify areas of the program that may need improvement or further attention.

The District gladly accepted the invitation for a pretreatment inspection for that very purpose. It was explained to JILL WALSH that the District was still trying to grasp the theoretical concepts of a pretreatment program and learning the technical requirements. It was explained to JILL WALSH that there was a very steep learning curve involved while trying to implement the program at the same time. It was felt that an inspection would help redirect effort as necessary to meet the EPA requirements for an effective and legitimate pretreatment program.

An inspection was held in March 2015 by EPA contractors KETTIE HOLLAND and DANNY O’CONNELL. They were the same inspectors for the January 2014 inspection.

During the inspection, both inspectors clearly stated that they observed substantial improvements to the Malaga pretreatment program. The inspection was a very positive experience for the District. Areas requiring improvement were identified and a few technical points were explained and clarified. After the inspection debriefing, the District felt proud of its accomplishments and a clearer image was developed for areas that needed more attention. Both inspectors applauded the District’s effort to develop and implement an effective pretreatment program. Both inspectors stated that the District was headed in the right direction and except for a few technical matters were clearly on the way toward EPA compliance.

In September 2015, the District received another Notice of Violation for the 2015 inspection that contained twenty-one “violations or threatened violations” and sixteen “recommendations the District strongly consider”. The NOV implies that the District has no concept of what a pretreatment program is, and is negligent in developing one. The NOV is a complete misrepresentation of what was discussed during the inspection.

Pretreatment Program Budget

The District, as part of its annual budgetary process, prepares a Pretreatment Program Budget. The District's current Pretreatment Program Budget for fiscal year 2015-2016 is contained in Attachment B. The primary source of revenue for the Pretreatment Program is from fees paid by IUs for inspections and other services provided by the District and a portion of the charges for sewer service provided by the District to the IUs. In 2015, the District completed a rate study and developed a new master schedule of fees that was adopted in January 2016. In the new schedule of fees, a pretreatment program surcharge of \$6.42 per equivalent sewer unit (ESU) is applied to all commercial dischargers and a \$0.15 pretreatment program surcharge is applied to residential customers.

The pretreatment program budget for FY 2015 is \$252,860. The major costs for pretreatment for FY 2015 are:

1. Two additional portable samplers
2. Repair parts for two existing portable samplers
3. Analysis of samples for the Local Limits study
4. Technical report of the Local Limit study
5. ECI field testing safety and sampling equipment
6. ECI training, CWEA membership and certification
7. Contract and legal services

Pretreatment Program Public Participation and Outreach

The District's Pretreatment Program Public Participation and Outreach Program consists of interaction between the District, through its ECI, and IUs during compliance inspections. The District also provides information and literature in printed form and on its web page which may be utilized by IUs.

The District has developed a FOG Control Best Management Practices brochure which it distributes to food service establishments and other IUs potentially subject to the District's FOG Control Program.

The District completed a Slug Discharge Control inspection of IUs in 2015 and is attached as Attachment C. This 113 page report contains the elements of a Slug Discharge Plan as was pointed out in the 2015 pretreatment inspection. In addition, a flyer was created as part of an educational outreach to help Users understand the definition of a Slug Discharge and to familiarize themselves with other wastewater related content (Attachment D: Public Outreach Flyer).

The District provides community outreach at community events which occur, from time to time, at the District's recreational facilities. For example, in September 2015 at the District's Fiesta Days celebration, the District had a vendor booth where it provided information on the District's Pretreatment Program and FOG Program in addition to providing information on proper use of the District's sewer system, water conservation information and free water conservation devices to low-income residents.

The District provided outreach to and conducted public workshops for IUs regarding potential changes to the District's Pretreatment Program and permits in addition to the public hearings which were held in accordance with the District's Pretreatment Program procedures. The District publishes a newsletter which provides information to the community on all aspects of the District's operations including the Pretreatment Program.

Compliance and Monitoring Program

1. Summary Report of Influent, Effluent, and Sludge

Representative 24-hour flow paced composite samples of the WWTF influent, effluent, and sludge were collected on 10 March 2015 and analyzed for those pollutants U.S. EPA has identified under section 307(a) of the Clean Water Act that are known or suspected to be discharged by nondomestic dischargers. The analytical reports for those samples are contained in Attachments E, F, and G.

The analytical reports are summarized in Table 1. Table 1 lists only the inorganics and metals found in nondomestic wastewater rather than a complete list of all 126 priority pollutants, most of which were not detected in influent samples. Those that were detected are in very low quantities normal of any other nondomestic discharge and no reasonable summary of the analysis can be made other than to say they exist in small quantities.

The summary of the analytical results indicates that the Malaga WWTF removes pollutants at a level that meets or exceeds NPDES requirements. Ammonia as Nitrogen has a removal rate of 99% and BOD a removal rate of 94%. Total Suspended Solids (TSS) shows a removal rate of only 78%, but this result is an anomaly. During all of 2015, monthly discharge monitoring reports showed TSS removal above 95%.

Complete nitrification is evident by the results, and partial denitrification is evident by the 15 mg/L of Nitrate as Nitrogen result in the effluent sample. The District is developing a denitrification system for the WWTF that is ongoing. The District expects to achieve denitrification before the end of its current NPDES permit.

There are two major areas of concern with the summary of the results, Electro-conductivity (EC) found in the effluent and chromium and copper in the sludge.

EC levels in the effluent has been an ongoing problem for the District and is a significant part of the District's effort in the pretreatment program. Since water conservation measures were implemented in 2015 to comply with State requirements, the District reported EC violations that average less than 2% of the allowable limit since June 2015. To correct this violation, the District performed a mass balance calculation of EC (Table 2) and developed a step-decrease in EC plan (Attachment H) for all dischargers. This plan was submitted to the CVRWQCB in November 2015 for approval, and scheduled for implementation in February 2016. The District never did receive a response from the CVRWQCB until a phone call in late February 2016 that approved the plan and applauded the District's effort to "use its Control Authority for pretreatment", but the step-decrease plan was implemented by that time anyway. It should be pointed out that the step-decrease plan was submitted via the electronic mail link used to submit written correspondence to CVRWQCB staff. WARREN GROSS, who made the phone call, requested that future correspondence regarding time tables for responses may be submitted directly to him rather than via the electronic mail

correspondence link.

The step-decrease plan is not the solution to EC. It is identified as an interim measure pending completion of the Local Limits study for an EC limit that will prevent violations of EC.

Chromium and copper have been an on-going problem for the District since they have been measured in quantities in the biosolids that makes biosolid disposal a hazardous waste issue. The Chromium level in the sludge sample indicates that the WWTF added chromium by a factor of 10 compared to the influent sample. Copper “increased” by about 50%. Chromium and copper are not tested for other than annually for this report, but are pollutants of concern for the local limits study. A further evaluation will have to be made from the Local Limit study samples to gain a proper understanding of the sources of chromium and copper.

The remainder of the samples indicate normal operation of the WWTF and common levels of influent wastewater constituents.

A Discussion of Upset, Interference, or Pass-Through Incidents

Throughout the year of 2015, there were occasional minor upsets involving discharge that caused excessive foaming at the POTW (Attachment I). For the majority of these incidences, the investigation team could not pinpoint or there was not enough evidence to hold the responsible discharger(s) accountable.

During a random inspection in August, foam was noticed in the manhole linked to Speedy Truck Wash (Attachment J). A sample was collected from the designated sampling point location and taken to the POTW's laboratory for in-house analysis of pH and EC. The results indicated a high EC reading of 2,620 micro-ohms per centimeter. The pH reading was 7.99 pH standard units and was within their permit limit. The wastewater operators at the POTW however did not observe any devastating effects from the discharge. Being a minor and isolated event, the District decided to not issue any citations and applied informal enforcement. Educating the representatives on the potential impacts of foam was more suitable for this particular situation.

According to 40 CFR 403, Interference is defined as a discharge which, alone or in combination with other dischargers, inhibits or disrupts the POTW and causes it to violate its NPDES permit or applicable sludge use or disposal regulations. There were no major incidences of interference in the year 2015 that would cause a disruption or inhibition of the POTW's treatment processes. Data recorded overtime do however indicate that discharge from the SIUs that engage in truck washing contribute to higher levels of EC and that it is possible contributing factor to the POTW's constant violations on EC. Table 7 of the report is an example of the data collected from these particular dischargers.

Besides the previously mentioned Copper and Chromium episodes of pass-through, there were no pass-through incidences that occurred in the year of 2015. As part of the requirements contained within the District's NPDES permit, the District was required to develop a plan to address the pass-through of Copper and Chromium. The third quarter report contains the plans that were developed to address this (Attachment O).

Baseline Monitoring Report

Baseline monitoring reports are only required for categorical dischargers, and there are no categorical dischargers in Malaga.

Updated List of Significant Industrial Users

Below is the list of Users that have been identified as SIUs (Table 3). There are now a total of 11 SIUs, all of which are non-categorical. Georgia Pacific Corrugated was added to this list after it was discovered that the User had a reasonable potential for adversely affecting the POTW in terms of discharging batches high in electro-conductivity (EC) and contributing to the POTW's difficulties in meeting effluent limits for EC.

In addition, Rocktenn changed their name to Westrock CP LLC after merging with another corporation.

Table 3. Updated list of Significant Industrial Users

Permit #	Permit Holder	Address
1001	Westrock, CP LLC (formerly Rocktenn)	3366 E. Muscat Ave. Fresno, CA 93725
1005	Rio Bravo-Fresno	3350 S. Willow Ave. Fresno, CA 93725
1008	Stratas Foods	3390 S. Chestnut Ave. Fresno, CA 93725
1025	SFPP LP (referred to as Kinder Morgan)	4149 S. Maple Ave. Fresno, CA 93725
1038	PPG Industries	3333 S. Peach Ave. Fresno, CA 93725
1140	Air Products & Chemical Inc.	3333 S. Peach Ave. Fresno, CA 93725
1160	Fifth Wheel Truck Wash	3767 S. Golden State Blvd. Fresno, CA 93725
1098	Speedy Truck Wash	3846 S. Front/3200 E. Central Fresno, CA 93725
1205	Imperial Truck Wash	2635 E. North Ave. Fresno, CA 93725
1095	Lester Lube Inc. dba Fresno Truck Wash	4170 S. Bagley Ave. Fresno, CA 93725
1114	Georgia Pacific Corrugated	3630 E. Wawona Ave. #104 Fresno, CA 93725

SIU Compliance Status

The compliance status of each SIU is described in the Table 4. Applicable Significant Noncompliance Calculations (SNC) for SIUs that submit monthly reports are attached to provide evidence of their compliance status (Attachment K).

In addition, the Monitoring Report Log, a checklist that the District designed to aid in the evaluation of specific monitoring reports, revealed that all required reports were submitted (Attachment L).

All SIUs that wash trucks are known to be constant violators of electro-conductivity (EC). The District is well aware that it is potential infeasible for these particular SIUs to even meet electro-conductivity limits due to the nature of their business. Thus, to characterize their compliance status for the entire year, these SIUs were given a compliance status of "Did not achieve compliance and not on a compliance schedule." Issuing compliance orders would not completely eliminate this complex problem of high EC and would not be suitable for these specific dischargers. Despite implementing measures to reduce EC, such as process changes and changes in detergent dosages, EC was continuously in exceedance. The only proven method of reducing EC is by undertaking the extreme and costly measure of installing equipment for reverse osmosis. In light of this knowledge, the District has decided that a solution for compliance relies heavily in the outcome of Local Limits Study. The comprehensive Local Limits Study will help the District to determine once and for all whether or not the truck washing industries should even remain in business at all. Thus, all efforts in the fourth quarter was shifted to focus on this vital study.

Fourth Quarter Pretreatment Report

The Fourth Quarter Pretreatment Report is contained in Attachment M.

Inspection and Sampling Activities

Table 5 below reflects the inspection and sampling activities conducted on the SIUs in 2015. All SIUs were inspected at least once and sampled at least once in the year of 2015. At least one sample was collected from all SIUs and submitted to a certified laboratory for analysis (Attachment N: SIU Annual Sampling Results).

Table 5. Inspection and Sampling Activities

Permit #	Permit Holder	Frequency Inspected	Frequency Sampled
1001	Westrock CP, LLC	2	1
1005	Rio Bravo-Fresno	2	1
1008	Stratas Foods	2	1
1025	SFPP LP (referred to as Kinder Morgan)	2	1
1038	PPG Industries	2	1
1140	Air Products & Chemical Inc.	2	1
1160	Fifth Wheel Truck Wash	5+	5+
1098	Speedy Truck Wash	5+	5+
1205	Imperial Truck Wash	5+	5+
1095	Lester Lube Inc. dba Fresno Truck Wash	5+	5+
1114	Georgia Pacific Corrugated	2	1

Truck Washing Facilities were under surveillance and inspected the most due to their discharge characteristics of having high EC and their ability to cause occasional foaming incidences at the POTW. In addition, they were sampled the most in comparison to all other SIUs. A majority of the samples taken from these truck washing industries were analyzed in-house via the POTW's laboratory. An example of such surveillance is contained in Table 6: Truck Wash Monitoring.

The results gathered from the inspection and sampling activities of all SIUs revealed important information in regards to sources of high EC which prompted the District to become more proactive in targeting the issue with EC. Discharge data from truck washing industries indicated that these particular Users can cause spikes of high EC. Batch Dischargers that discharge content high in EC but at a significantly less volume, such as Georgia Pacific and Kinder Morgan, will need to have their limits considered as a part of the Local Limits Study. The laboratory results obtained from the SIUs helped to shift much of the District's focus to emphasize EC as the main pollutant of the POTW. This has led to another comprehensive study in regards to EC involving Rio Bravo and PPG, the two biggest dischargers with cooling towers. These two SIUs were notified to lower their set points for their EC monitoring systems of their cooling towers for the upcoming year so that the District can observe any possible impacts or trends on EC (Attachment H and Table 2). Ultimately, inspection and sampling activities played an important role in determining what needs to be included for the Local Limits Study.

Compliance Status of each SIU

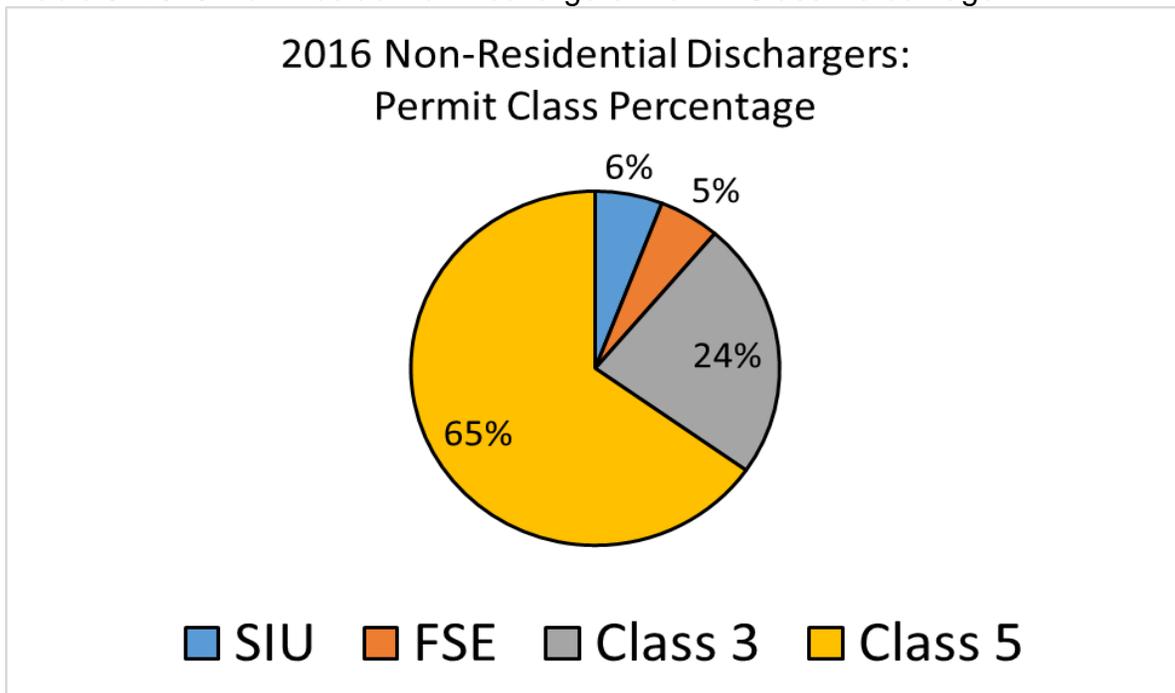
The compliance status of all SIUs is contained in Table 7.

For a characterization of wastewater treatment or control processes in place, see Attachment C: Slug Discharge Evaluation.

Programs to Reduce Pollutants from Non-SIU Users

No programs were implemented to reduce pollutants from nondomestic users that are not classified as SIUs. Discharge from SIUs constitutes to the majority of the volume received by the POTW. More specifically, SIUs that discharge contents from their cooling towers contribute to the bulk of the volume. Truck washing facilities discharge a volume far less, however they are shown to have the capability of causing spikes in high EC. Aside from the SIUs, the District has commercial facilities and restaurants that, for the majority, discharge only domestic type wastewater. Of the total non-residential dischargers within the District, sixty-five percent are Class 5 Users that only discharge domestic type wastewater and only twenty-four percent are found to have some type of non-domestic discharge. The Users which make up the twenty-four percent are identified as Class 3 Users. Although no programs were implemented, ongoing site visits and inspections of these particular users were the primary means of reducing any pollutants. The site visits revealed that these Users have a low potential for causing adverse impacts to the POTW.

Table 8. 2016 Non-Residential Dischargers: Permit Class Percentage



Description of Significant Changes

There were no significant changes in operating the Pretreatment Program which would differ from the previous year.

A copy of this report shall be submitted to:

State Water resources Control Board
Division of Water Quality
PO Box 944213
Sacramento, Ca 94244-2130

-and-

Regional Administrator
U.S. Environmental Protection Agency W-5
75 Hawthorne Street
San Francisco, Ca 94105

Attachment A
General Permit for Non-SIUs



Industrial User Wastewater Discharge Permit

Part 1: Standard Conditions

1. Duty to Comply

The permitted Industrial User (“User”) shall comply with all of the conditions of this Industrial Wastewater Discharge Permit (“Permit”) and all of the provisions, terms, and requirements of the Malaga Code (“Code”), the Pretreatment Program, the Clean Water Act (“Act”) and all orders, ordinances, rules, resolutions, and regulations of the District, including but not limited to connection permits and baseline discharge requirements. Failure to comply with the requirements of this permit may be grounds for enforcement action, including civil or criminal penalties, injunctive relief and summary abatements as set forth in the District’s Enforcement Response Plan (“ERP”).

2. Duty to Mitigate

The User shall take all reasonable steps to minimize or correct any adverse impact to the wastewater treatment system or the environment resulting from noncompliance with this Permit including such accelerated or additional monitoring and sampling or other orders as necessary to determine the nature and impact of and to correct the non-complying discharge.

3. Permit Modification

The District may modify the Permit for good cause, including but not limited to, the following reasons:

- a) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
- b) To address significant alterations or additions to the User’s operation, processes, or wastewater volume or character since the time of the individual wastewater discharge Permit issued;

- c) A change in any process or discharge condition in either the industrial user or the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- d) Information indicating that the permitted discharge poses a threat to the Control Authority's collection and treatment systems, WWTF and equipment, personnel or the receiving waters;
- e) Violation of any terms or conditions of the Permit;
- f) Misrepresentation or failure to disclose fully all relevant facts in the Permit application or in any required reporting;
- g) Revision of or a grant of variance from such categorical standards pursuant to 40 CFR 403.13;
- h) To correct typographical or other errors in the Permit;
- i) To reflect of the facility ownership and/or operation to a new owner/operator; or
- j) Upon request of the User, provided such request does not create a violation of any applicable requirements, standards, laws, or rules and regulations.

The filing of a request by the User for a Permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay or modify any Permit condition.

4. Retention of Records

In addition to the record keeping requirements of the Malaga Code, Pretreatment program and the Act, the User shall retain records as follows:

- a. The industrial user shall retain records of all monitoring information, copies of all reports required by this permit and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report or application. This period may be extended by the request of the District at any time.
- b. All records that pertain to matters that are the subject of special orders or any other enforcement or litigation activities brought by the District shall be retained and preserved by the industrial user for three years after all enforcement activities have concluded and the time to bring any appeal(s) have expired.

5. Permit Termination

This Permit may be terminated for the following reasons:

- a) Failure to notify the District of significant changes to the wastewater prior to the change discharge;
- b) Failure to provide prior notification to the District of changed conditions;
- c) Misrepresentation or failure to fully disclose all relevant facts in wastewater discharge Permit application;
- d) Falsifying self-monitoring reports and/or certification statements;
- e) Tampering with monitoring equipment;
- f) Refusing to allow timely access to the facility premises and records;
- g) Failure to meet effluent limitations;
- h) Failure to pay fines;
- i) Failure to pay sewer charges;
- j) Failure to meet compliance schedules;
- k) Failure to complete a wastewater survey and renewal form, or the wastewater discharge Permit application;
- l) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- m) Violation of any pretreatment standard or requirement including required BMPs contained in the Code, or the wastewater discharge Permit, or the Pretreatment Program.

6. Notification and Reporting

In addition to the record keeping and reporting requirements of the Malaga Code, the Pretreatment Program, and the Act, the User shall notify the District prior to any new or changed discharge, and shall immediately notify the District at (559) 485-7353 of any wastewater discharge which is not in compliance with this Permit, or the Pretreatment Program, or the Code, or which might be reasonably judged to constitute a hazard to District personnel, the wastewater treatment system, or the environment.

The User shall furnish any information relating to wastewater discharge quantity and quality as required by the District, and shall comply with all reporting requirements specified in this Permit.

7. Costs and Fees

The User shall pay all fees required by District ordinances, including but not limited to, permit fees, connection fees, annexation fees, bond debt services charges, and sewer unit fees.

The User shall also pay any additional cost or expenses incurred by the District for handling and treating excess loads imposed on the treatment system and any cost or expense incurred by the District in the enforcement of the provisions of its ordinances and the correction of violations thereof.

8. Facilities

The User shall make wastewater acceptable under the limitations of the Code and the Pretreatment Program before discharging to the sewage system. Any facilities required to pretreat wastewater to a level acceptable to the District shall be provided and maintained at the User's expense. Detailed plans showing the pretreatment facilities and operating facilities shall be submitted to the District for review, and shall be acceptable to and approved by the District, in writing, before construction of the facility. The review of such plans and operating procedures will in no way relieve the User from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the District under the provisions of the Malaga Code. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to, and be approved in writing by, the District.

Pretreatment facilities (including sampling and flow monitoring facilities) shall be maintained in good working order and shall be operated so as to ensure continuous compliance with District ordinances, resolutions, rules and regulations, and any applicable permits by the User at the User's own cost and expense. Pretreatment facilities are at all times subject to the requirements of these rules and regulations and all other applicable codes, ordinances, and laws. Intermittent operation of pretreatment facilities except as provided for in writing by the District during discharge to the sewage system is prohibited.

All solids, sludge, filter backwash or other pollutants removed by pretreatment facilities shall not be discharged to the sewage system, nor allowed to enter any storm water or ground water recharge system, nor allowed to seep into the ground, but shall be stored, treated and/or disposed of in accordance with applicable County, State and Federal regulations.

9. Right of Entry

Pursuant to the provisions of the Malaga Code, the User shall allow District personnel, upon the presentation of credentials, to enter upon any property or premises, the User, by accepting any permit issued pursuant to the Code, does hereby consent and agree to the entry upon the premises, described in the Permit, by District personnel for the following purposes as required by the Permit at all reasonable times:

- a. Reviewing and copying any records required to be kept under the provisions of the Malaga Code;
- b. Inspecting any monitoring equipment, pretreatment facility or discharge-producing process;
- c. Inspecting and/or sampling any discharge of wastewater to the wastewater facilities. District personnel may enter upon the property at any hour under emergency circumstances. In the event of such emergency entry, District personnel shall make every effort to immediately notify the User's designated agent;
- d. To investigate the possible violation of the Malaga Code or Permit;
- e. To photograph any waste, waste container, vehicle, waste treatment process, discharge location, or violation discovered during an inspection.
- f. Users shall cooperate at all times with authorized District personnel in the inspection, sampling and study of the User's facilities and wastewater.

10. Duration

The terms and conditions of this Permit shall remain in effect until either:

- a. The Permit is modified;
- b. The Permit is revoked;
- c. The Permit expires and cause is determined for non-renewal of the Permit;
- d. Failure of the District to act upon a valid Permit application or renewal application shall allow for automatic extension of operations under existing Permit conditions until such District action is complete.
- e. Failure of the District to act upon a valid Permit application or renewal application shall allow for automatic extension of operations under existing Permit conditions until such District action is complete.

This Permit allows the User to operate only one industrial wastewater discharge point to the sewer collection system.

11. Severability

The provisions of this Permit are severable, and if any provisions of this Permit or the application of any provision of this Permit to any circumstances is held invalid, the application of such provision to other circumstances and the remainder of the Permit shall not be affected hereby.

12. Transferability

This Permit shall not be reassigned, transferred, or sold to a new owner, new user, different premises, or to a new or changed operation.

13. Enforcement and Penalties

Failure to comply with any of the provisions of this Permit, the Malaga Code, or applicable State or Federal laws or regulations may result in any or all of the following actions:

- a. Administrative actions including but not limited to Notices of Violation, Administrative Orders, Administrative Citations, Administrative Complaints, Administrative Hearings, Governing Board Hearings, Compliance Orders, Orders to Show Cause and civil penalties in an amount of not less than one thousand dollars (\$1,000) per day, per violation;
- b. Legal actions including but not limited to preliminary or permanent injunctions, or both;
- c. Civil and/or criminal penalties;
- d. Permit revocation;
- e. Temporary or permanent disconnection from the District's sewerage system;
- f. Water supply severance.

14. Appeals

Any User affected by any decision, action, or determination, including Administrative Orders, issued by the District, interpreting or implementing the provisions of The Malaga Code or any permit or Order issued thereunder, may file with the District a written request for reconsideration within ten (10) days of such decision, action, or determination, setting forth in detail in facts supporting the User's request for reconsideration.

If the ruling made by the Manager is unsatisfactory to the person requesting reconsideration, this person may, within ten (10) days after notification of District action, file a written appeal to the District's Board of Directors. The written appeal shall be heard by the body within sixty (60) days from the date of filing. The District's Board of Directors shall make a final ruling on the appeal within ten (10) days of the close of the meeting. The Manager's decision, action, or determination shall remain in effect during such period of reconsideration.

Any User aggrieved by a final order issued by the Board of Directors may obtain review of the order of the Board in the Superior Court by filing in the court a petition for writ of mandate within thirty (30) days following the service of a copy of a decision and order issued by the Board.

If no aggrieved party petitions for writ of mandate within the time provided by this section, an order of the Board shall not be subject to review by any court or agency, except that the Board may grant review on its own motion after the expiration of the time limits.

15. Definitions

- a. Composite Sample. A representative sample, formed either by continuous sampling or by mixing discrete samples. The sample may be composited either as a:
 - 1) Time based composite sample: composed of discrete sample aliquots collected in one container at constant time intervals providing representative samples irrespective of stream flow; or a
 - 2) flow-proportional composite sample: collected either as a constant sample volume at time intervals proportional to stream flow, or collected by increasing the volume of each aliquot as the flow increases while maintaining a constant time interval between the aliquots.
- b. Daily Maximum. The maximum allowable discharge limit of a pollutant expressed in units of mass per day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.
- c. Grab Sample. An individual sample collected without regard for flow or time.
- d. Instantaneous Maximum Concentration. The maximum concentration allowed in any single grab sample.
- e. Cooling Water. Either,
 - 1) Uncontaminated – Water used for cooling purposes only which has no direct contact with any raw material, intermediate, or final product and which does not contain a level of contaminants detectably higher than that of the intake water.
 - 2) Contaminated – Water used for cooling purposes only which may become contaminated either through the use of water treatment chemicals used for corrosion inhibitors or biocides, or by direct contact with process materials and/or wastewater.
- f. Monthly Average. The arithmetic mean of the values for effluent samples collected during a calendar month or specified 30 day period (as opposed to a rolling 30 day window). Compliance with the monthly average discharge

limit is required regardless of the number of samples collected and analyzed.

- g. Bi-Weekly. Once every other week.
- h. Bi-Monthly. Once every other month.
- i. Upset. An exceptional incident resulting in temporary and unintentional non-compliance because of factors beyond the reasonable control of the discharger.
- j. Bypass. Means the diversion of wastes from any portion of a pretreatment process or facility.

Dilution

The User shall not increase the use of potable water or process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement. The District may impose mass limitations to meet applicable Pretreatment Standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

Part 2: Discharge prohibitions and Limitations

1. Standard Discharge Prohibitions

The User shall comply with all discharge prohibitions and limitations specified in the Malaga Code, the Pretreatment Program, and this Permit. Prohibitions include but are not limited to:

- a. Any materials that may cause interference or pass through;
- b. Oils and Grease in any amounts that may cause an obstruction in the sewer collection system;
- c. Explosive mixtures;
- d. Noxious materials;
- e. Shredded garbage;
- f. Solid or viscous waste that cause an obstruction or decrease flow in the sewer collection system to less than two feet per second;
- g. Slug loads not coordinated with the District by a Slug Control Plan;

- h. Toxic or hazardous materials;
- i. Unpolluted waters;
- j. Wastes with objectionable color or odor;
- k. Corrosive waste;
- l. Trucked or hauled waste;
- m. Sludges, screenings, or other residues from wastewater pretreatment;
- n. Medical wastes;
- o. Detergents, surface active agents, or other substances that may cause excessive foaming at the WWTF;
- p. Any substance that will interfere or upset the treatment process at the WWTF;
- q. Any substance that may result in the WWTF exceeding NPDES permit limits.
- r. Discharge resulting from the bypass of pretreatment systems.

2. Discharge Local Limits

a.

Parameter	Discharge Local Limit	Specific Conditions
pH	6.0 - 9.0	pH is an instantaneous reading and cannot be averaged
Electrical Conductivity (EC)	950 µmhos/cm	Monthly average
Biochemical Oxygen Demand (BOD)	1,000 mg/L	Monthly average
Suspended Solids	1,000 mg/L	Monthly average
Chemical Oxygen Demand (COD)	1,000 mg/L	Monthly average
Oil and Greases	100 mg/L	Monthly average

A User which has a flow volume of less than 3,000 gallons per day or less than 45,000 gallons per month shall have a maximum concentration limit for Electrical Conductivity of 7,000 µmhos/cm except that such discharge shall not be an incompatible Pollutant nor shall it pass through the POTW or interfere with the POTW.

- b. Animal and vegetable (polar) O&G not greater than 300 mg/l;
- c. Discharge of the following Pollutants of Concern (POC's) above Local Limits:

Pollutant	Local Limit
Iron	1.0 mg/l as a monthly average
Lead	5.0 mg/l as a monthly average
Silver	5.0 mg/l as a monthly average
Arsenic	5.0 mg/l as a monthly average
Benzene	5.0 mg/l as a monthly average
Phenols	1.0 mg/l as a monthly average
Cadmium	0.10 mg/l as a monthly average
Zinc	5.0 mg/l as a monthly average
Chromium	5.0 mg/l as a monthly average
Copper	5.0 mg/l as a monthly average
Aluminum	5.0 mg/l as a monthly average
Mercury	0.20 mg/l as a monthly average
Barium	10.0 mg/l as a monthly average
Nickel	5.0 mg/l as a monthly average
Selenium	1.0 mg/l as a monthly average
Boron	8.0 mg/l as a monthly average
Chloride	
Cyanide	
Ammonia, as N	
Nitrite + Nitrate, as N	
Phosphorus	
Fluoride	
Diazinon	
Calcium	
Magnesium	

- d. Discharge of wastewater that:
 - a. Contains solids that will not pass through a 20 per square inch mesh;
 - b. Has a temperature greater than 104 degrees Fahrenheit;
 - c. Has an alkalinity that is greater or less than 10% of source water;

Part 3: Monitoring and Reporting Requirements

1. General Monitoring Requirements

- a. The Manager may require any User to monitor wastewater discharge and submit monitoring reports to the District, at a frequency specified by the District.

- b. The User shall comply with all monitoring requirements specified in this Permit or otherwise required, in writing, by the District.
- c. Flow monitoring and sampling equipment may be required and shall comply with all applicable provisions of this Permit and the Malaga Code.
- d. If required, laboratory analysis of industrial wastewater samples shall be performed in accordance with the approved test procedures specified in 40CFR136 unless otherwise authorized, in writing, by the District.
- e. If required, all samples must be collected, preserved, and analyzed in accordance with the procedures established in 40 CFR Part 136, and amendments.
- f. If required, the User shall have an automated sampler that shall be maintained in accordance with manufacturer's recommendations, shall be cleaned once per month when in use, and samples shall be maintained at 4.0°C ($\pm 2.0^\circ\text{C}$).
- g. If required, the User shall operate and maintain an effluent flowmeter, have it electronically calibrated annually and hydraulically calibrated every three years by a recognized professional in flowmeter testing and repair, and provide proof of calibration to the District prior to July 31 annually.
- h. If required, continuous on-line monitoring equipment shall be maintained and calibrated in accordance with manufacturer's specifications.
- i. If required, to install, operate and maintain at User's cost and expense an automatic, permanent wastewater flow monitoring system approved by the District which provides a primary flow measuring device, indication, recording and totalizing of flow and a signal generating device that can be used to activate the District's and other automatic samplers.
- j. If required, to install, operate and maintain at User's cost and expense an automatic wastewater sampling system approved by the District which provides a flow proportional composite sample, a sample volume of not less than two liters, refrigerated storage and self-purging capability.
- k. If required, to install, operate and maintain at User's cost and expense an automatic pH recording system approved by the District which provides a pH recording instrument and a pH probe located downstream of all Pretreatment operations and just before discharge to the sewage system.
- l. If required, to install, operate and maintain at User's cost and expense a batch pH neutralization system approved by the District which provides a storage facility for wastewater of pH less than 6.0 or greater than 9.0, a pH measuring device, neutralizing agent and a permanently bound record of pH neutralization before discharge to the sewage system.

**PAGES 2, -958 OF THIS DOCUMENT HAVE BEEN
PROVIDED TO THE CENTRAL VALLEY WATER
BOARD IN ELECTRONIC COPY ONLY**

MALAGA COUNTY WATER DISTRICT

3580 SOUTH FRANK STREET - FRESNO, CALIFORNIA 93725

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Slug Evaluation Certification

Malaga County Water District

WDR Order R5-2014-0145

NPDES No. CA0084239

3749 South Maple Avenue

Fresno, California

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1. Task Description

Task 3a: Submit certification that the Discharger has adequately evaluated all nondomestic users for the need to develop a slug discharge control plan, and how the Discharger will ensure, or has ensured, that the plans are developed where applicable. [Title 40, Code of Federal Regulations, 403.8(f)(2)(vi)]

Due Date: 1 February 2016

2. Slug Evaluation Summary and Certification

According to Title 40 Code of Federal Regulations 403.8(f)(2)(vi), Publicly Owned Treatment Works (POTWs) are required to “[e]valuate whether each such Significant Industrial User needs a plan or other action to control Slug Dischargers.” With the establishment of the District’s Pretreatment Program, the District has indeed adequately evaluated all Significant Industrial Users (SIUs) for the potential of having a slug discharge and for the need to develop a slug discharge control plan. Although the regulation 40 CFR 403.8(f)(2)(vi) does not mandate that all non-domestic users are required to be evaluated, the District went ahead and evaluated all non-domestic users for said criteria. The District determined that this supplemental action was significant in order to strengthen the Pretreatment Program and to protect the POTW from any adverse impacts that could potentially result from slug discharges. The District’s Pretreatment Program took a rigorous and methodical approach in order to identify and adequately evaluate all potential slug dischargers. A wide range of activity resulted from this effort. The Environmental Compliance Inspector conducted inspections on local facilities and new forms to assess slug dischargers were designed to aid in this effort. Statistical data on local industries was analyzed as part of the systematic approach to the evaluation. To ensure that plans are developed where applicable, the District reinforced its comprehension and familiarity with the legal definition of a Slug. By understanding which factors contribute to a slug discharge, the District was able to achieve a high degree of confidence that pertinent industries were evaluated and that plans were developed where applicable.

In accordance to the requirement of 40 CFR 403.8(f)(2)(vi), it was determined that all SIUs within the District are not required to develop a slug discharge control plan. Additionally, the efforts taken by the District to evaluate all nondomestic users for the need to develop a slug discharge control plan has led to the conclusion that currently, to best of the District’s knowledge, there are no nondomestic users that are they required to develop a slug discharge control plan.

Respectfully,

J. D. Anderson

J. D. Anderson
General Manager

3. Slug Definition and Applicability

To ensure that slug discharge control plans are developed where applicable, the District examined the technical definition of a slug in order to determine the basis and relevant search criteria for the evaluation process. Initially, this was a crucial step in identifying which factors constitutes a slug and which appropriate industries should be evaluated. According to 40 CFR 403.8(f)(2)(vi), a Slug Discharge is the following:

“Any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW’s regulations local limits or Permit conditions.”

By examining this definition, the District determined that slugs can result from, but are not limited to, accidental spills, the handling and transferring of materials, discharge from the malfunctioning of flow controls, an abrupt volume discharge, and other various factors. With this understanding, the District developed a search criteria that included, but is not limited to, the following:

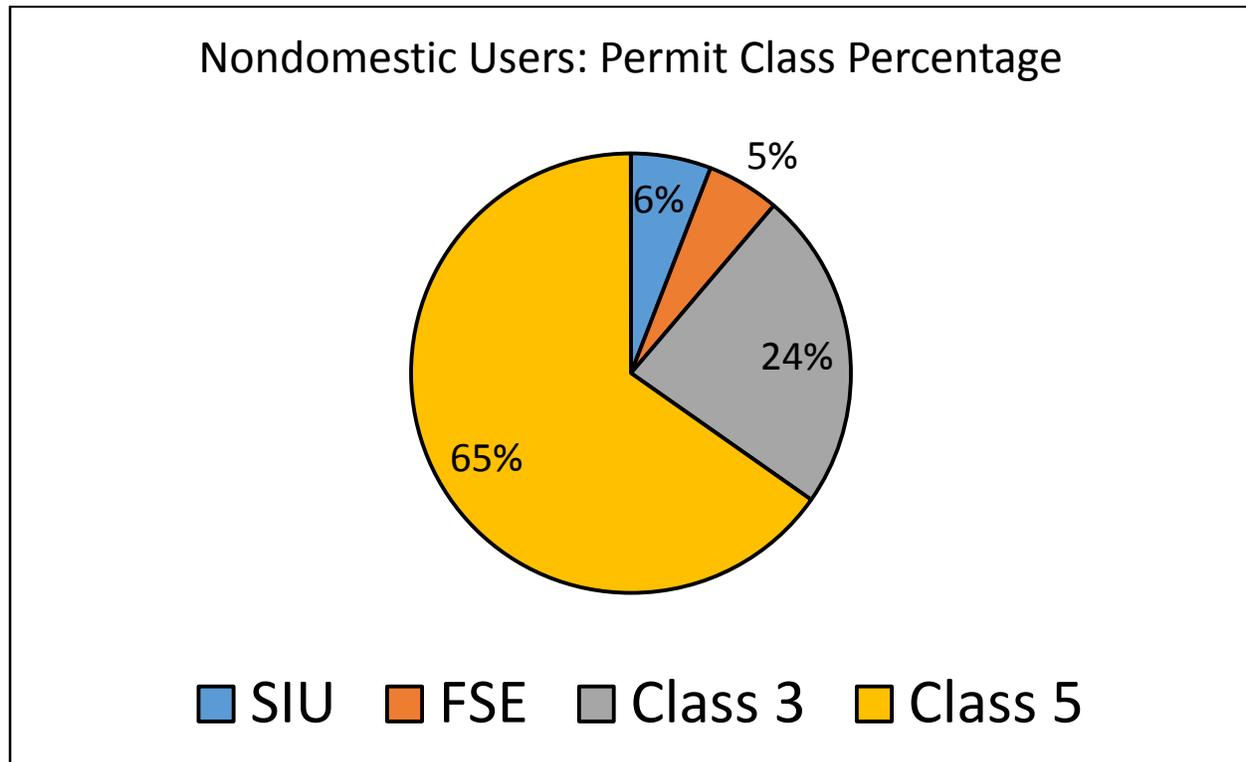
- Users with bulk amounts of chemicals on their property
- Holding tanks with a volume to potentially cause an adverse effect to the POTW
- Whether drains are present within storage areas
- If chemicals are contained and the type of chemicals stored
- How are materials handled
- Flow controls

This search criteria for evaluation enabled the District to accurately determine which nondomestic users to evaluate for the potentially to need a slug discharge control plan.

4. Statistical Data

According to the 2016 List of Permit Holders (Attachment A), there is a total of 187 confirmed nondomestic users operating within the District. This list was a product of a mass inspection on local industries conducted since the establishment of the Pretreatment Program. Of the 187 nondomestic users, sixty-five percent of them are identified as a Class 5 User. The District’s Pretreatment Program identifies Class 5 Users as nondomestic users with no industrial type discharge. These Class 5 Users simply discharge domestic type waste and for the majority, is comprised merely of warehouses and offices. Thus, this sixty-five percent of nondomestic users were eliminated from the search pool due to the inapplicability for a slug. In addition, five percent of the total nondomestic users are classified as a Food Service Establishment (FSE). Past inspections on the FSE Users revealed no potential to cause adverse impacts to the POTW. Oil and grease loadings from FSEs were minimal and a slug of organic loading would be highly unlikely. Twenty-four percent of nondomestic users are registered with a Class 3 status. Of these Class 3 Users, there were Users that matched the search criteria and thus, qualified for a slug evaluation. Information gathered about these facilities during the mass inspection was used to make this determination. Most of the Users from this class were warehouses that engaged in

chemical blending, warehouses that store bulk amounts of chemicals, facilities that have containment structures, and facilities with pretreatment systems. Examples of Class 3 evaluations utilizing the Slug Assessment Form are attached to this report (see Attachment D). Lastly, all SIUs were evaluated for their potential to have slug discharges pursuant to 40 CFR 403.8(f)(2)(vi).



5. Slug Forms and Templates

After determining the search criteria for slug potential, the Pretreatment Program developed new forms that were designed to aid in the evaluation process. The Slug Assessment Form was developed to serve as a questionnaire with pertinent questions relating to the search criteria (see Attachment C: Slug Assessment Form). This form was used to evaluate the Class 3 nondomestic users. In addition, the District developed the Malaga County Water District Slug Discharge Control Plan, a template that would be used for Users who are required to have a plan (see Attachment E: MCWD Slug Discharge Control Plan Template). This template contains the elements that are required in a slug discharge control plan and was developed from the guidance of 40 CFR 403. Such elements include a description of discharge practices, a description of stored chemicals, procedures to immediately notify the POTW of Slug Discharges, and preventative procedures. Lastly, a Written Response Form was created to address the notification process in the event that a Slug Discharge should occur (see Attachment F: Written Response Form). The Written Response Form is a fillable document and would aid Users in the written response portion of the plan. It contains necessary reporting information regarding the deadline of five days to notify the POTW, contact information, slug specifications, and a description of the corrective actions taken.

6. SIU Evaluation

Each SIU was inspected using the inspection checklist of the District's Pretreatment Program. This checklist is the most extensive form that has been developed and is used to satisfy the pretreatment requirement for annual inspections of SIUs. The District has a total of eleven SIUs. All SIUs were determined to not need a slug discharge control plan. The following explanations below, in conjunction with Attachment B, provides more detailed information as to why a slug discharge control plan was not found applicable:

A. SIUs that discharge cooling tower water

1. Air Products and Chemicals, Inc.

The facility is operated by electronic controls and only one on-call employee (plant superintendent) manages the site. There are no drains within the premises and the ground is covered in gravel. The facility discharges cooling tower blowdown and condensation. All chemical holding tanks are enclosed in secondary containment (concrete wall) and there are no drains for spills to enter the sewer. Control set points for cooling tower blowdown are set well within permit limits. Thus, pollutants exceeding permit limit concentrations are highly unlikely to be discharged to the POTW. In addition, plant activity is continuously monitored by their headquarters. The on-call plant superintendent receives a call from headquarters in the event that any potential electronic malfunctions or plant irregularities occur. Alarms will trigger if discharge is not within range of parameter set points and the system will shut down by closing the discharge valves.

2. Rio Bravo

Like other facilities with cooling towers, Rio Bravo operates their cooling towers through electronic controls with set points that are monitored by probes. All chemical holding tanks are in secondary containment. The facility has an oil pit with an oil & water separator. There are drains for the oily wastewater generated from their boilers. These drains are all linked to the oil pit where it proceeds to the oil & water separator and ultimately to the sanitary lift station. The chances of the oil pit overflowing is highly unlikely. The area is continuously maintained and oil waste is hauled offsite by a third party.

3. PPG Industries

Cooling tower blowdown is regulated through an electronic system where a set point for EC and pH regulates the opening and closing of valves for which blowdown occurs. The set point is set so that it is well below their permit limit. The facility is a continuous discharger and volume does not affect the potential for slug loads. Chemicals are stored in a separate area of the facility with no sewer access points.

4. Westrock, CP LLC

The facility is designed such that all drains within the property are tied to one central location, the equalization tank. Should the equalization tank overflow for any reason, the trough located directly below the tank will collect any excess wastewater. This trough is linked to a pump that can recirculate wastewater back into the equalization tank. It is highly unlikely that wastewater levels in the tank will ever reach the top of the tank. Thus, the potential for a slug is highly unlikely. Cooling tower blowdown is the only type of wastewater the District receives. Like other facilities with cooling towers, discharge is controlled electronically through a computerized system. The set points for EC and pH are within permit limits. If the system malfunctions for any reason, an alarm will signal and the valves will remain shut.

B. SIUs that wash trucks

1. Lester Lube dba Fresno Truck Wash

All chemicals and detergents are stored in a separate enclosed room which makes it highly unlikely for a chemical spill to enter nearby drains. The detergent solution is ejected into the pressure washer via exiting pipes. Flow is regulated via a float switch but like all truck washing facilities, the discharger is a continuous discharger. There is no potential for a sudden and abnormal discharge. There is a pretreatment system and the drains within the area recirculate wastewater back into the initial stages of treatment. Manifests are monitored prior to washing.

2. Fifth Wheel Truck Wash

All detergent drums are stored outside of the washing bay and is enclosed in a metal bin. The drums located inside the washing bay are the diluted solutions that they use to wash trucks with. There are no pretreatment systems and no controls to regulate flow. Wash-down wastewater is channeled to a central drain. The SIU discharges continuously and there is no potential for a sudden and abnormal discharge.

3. Speedy Truck Wash

The wash bay has channels that divert wastewater to the pretreatment system. The facility have chemical drums that are stored distant from the washing process. However, if a spill were to take place, it is possible for the chemicals to enter the channels. The discharger is a continuous discharger and a float device in the pretreatment system regulates flow. Chemical drums are less than 55 gallons.

4. Imperial Truck Wash

Chemical drums are no greater than 55 gallons in volume. Drums are stored distant from the washing process. There are no pretreatment systems and flow is not regulated in any manner. All wash-down wastewater is collected in a central trough that is linked to the manhole.

C. Batch Dischargers

1. SFPP LP (Kinder Morgan)

All drains within the pretreatment area and the loading pads are linked to the oil & water separator. The pretreatment area drains is capable of recirculating any excess wastewater to the oil & water separator. The tank to which the wastewater is stored has an alarm system that triggers when the flow level is reaching the maximum capacity of the tank. The signal is received by control room that is in operation 24 hours a day. Should more capacity is needed, there is another tank called the “trans-mix tank” that they can use. A valve is manually turned to release discharge.

2. Sterling Coating (Georgia-Pacific Corrugated III)

The facility has a pretreatment system that is comprised of two 1,600 gallon tanks. Flow is controlled via a float switch. The discharge pipe is located above the final barrel and loops around the ceiling of the building. Chemicals are handled manually and monitoring is manually done with the exception of pH. There are no drains that can lead to the sewer. Spill control and response equipment are available.

3. Stratas Foods

All drains within the packaging area is linked to the oil pit where it is treated prior to discharge. The contents within the oil pit is released when parameters and set points are met. Release of discharge is done via a button on the control panel and discharge cannot release on its own. Recirculation of the oil pit is possible and an alarm triggers when limits are reached.

Attachment A: 2016 List of Permit Holders

Permit #	Account #	Permit Holder	Address	ESU	Class
1001	020	RockTenn CP, LLC	3366 E. Muscat Ave., Fresno, CA 93725	203	1
1005	005	Rio Bravo-Fresno	3350 S. Willow Ave., Fresno, CA 93725	223	1
1008	024	Stratas Foods	3390 S. Chestnut Ave., Fresno, CA 93725	452	1
1025	055/055-1	Kinder Morgan/Santa Fe Pacific Pipeline	4149 S. Maple Ave., Fresno, CA 93725	17	1
1038	008	PPG Industries	3333 S. Peach Ave., Fresno, CA 93725	229	1
1095	046	Lester Lube Inc. dba Fresno Truck Wash	4170 S. Bagley Ave., Fresno, CA 93725	51	1
1098	029-1/033	Speedy Truck Wash	3846 S. Front/3200 E. Central Fresno, CA 93725	9	1
1140	008	Air Products & Chemical Inc.	3333 S. Peach Ave., Fresno, CA 93725	37	1
1205	022-4	Imperial Truck Wash	2635 E. North Ave., Fresno, CA 93725	10	1
1160	122-2	Fifth Wheel Truck Wash	3767 S. Golden State Blvd., Fresno, CA 93725	10	1
1004	004	Custom Ag Formulators	3430 S. Willow Ave., Fresno, CA 93725	3	3
1009	011-2	Monterey Chemical DBA Brandt Consolidated	3654 S. Willow Ave., Fresno, CA 93725	26	3
1018	032	Snowden Enterprises Inc.	3257 E. Central Ave., Fresno, CA 93725	1	3
1020	036	Potigian Transfer Inc.	4041 S. Golden State Blvd., Fresno, CA 93725	3	3
1021	044	Coca-Cola Refreshments/Pace Global Energy	3220 E. Malaga Ave., Fresno, CA 93725	28	3
1022	045	EM Tharp dba Golden State Peterbuilt	2645 S. Chestnut Ave., Fresno, CA 93725	13	3
1026	061	Fresno Truck Center	2727 E. Central Ave., Fresno, CA 93725	26	3
1030	076-1	Wholesale Equipment of Fresno	3183 S. Golden State Blvd., Fresno, CA 93725	6	3
1036	053/054	Robert V. Jensen Inc.	4021 S. Maple Ave., Fresno, CA 93725	18	3
1046	085/087	Meeder Eq.Co/Ransome MFG	3495 S. Maple Ave., Fresno, CA 93725	9	3
1057	111-1	Fresno Pool Chlor Inc.	3036 E. Malaga Ave., Fresno, CA 93725	2	3
1058	112/112-1	Penske Truck Leasing/NICS/Penske	3080 E. Malaga Ave., Fresno, CA 93725	16	3
1060	116	Cap's Sandblasting	4460 S. Chestnut Ave., Fresno, CA 93725	2	3
1061	121	Kroeker Inc.	4627 S. Chestnut Ave., Fresno, CA 93725	15	3
1062	051/052/058	Paul Evert's RV Country	3633 S. Maple Ave., Fresno, CA 93725	26	3
1064	013-A	Brenntag Pacific Inc.-Pacific Inc.	3595 E. Wawona Ave., Fresno, CA 93725	13	3
1067	042-3	Valley Truck Parts	3395 E. Malaga Ave., Fresno, CA 93725	7	3
1073	063-064	J. Blue dba Central Carwash	3864 S. Chestnut Ave., Fresno, CA 93725	12	3
1074	012	Monterey Chemical	3594 E. Wawona Ave., Fresno, CA 93725	23	3
1078	040-1	Greentec	3396 E. Malaga Ave., Fresno, CA 93725	4	3
1081	014-1/2	J.P. Lamborn	3663 E. Wawona Ave., Fresno, CA 93725	15	3
1089	088	Fresno Truck Wrecking Inc.	3536 S. Maple Ave., Fresno, CA 93725	2	3
1090	042-2	G and H Diesel Service	3304 E. Malaga Ave., Fresno, CA 93725	5	3
1094	076-4A	Stantec Consulting Corp.	3281 S. Maple Ave., Fresno, CA 93725	2	3
1100	046-2	Central California Truck	4244 S. Bagley Ave., Fresno, CA 93725	1	3
1101	107	Roger's Truck Sales & Service	4312 S. Chestnut Ave., Fresno, CA 93725	1	3
1102	050	Stiers RV Center	3672 S. Maple Ave., Fresno, CA 93725	3	3
1104	095	Dewey Pest Control	3655 S. Bagley Ave., Fresno, CA 93725	3	3
1106	056	RV Mall	2448 E. Central Ave., Fresno, CA 93725	3	3
1108	119/119-1	Western States Glass	2773/2775 E. Malaga Ave., Fresno, CA 93725	7	3
1111	059	Country Tire & Wheels	2462 E. Central Ave., Fresno, CA 93725	1	3
1112	008-0-A/B	Conway Transportation Services	4195 E. Central Ave., Fresno, CA 93725	11	3
1114	018	Georgia -Pacific Corrugated (Sterling Coating)	3630 E. Wawona Ave. #104, Fresno, CA 93725	13	3
1123	046-1	Vucovich Inc. dba Fresno Equipment Co.	4288 S. Bagley Ave., Fresno, CA 93725	20	3
1124	118	Kasco Fab Inc.	4529 S. Chestnut Ave., Fresno, CA 93725	2	3
1133	041	Best Tours And Travel	3397 E. Malaga Ave., Fresno, CA 93725	8	3
1139	024-3	Brenntag	3305 S. Chestnut Ave., Fresno, CA 93725	3	3
1142	015/016	Monterey Agresources	3744 E. Wawona Ave., #A/C Fresno, CA 93725	8	3
1151	091/091-1	Quinn Rentals Services	3594 S. Bagley Ave., Fresno, CA 93725	3	3
1158	120-1	Fresno Specialized Development	4646 S. Chestnut Ave., Fresno, CA 93725	10	3
1162	047-1	JTS Truck Repair	3054 Cartwright, Fresno, CA 93725	1	3
1169	097-1	Diesel Technology	3689 S. Bagley Ave., Fresno, CA 93725	2	3
1188	011.4A	Oro Agri Inc.	3816 S. Willow #101, Fresno, CA 93725	1	3
1196	120	United Parcel Service	4587 S. Chestnut Ave., Fresno, CA 93725	7	3
1027	062	Kailey Fuels (AM PM)	4025 S. Chestnut Ave., Fresno, CA 93725	7	4
1052	102	Central Food Mart	2990 E. Central Ave., Fresno, CA 93725	21	4
1053	104/105	Brooks Ranch Restaurant	4131 S. Chestnut Ave., Fresno, CA 93725	47	4
1087	103-1	Salud Ayala-Bar	2892 E. Central Ave. Fresno, CA 93725	1	4
1118	030	Primo's Market	3145 E. Olney Street, Fresno, CA 93725	2	4
1132	049.1	Jack In The Box	3085 E. Central Ave., Fresno, CA 93725	8	4
1159	035-2B	Taqueria Jalisciense	3121 E. Central Ave., Fresno, CA 93725	2	4
1161	122	Punjabi Dhaba (indian cuisine)	3767 S. Golden State Blvd., Fresno, CA 93725	9	4
1163	035-2A	Sai Baba/Subway	3115 E. Central Ave., Fresno, CA 93725	8	4
1160	123	SJZ Truck Stop	3767 S. Golden State Blvd., Fresno, CA 93725	5	4
1003	002	Headwater Resources	3440 S. Willow Ave., Fresno, CA 93725	10	5
1006	097	(Goodyear) Wingfoot Commercial Tire Systems Inc.	3708 S. Bagley Ave., Fresno, CA 93725	5	5
1007	007-A-1	Eli Lilly C/O Trammel Crow Co.	3131 S. Willow Ave., Fresno, CA 93725	1	5
1010	007-10A	OE Lighting	3359 E. North, Suite #101 Fresno, CA 93725	1	5

1011	007-15A	Cequent Performance Products	3181 S. Willow Suite #104, Fresno, CA 93725	1	5
1012	022	Inland Star Distribution Center, LLC	3146 S. Chestnut Ave., Fresno, CA 93725	26	5
1013	023/023-1	Crop Production Service Inc.	3173 S. Chestnut Ave., Fresno, CA 93725	4	5
1014	024-2	Derrel's Mini Storage	3245 S. Chestnut Ave., Fresno, CA 93725	4	5
1015	025	Continental Auto Dismantlers (A1 auto wrecking)	3465 S. Chestnut Ave., Fresno, CA 93725	4	5
1016	026	SA Recycling, LLC	3489 S. Chestnut Ave., Fresno, CA 93725	5	5
1017	007-17	New Flyer Industries	3181 S. Willow Suite #102, Fresno, CA 93725	1	5
1019	007-2	American Cartage Co.	3150 S. Willow Ave, Fresno, CA 93725	3	5
1024	007-3	XSE Group	3149 S. Willow Suite #101, Fresno, CA 93725	1	5
1028	065	Central Cal Transport	3032 E. Central Ave., Fresno, CA 93725	5	5
1029	073	Lupe Cedillo/Lupe's Auto Repair	3411 S. Golden State Blvd., Fresno, CA 93725	2	5
1031	076-3	Anyway Logistics Inc.	3021 S. Golden State Blvd., Fresno, CA 93725	1	5
1032	078	Bruno's Use Materials	2373 E. Muscat Ave., Fresno, CA 93725	3	5
1033	084	SS Truck & Trailer Repair	3490 S. Maple Ave., #B, Fresno, CA 93725	1	5
1035	008-A	Europa Sports	4403 E. Central Ave., Fresno, CA 93725	1	5
1037	008-J	APF Motorcycle Salvage	3967 E. Central Ave., Fresno, CA 93725	1	5
1039	076	Bruno's Use Materials	3211 S. Golden State Blvd., Fresno, CA 93725	3	5
1040	080	Meeder Eq.Co/Ransome MFG	2365 E. Muscat Ave., Fresno, CA 93725	4	5
1041	087-3, 089, 090	Safety Kleen Systems, Inc.	3561 S. Maple Ave., Fresno, CA 93725	5	5
1042	094-1	Sportsmobile West	3631 S. Bagley Ave., Fresno, CA 93725	2	5
1043	117	RLR Investments	4477 S. Chestnut Ave., Fresno, CA 93725	7	5
1045	092	Interstate Oil	3609 S. Bagley Ave., Fresno, CA 93725	2	5
1047	094-3	Brothers Wholesale Glass	3680 S. Bagley Ave., Fresno, CA 93725	3	5
1048	096	Javette Truck & Tractor	3667 S. Bagley Ave., #101 Fresno, CA 93725	1	5
1049	097-2	Air Liquide America	3703 S. Bagley Ave., Fresno, CA 93725	1	5
1050	011.4D	AWR	3816 S. Willow Ave., #104 Fresno, CA 93725	1	5
1051	101	Pape Materials Handling/Hyster Sales Co.	3732 S. Bagley Ave., Fresno, CA 93725	5	5
1054	106	Evans Rebuilt Parts	4321 S. Chestnut Ave., Fresno, CA 93725	2	5
1055	011-3-1	Bay Insulation	3878 S. Willow Ave., #103, Fresno, CA 93725	1	5
1056	111-A	Chrip Co.	3049 E. Malaga Ave., Fresno, CA 93725	2	5
1059	115	Jose's Auto Repair	4436 S. Chestnut Ave., Fresno, CA 93725	2	5
1063	001	Group Warehouse Inc.	3550 S. Willow Ave., Fresno, CA 93725	9	5
1065	098	San Mac Properties (rewind tech)	3711 S. Bagley Ave., Fresno, CA 93725	1	5
1066	011-3-4	MacArthur Company	3878 S. Willow Ave., #102, Fresno, CA 93725	1	5
1068	011-6A	DMI (supply network)	3825 S. Willow Ave., #103, Fresno, CA 93725	1	5
1069	035	Calpine Containers	3191 E. Central Ave., Fresno, CA 93725	5	5
1070	076-5**	Pick-A-Parts Auto Wrecking	2274 E. Muscat Ave., Fresno, CA 93725	22	5
1071	068	Turning Point of Central California	3547 S. Golden State Blvd., Fresno, CA 93725	32	5
1072	067	Fresno Truck Service	3599 S. Golden State Blvd., Fresno, CA 93725	5	5
1075	126	Malaga Elementary School	3910 S. Ward Street, Fresno, CA 93725	40	5
1076	029	Los Dos Amigos	3686 S. Front Street, Fresno, CA 93725	1	5
1077	039A	Ruckstell	3399 E. Malaga Ave., Fresno, CA 93725	2	5
1079	099	R. Flake Recycling Inc. (J's Comm and Valley Rubber)	3733 S. Bagley Ave., Fresno, CA 93725	2	5
1080	007-16A	Tire Centers LLC	3181 S. Willow Suite #101, Fresno, CA 93725	1	5
1082	017	Monterey Chemical	3744 E. Wawona Ave., #B, Fresno, CA 93725	1	5
1083	019	Pacific Grain & Foods	3630 E. Wawona Ave. #101, Fresno, CA 93725	1	5
1084	047	Baart Healthcare	3103 E. Cartwright Ave., Fresno, CA 93725	6	5
1085	114	Big Bear Phantom Fireworks	2777 E. Malaga Ave., Fresno, CA 93725	1	5
1086	037	Garcia's Pallets Inc.	4227 S. Golden State Blvd., Fresno, CA 93725	4	5
1091	024-4	B.P. Precision	3385 S. Chestnut Ave., Fresno, CA 93725	4	5
1092	026-1	Cemex	3427 S. Chestnut Ave., Fresno, CA 93725	2	5
1093	027-1	Christ The King Church	3565 S. Calvin Street, Fresno, CA 93725	1	5
1096	027-2	Martha Shubin (advanced raingutters)	3439 S. Chestnut Ave., Fresno, CA 93725	1	5
1097	032-3-A	Human Scale	3371 E. Central Ave., Fresno, CA 93725	2	5
1103	003/003-1/019	GAF Materials Corp.	3441 S. Willow Ave., Fresno, CA 93725	18	5
1107	006	Weyerhaeuser Corp.	3267 S. Willow Ave., Fresno, CA 93725	4	5
1109	110-1	EMV Inc.	3035 E. Malaga Ave., Fresno, CA 93725	4	5
1110	008-G/008-H	Broder Brothers	4247 S. Minnewawa Ave. #104 Fresno, CA 93725	20	5
1113	108	G.I. Trucking Co.	4355 S. Chestnut Ave., Fresno, CA 93725	6	5
1115	060	Westco Equities/Flamingo Mobilehome	2581 E. Central Ave., Fresno, CA 93725	71	5
1116	060-1	Cal Trans-Dept of Trans	Highway 99 and Malaga Ave.	5	5
1119	101-0	Applied Industrial Tech	3751 S. Bagley Ave., Fresno, CA 93725	4	5
1120	011-1-A/C	Bunzl Processor Fresno	3722 S. Willow Ave. #106, Fresno, CA 93725	2	5
1121	007-1	American Warehouse Co. Inc.	3150 S. Willow Ave., Fresno, CA 93725	7	5
1122	086	Jorge Mendez/J auto glass?/Jose diesel repair?	3486 S. Maple Ave., Fresno, CA 93725	3	5
1126	011-3-3	Integrated Supply Network	3878 S. Willow Ave., #101 Fresno, CA 93725	1	5
1127	084-1	Weldon Bash	3419 S. Maple Ave., Fresno, CA 93725	1	5
1130	085-1	Montes Auto Glass	3435 S. Maple Ave., Fresno, CA 93725	1	5
1131	044-1	All Mechanical Service Inc.	3237 E. Malaga Ave., Fresno, CA 93725	1	5

1134	087-2	Frontier Performance Lubricants	3517 S. Maple Ave., Fresno, CA 93725	1	5
1136	101-1	Big W Sales	3766 S. Bagley Ave., Fresno, CA 93725	1	5
1137	010-1A	Primesource Building Products	3555 S. Willow Ave., Fresno, CA 93725	2	5
1138	010-0	RockTenn	3695 S. Willow Ave., Fresno, CA 93725	1	5
1141	024-3-A	Universal Coatings	3373 S. Chestnut Ave., Fresno, CA 93725	1	5
1144	007-4A	Dynamex	3421 E. North Suite #104, Fresno, CA 93725	1	5
1147	110	Radically Custom	4414 S. Chestnut Ave., Fresno, CA 93725	1	5
1148	007-5A/6A	Mercury Marine	3421 E. North Suite #103/101, Fresno, CA 93725	2	5
1149	008-E/F	Activision Publishing Inc.	4247 S. Minnewawa Ave., Fresno, CA 93725	8	5
1150	008-C/D	Pactiv LLC	4403 E. Central Ave., #104 Fresno, CA 93725	2	5
1152	011-3-2	Gould's Pump (Xylem Inc)	3878 S. Willow Ave., #104 Fresno, CA 93725	1	5
1154	032-3-B	Community Food Bank	3403 E. Central Ave., Fresno, CA 93725	4	5
1155	007-14-A	Sinclair Systems	3115 S. Willow Ave., Fresno, CA 93725	6	5
1156	022-1/2	American Tire Distributors	3064 S. Chestnut Ave., Fresno, CA 93725	30	5
1157	113	Plaza Concrete	3121 E. Malaga Ave., Fresno, CA 93725	1	5
1164	032-2A	Sabic Polymershapes	3311 E. Central Ave., Fresno, CA 93725	3	5
1166	011-5A	Move Loot (leasing form School Specialty)	3825 S. Willow Ave., #101, Fresno, CA 93725	2	5
1168	007-C	Hanser Music Group	3131 S. Willow Suite #102 Fresno, CA 93725	1	5
1170	011-4A	XPO Logistics (formerly New Breed Logistics)	3825 S. Willow Ave., #104, Fresno, CA 93725	4	5
1173	094-A	Del Ray Tire	3666 S. Bagley Ave., Fresno, CA 93725	2	5
1175	008-I	D and H Distributing	3701 S. Minnewawa Ave., Fresno, CA 93725	9	5
1176	098-1	Foster Poultry Farms	3717 S. Bagley Ave., Fresno, CA 93725	1	5
1177	036-1	Garcia's Pallets	4125 S. Golden State Blvd., Fresno, CA 93725	6	5
1178	007-3-A	Provide Commerce	3149 S. Willow Suite #102, Fresno, CA 93725	10	5
1182	007-11	Rotary Corp.	3359 E. North Suite #102, Fresno, CA 93725	1	5
1183	007-7/8/8A	Bodek & Rhodes	3395 E. North Ave, Fresno, CA 93725	11	5
1185	008-00	Weston Hathaway	4025 E. Central Ave., Fresno, CA 93725	1	5
1186	011.4C	Ring & Pinion Services	3816 S. Willow #103, Fresno, CA 93725	1	5
1190	028	William Shubin	3698 S. Chestnut Ave., Fresno, CA 93725	1	5
1191	035-1-A	Cossette Investments Co. Inc.	4025 S. Golden State Blvd., Fresno, CA 93725	1	5
1192	070	GGC Enterprises (Golddiggers)	3507 S. Golden State Blvd., Fresno, CA 93725	8	5
1197	076-2	Willowland (ayala truck parts)	3147 S. Golden State Blvd., Fresno, CA 93725	1	5
1198	092-1	Leap Truck Body Repair	3620 S. Bagley Ave., Fresno, CA 93725	1	5
1202	007-12	KAO USA Inc.	3359 E. North Suite #104, Fresno, CA 93725	1	5
1203	007-13-A/B	Metropolitan Automotive Warehouse Inc.	3117/3119 S. Willow Ave. Fresno, CA 93725	2	5
1206	093	(Circle Racing Wheels) Mike & Sherrie Stallings	3632 S. Bagley Ave., Fresno, CA 93725	5	5
1207	094-1A	MS Fire Protection Inc.	3644 S. Bagley Avenue, Fresno CA 93725	8	5
1187	011.4B	Kent Landberg (Landberg Orora)	3816 S. Willow #102, Fresno, CA 93725	1	5
1048	096-A	Hose and Fittings Etc.	3667 S. Bagley Ave., #102 Fresno, CA 93725	1	5
1212	130	godinez auto body parts	3386 S. Maple Ave., Fresno CA 93725	1	5
1131	044-1-A	all pure pool service	3237 E. Malaga Ave., Fresno, CA 93725	1	5
1208	124	js trailer repair	3741 S. Goldenstate Blvd., Fresno CA 93725	1	5
1209	069-1	Fresno Foreign Wrecking	3525 S. Golden State Blvd., Fresno CA 93725	1	5
1002	006-2	Bimbo Bakeries USA, Inc.	3292 S. Willow Ave., Fresno CA 93725	6	5
1213	094-2	Fence Factory Inc.	3694 S. Bagley Ave., Fresno CA 93725	1	5
1064	024-3	JB Hunt Transport Inc.	3305 S. Chestnut Ave., Fresno, CA 93725	3	5
1214	008-1A	Pepsi Beverages Company	3668 E. Central Ave. Fresno, CA 93725	3	5
1204	022-3	malaga power	2611 E. North Ave., Fresno, CA 93725	1	5
1215	008-1B	Sears Holdings Management Corp	3688 E. Central Ave. Fresno, CA 93725	3	5

Significant Industrial User
Class 3
FSE
Class 5

Attachment B: SIU Inspection Checklist



Facility Inspection Report

INITIAL
 ANNUAL
 FOLLOW-UP
 Other: _____

Date: 11/04/2015

Time: 14:00

INDUSTRIAL USER PROFILE

Industry Name: Air Products & Chemicals Inc.

SIC No.: 2813

Categorical No.: — NA

Address: 3333 S. Peach Avenue

Telephone: _____

Permit No. and Class: #1140, Class 1

APN: 331-020-037

Contact: Oscar Abundes

Title: Plant Superintendent

Email: _____

Phone: 559-237-5509

Description of business activity: Industrial Air separation; supply PPG with air

Number of employees: 1 Days and hours of operation: Operating 24/7; Oscar is on-call 24/7

SAFETY

Does facility require employee PPE?
 Y
 N

PPE List: hearing protection, hard hats, safety goggles, steel-toed boots

Are safe operating practices evident?
 Y
 N

Security/Safety access requirements: check-in w/guard at front gate of PPG.
Air Products is gated and locked

BACKFLOW PREVENTOR

Present: Y N ^{receive H₂O through PPG} Water meter size: same as PPG's

Certified: Y NA N Water meter operational: Y N

FLOW DATA:

Size of sewer discharge pipe: 3"

Discharge wastewater flow rate: depends on evaporation rate; discharge 20,000 average daily
≈ 44 gal/min blowdown

Discharge wastewater metered? Y N

Does IU report flow data? Y N

Frequency: Report monthly flow - Scot Covert emails

PRETREATMENT and DISCHARGE

Plumbing: # Sinks: 0 # Showers: 0 # Toilets: 0 # Floor Drains: 0

Does facility have a pretreatment system? Y N

Does IU have a schematic/process flow diagram? Y N
(Please attach applicable diagrams)

Description of processes generating wastewater: cooling tower blowdown & condensation

Type of wastewater pretreatment system: NA

*pH control
biodicide, acid
automatic injection*

- Absorption
- Gravity Separation
- Oil Water Separator
- Adsorption
- Ion Exchange
- Grit Separator
- Clarification
- Membrane Processes
- Coagulation
- Neutralization
- Coalescing
- Oxidation/Reduction
- Filtration
- Precipitation
- Flocculation
- Distillation
- Flotation
- Other: _____

Is source water pretreated with softeners? Y N

Type system used: NA

Are detergents or additives in use? Y N

Types of detergents or additives: broadie / inhibitor ; about 1 gallon/day

Does the IU have written procedures (SOP's) when adding chemicals? Y N

Explain: Third party (GE Betz) checks chemicals onsite; check EC, pH,

Is it possible for wastewater to bypass the treatment system? ~~NA~~ Y N

Does IU implement work orders for maintenance of pretreatment equipment? ~~Y N~~

Explain: NA, no pretreatment. Routine check-up on probes, meters

Type of discharge: Continuous Batch Blowdown is intermittent but continuous on daily basis

Is batch wastewater sampled and tested prior to discharge? Y N

everything is monitored online via computer automated system
How is batch discharge controlled (valve, computer, manually, etc.)?

Explain: Computer controlled; opens/closes valve via probe set point

Does pretreatment system have on-line monitoring? Y N EC { 820 - valve open
810 - valve close

Explain: cooling tower measured for pH, EC, Oxidative Reduction Potential

Does system have alarms? ^{high} low pH alarm; Y N

Alarm response procedures: headquarters in Houston (operation control center) monitor 24/7 and informs Oscar, automatic shut valve

Can person conducting tour explain the treatment process? Y N

Operation difficulties during the last year? Y N
Had an incident with high EC where headquarters allowed high EC blowdown to discharge; still within daily average limits

Is slug discharge plan required? Y N
Everything is computer controlled

Is written slug discharge plan available? Y N

Are storm water drains isolated from discharge or waste? Y N
No storm drains; facility premises is covered in gravel

SAMPLING and MONITORING

Sample type: Grab Composite Time Based Flow Proportional

Sampling point location description: Flume Southeast corner of bleach holding tank.
see attached photo.

(Please attach photos of sample locations and/or map)

Is sampling point isolated from domestic wastewater? Y N

When can representative samples be obtained? Explain: Daily basis - depending on
blowdown (intermittent)

Parameters Monitored	Frequency Monitored	Sample Type
2/yr - pH, BOD, TSS	2/year	grab
EC, lead		
iron, copper		
flow	monthly	metered

Parameters monitored on-line? Y N Explain: EC, pH, ORP

Monitoring records available? Y N Location: they can get it through IP21 system

Reports submitted? Y N Explain: monthly flow

Name of laboratory performing analyses: BC Lab.
they use lab reports to verify pH probes calibration process

HAZARDOUS MATERIAL STORAGE

Fresno County Hazardous Materials Business Plan: Y N
Sulfuric acid, bleach, water treatment chemicals

Material in secondary containment? Y N
all tanks are in concrete berms

Discharge points from secondary containment? Y N
gravel layout

MSDS Posted: Y N
They have online database

SPILL CONTROL and RESPONSE:

Written plan? Y N

Posted? Y

N They have a shelf ^{space} of binders: SDS, plan

Employees trained? Y N

Explain: Have a checklist for monthly inspection

Is spill containment equipment available? Y N

Can spills enter sewer drains? Y N

Are potential spills hazardous to collection system/WWTF? Y N no drains

WASTE

Does facility generate hazardous waste? Y N

Describe process producing waste: NA

Characterization of waste: NA

Proper segregation of waste materials? NA Y N

Waste material in secondary containment? NA Y N

Describe: NA

Waste manifests available? NA Y N

COMPLIANCE SUMMARY

Does permit require modification: Y N

Explain: include sampling point location description on new permit

Are additional pretreatment processes required? Y N

Explain: _____

POST INSPECTION REPORT

Follow-up inspection: No

Inspector: Thomas Siphongson Date: 11/4/15

Attended By: Oscar Abundes Date: 11/4/15
Scot Govert





Facility Inspection Report

INITIAL
 ANNUAL
 FOLLOW-UP
 Other: _____

Date: 6-10-15

Time: 2:00 pm

INDUSTRIAL USER PROFILE

Industry Name: Fifth Wheel

SIC No.: NA

Categorical No.: NA

Address: 3767 S. Goldenstate Blvd.

Telephone: 559-485-0701

Permit No. and Class: 1160, Class 1

APN: NA

Contact: Anantpal Singh

Title: Manager

Email: —

Phone: 1-661-201-4782

Description of business activity: Commercial Truck Wash

Number of employees: 3 Days and hours of operation: ≈ 10 hrs/day, 4 days a week

SAFETY

Does facility require employee PPE? Y N

PPE List: Rubber gloves, boots, jumpsuit

Are safe operating practices evident? Y N

Security/Safety access requirements: None

BACKFLOW PREVENTOR

Present: Y N Water meter size: _____

Certified: Y N Water meter operational: Y N

FLOW DATA:

Size of sewer discharge pipe: 4" ← District information (ties into manhole)

Discharge wastewater flow rate: NA

Discharge wastewater metered? Y N

Does IU report flow data? Y N

Frequency: NA

PRETREATMENT and DISCHARGE

Plumbing: # Sinks: — # Showers: — # Toilets: — # Floor Drains: 1 trough to central drain

Does facility have a pretreatment system? Y N

Does IU have a schematic/process flow diagram? Y N
(Please attach applicable diagrams)

Description of processes generating wastewater: The wash big trucks using detergent solution and a pressure washer.

Type of wastewater pretreatment system: None

- | | | |
|--|---|--|
| <input type="checkbox"/> Absorption | <input type="checkbox"/> Gravity Separation | <input type="checkbox"/> Oil Water Separator |
| <input type="checkbox"/> Adsorption | <input type="checkbox"/> Ion Exchange | <input type="checkbox"/> Grit Separator |
| <input type="checkbox"/> Clarification | <input type="checkbox"/> Membrane Processes | <input type="checkbox"/> Coagulation |
| <input type="checkbox"/> Neutralization | <input type="checkbox"/> Coalescing | <input type="checkbox"/> Oxidation/Reduction |
| <input checked="" type="checkbox"/> Filtration | <input type="checkbox"/> Precipitation | <input type="checkbox"/> Flocculation |
| <input type="checkbox"/> Distillation | <input type="checkbox"/> Flotation | <input type="checkbox"/> Other: _____ |

They say the — have a filter for solids/rags that get cleaned manually every ≈ 6 months

Is source water pretreated with softeners? Y N

Type system used: _____

Are detergents or additives in use? Y N

Types of detergents or additives: Acid (see attachment); they use chrome brighteners

Does the IU have written procedures (SOP's) when adding chemicals? Y N

Explain: They ~~have~~ use a 1 gallon scoop of detergent for every 55 gallon drum

Is it possible for wastewater to bypass the treatment system? *NA* Y N
No treatment system

Does IU implement work orders for maintenance of pretreatment equipment? Y N

Explain: NA

Type of discharge: Continuous Batch

Is batch wastewater sampled and tested prior to discharge? Y N

How is batch discharge controlled (valve, computer, manually, etc.)?

Explain: NA, continuous discharge

Does pretreatment system have on-line monitoring? Y N

Explain: _____

Does system have alarms? Y N

Alarm response procedures: _____

Can person conducting tour explain the treatment process? Y *NA* N

- Tour conductor was simply a worker

Operation difficulties during the last year? Y N

Is slug discharge plan required? Y N

the store chemicals outside washing bay

Is written slug discharge plan available? Y N

Are storm water drains isolated from discharge or waste? Y N

There are 2 storm drains, we explained to them that they cannot allow discharge to enter storm drain

SAMPLING and MONITORING

Sample type: NA Grab Composite Time Based Flow Proportional

Sampling point location description: The manhole to the east of the truck wash bay, along the road next to the gas station, in front of the restaurant
 (Please attach photos of sample locations and/or map)

Is sampling point isolated from domestic wastewater? Y N

When can representative samples be obtained? Explain: Random days, when there is steady truck activity

Parameters Monitored	Frequency Monitored	Sample Type
<u>None</u>		

Facility does not monitor

Parameters monitored on-line? Y N Explain: NA

Monitoring records available? Y N Location: NA

Reports submitted? Y N Explain: NA

Name of laboratory performing analyses: NA

HAZARDOUS MATERIAL STORAGE

Fresno County Hazardous Materials Business Plan: Y N

Material in secondary containment? Y N

Discharge points from secondary containment? Y N

MSDS Posted: Y N

Chemicals have labels, see attachment down

- Detergent is stored outside in a metal bin - no drains

Low Potential for spill

SPILL CONTROL and RESPONSE:

Written plan? Y N Posted? Y N

Employees trained? Y N Explain: NA, no potential for slug/spill

Is spill containment equipment available? *NA* Y N

Can spills enter sewer drains? *Detergent located outside* Y N

Are potential spills hazardous to collection system/WWTF? Y N *low potential for spill, but if somehow a spill was to occur then potentially hazardous*

WASTE

Does facility generate hazardous waste? *NA* Y N

Describe process producing waste: _____

Characterization of waste: _____

Proper segregation of waste materials? *NA* Y N

Waste material in secondary containment? *NA* Y N

Describe: _____

Waste manifests available? *NA* Y N

Facility does not generate waste

COMPLIANCE SUMMARY

Does permit require modification: NA

Y

N

Explain: Will need to look at MSDS of detergent, implement BMPs, conduct local limits study

Are additional pretreatment processes required? NA

Y

N

Explain: Same explanation above

POST INSPECTION REPORT

Will need to talk to manager in Baker's field to obtain MSDS.

Follow-up inspection: _____

Inspector: Thomas Siphonysan

Date: 6-10-15

Attended By: 5th wheel workers

Date: 6-10-15

Aaron (Intern/interpreter)

CHEM-MARK

MFG.

INDUSTRIAL AND COMMERCIAL CLEANING CHEMICALS

JO-303

WARNING

DANGER!

CAUSES SEVERE BURNS TO SKIN AND EYES.

Reacts violently with strong alkali. Causes severe burns to skin and eyes. Avoid contact with eyes, skin, and clothing. Do not take internally. Avoid breathing vapor or mist. Wear goggles and protective clothing. Add slowly to liquids to avoid splattering. Keep container closed; use with adequate ventilation. In case of contact, immediately flush skin or eyes with water for at least 15 minutes; for eyes, seek medical attention immediately. Flush spillage with water. Dispose of in accordance with local, state and federal regulations.

CONTAINS HYDROFLUORIC ACID

Can cause severe burns which may not be immediately painful or visible. When handling, wear a face shield, rubber gloves, and rubber apron. In case of contact, immediately flush skin with plenty of water for at least 15 minutes.

UN2922, Corrosive liquid, Toxic, N.O.S. (Hydrofluoric Acid and Sulfuric Acid), 8, (6.1), PGII, ERG #154

55 GAL

KEEP OUT OF REACH
OF CHILDREN

FOR INDUSTRIAL
USE ONLY

ACID

California Soda Company
355 Mandela Parkway
Oakland CA 94607

**PAGES 2, -113 OF THIS DOCUMENT HAVE BEEN
PROVIDED TO THE CENTRAL VALLEY WATER
BOARD IN ELECTRONIC COPY ONLY**

MALAGA COUNTY WATER DISTRICT

MASTER SCHEDULE OF FEES, CHARGES, PENALTIES AND RECOVERED COSTS

Effective 1 February 2016

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MALAGA COUNTY WATER DISTRICT

MASTER SCHEDULE OF FEES, CHARGES AND RECOVERED COSTS

CHAPTER ONE

SEWER

1. **SEWER RATES**

- A. **Residential Equivalent Sewer Unit (“ESU”)** \$ 33.08

An ESU is equivalent to sewer service to a residential unit (single family dwelling)

The basic formula* used to calculate an ESU:

$$\text{ESU} = \frac{\text{Flow (gpd)}}{150} \times \left[0.4 + \frac{0.3(\text{BOD mg/1})}{175} + \frac{0.3(\text{TSS mg/1})}{185} \right]$$

*The formula is subject to change as deemed necessary by the District based on user classification or otherwise and does not apply to users who have requested and/or been assigned a minimum ESU based on connection size, capacity requirement, or reservation, or to accommodate special situations and for commercial and industrial sewer use calculations.

- B. **Industrial User Equivalent Sewer Unit (“ESU”)** \$ 33.08

Commercial/industrial users are assigned ESUs by the District based on water use, wastewater flow, and characterization.

The Industrial User ESUs assigned may be reviewed and recalculated at any time by the District or at the request of the applicant and the approval of the General Manager.

- C. **Collection System Surcharge (All users)** \$ 5.44/ESU

A surcharge per ESU for collection system inspection, maintenance, and repairs.

- D. **Compliance/Ground Water Quality Surcharge (All users)** \$ 5.02/ESU

A surcharge for the costs of compliance with state and federal regulations for groundwater quality and conservation.

- E. **Residential Pretreatment Surcharge** \$ 0.18/ESU

A surcharge for pretreatment costs of residential sewer service.

F.	<u>Industrial User Pretreatment Surcharge</u>	\$ 7.58/ESU
	A surcharge for pretreatment costs of commercial and industrial sewer service.	
G.	<u>Industrial User Capacity Expansion Surcharge</u>	\$ 6.91/ESU
	A surcharge for capacity expansion costs of commercial and industrial sewer service.	
H.	<u>Total Residential Sewer Rate per ESU</u>	\$ 43.72/ESU
I.	<u>Total Industrial/Commercial Sewer Rate per ESU</u>	\$ 58.03/ESU
J.	<u>New sewer connection fee</u>	\$ 1,918.65/ESU
	Connection fee for new sewer service per ESU.	

2. PERMITS

A.	Sewer Permit Fee (All users) (Applications are made with an application for water service. Separate fee required.)	\$ 46.51 per connection
B.	Non-Residential: Industrial User Wastewater Discharge Permit (new user)	
	Class 1 - SIU (MC §3.06.010 (A).)	\$1,923.20
	Class 2 - Categorical User (MC §3.06.010 (B).)	\$2,394.93
	Class 3 - Potential Discharging Categorical User (MC §3.06.010 (C).)	\$1,161.32
	Class 4 – FSE (MC §3.06.010 (D).)	\$ 636.31
	Class 5 – Industrial User (MC §3.06.010 (E).)	\$ 204.50

¹ *New User shall include a permit issued to an existing customer who is required to change Permit Classification as determined by the District*

² *Fee does not include costs of sampling and testing, review of pretreatment plan, review of SLUG control plan, review of FOG control plan, compliance/enforcement inspections, compliance orders, enforcement actions, or any other costs to the District not directly related to the issuance of a permit, all of which are billed at actual costs to the District.*

C.	Permit Renewal / Annual Permit Fee ³ .	
	1) Class 1 - SIU	\$1,262.78
	2) Class 2 - Categorical User Permit	\$1,697.61
	3) Class 3 - Potential Discharging Categorical User	\$ 567.46
	4) Class 4 - FSE	\$ 488.55
	5) Class 5 - Industrial User Permit	\$ 93.29

3. Fee does not include costs of sampling and testing, review of pretreatment plan, review of SLUG control plan, review of FOG control plan, compliance/enforcement inspections, compliance orders, enforcement actions, or any other costs to the District not directly related to the issuance of a permit, all of which are billed at actual costs to the District.

D. Additional Charges:

- 1) Class 1 through 3 Permit
 - a. Required Permit Inspection(s)⁴
\$ No Charge
 - b. Compliance Schedule/Order Inspection⁵ \$ 144.17
 - c. Compliance Schedule/Order Inspection,
Requiring Sampling and Testing \$ 144.17
(plus actual costs of sampling, monitoring and testing.)
 - d. Enforcement Inspection⁶ \$ 144.17
 - e. Enforcement Inspection,
Requiring Sampling and Testing \$ 144.17
(plus actual costs of sampling, monitoring and testing.)

- 2) Class 4 Permit
 - a. Requires Permit Inspection(s)⁴ \$ No Charge
 - b. Compliance Schedule / Order Inspection⁵ \$ 98.94
 - c. Compliance Schedule / Order Inspection,
Requiring Sampling and Testing \$ 98.94
(plus actual costs of sampling, monitoring and testing.)
 - d. Enforcement Inspection⁶ \$ 98.94
 - e. Enforcement Inspection Requiring Sampling and Testing \$ 98.94
(plus actual costs of sampling, monitoring and testing.)

- 3) Class 5 Permit
 - a. Required Permit Inspection(s)⁴ \$ No Charge
 - b. Compliance Schedule / Order Inspection⁵ \$ 50.88
 - c. Compliance Schedule / Order Inspection,
Requiring Sampling and Testing \$ 50.88 (plus actual costs of
sampling, monitoring and testing.)
 - d. Enforcement Inspection⁶ \$ 50.88
 - e. Enforcement Inspection,
Requiring Sampling and Testing \$ 50.88 (plus actual costs of
sampling, monitoring and testing.)

- 4) Class 1 through 5 Permits
 - a. Review of Pretreatment Plan actual cost*
 - b. Review of Slug Control Plan actual cost*
 - c. Review of Fog Control Plan actual cost**

d. Compliance Order/Schedule

actual cost**

*Requires \$2,500.00 Deposit

**Requires \$1,500.00 Deposit

4. *Required Permit Inspection(s) are those inspections required by the permit which includes 1 inspection for class 1,2,3, and 5 permits and 3 inspections for a class 4 permit.*
5. *Compliance Schedule /Order Inspection(s) are inspections required to confirm compliance with a compliance schedule or compliance order issued by the District.*
6. *Enforcement inspections are inspections deemed necessary by the District to ensure compliance with the users permit*

3. LOADING SURCHARGES

- 1) Biochemical Oxygen Demand (BOD) in excess of 300 milligrams per liter (mg/L) shall be charged a loading surcharge of \$6.56 per 100 pounds of BOD in excess of 300 mg/L. Loading surcharges are not a monetary exchange to dilute or pollute. Loading surcharges pay the cost to treat excess loading. Industrial Users are subject to penalties to be charged by the District or incurred by the District as a result of excessive BOD loadings or violation of the Malaga Code.
- 2) Total Suspended Solids (TSS) in excess of 300 milligrams per liter (mg/L) shall be charged a loading surcharge of \$ 7.81 per 100 pounds of TSS in excess of 300 mg/L. Loading surcharges are not a monetary exchange to dilute or pollute. Loading surcharges pay the cost to treat excess loading. Industrial Users are subject to penalties to be charged by the District or incurred by the District as a result of excessive TSS loadings or violation of the Malaga Code.
- 3) Electrical Conductivity (EC) in excess of 800 micro-ohms per centimeter at 25 C (u-ohm/cm @ 25 C) shall be charged a loading surcharge of the cost of water at current rates required to maintain 800 u-ohm/cm @ 25 C. The EC surcharge is not a monetary exchange to dilute or pollute. Loading surcharges pay the cost to treat excess loading. Industrial Users are subject to penalties to be charged by the District or incurred by the District as a result of excessive EC loadings or violation of the Malaga Code.

4. SANITARY SEWER OVERFLOW.

Sanitary Sewer Overflow (SSO) clean-up costs and penalties due to an SSO caused by any sewer user (residential, commercial, or industrial) shall be charged to the responsible party, and are also subject to additional citations, penalties, and other enforcement actions in accordance with the District's Sewer System Management Plan and the Malaga Code.

5. SEWER COLLECTION SYSTEM.

Sewer collection system cleaning or maintenance costs caused by any sewer user (residential, commercial, or industrial) shall be charged to the responsible party, and are

also subject to additional citations, penalties, and other enforcement actions in accordance with the District's Sewer System Management Plan and the Malaga Code.

6. SEWER PIPELINE REPLACEMENT AND REPAIR.

Any sewer user or any other person who causes damage to the District's sewer collection system that requires replacement or repair of any infrastructure shall be charged all costs, plus 30% for administration and overhead if replacement or repairs are done by the District. Additional citations, fines, or penalties may also apply in accordance with state and county laws, and the Malaga Code.

7. COLLECTION SYSTEM INSTALLATION- DISTRICT

Installation cost if by District, plus 30% (administration and overhead).

MALAGA COUNTY WATER DISTRICT

MASTER SCHEDULE OF FEES, CHARGES, PENALTIES AND RECOVERED COSTS

CHAPTER TWO

WATER

1. RESIDENTIAL (UNMETERED) \$ 19.50 per month
2. BASE RATE (METERED)

The monthly cost of water service based on meter size.

CF = cubic foot = 7.48 gallons; HCF = hundred cubic feet = 748 gallons

<u>Meter Size</u>	<u>Allocation CF</u>	=	<u>Allocation HCF</u>	<u>Monthly Cost</u>
3/4"	700	=	7.0	\$ 7.56
1" – 1 1/4"	1200	=	12.0	12.60
1 1/2"	2300	=	23.0	25.20
2"	3700	=	37.0	40.32
3"	7000	=	70.0	75.60
4"	11,700	=	117.0	126.00

3. TIER 1 QUANTITY CHARGE

The monthly charge (in addition to the Base Rate in item 2 above) per HCF water usage greater than the base rate allocation.

<u>Meter Size</u>	<u>Allocation HCF</u>	<u>Cost per HCF</u>
3/4"	7.1 – 20.0	\$ 1.09
1" – 1 1/4"	12.1 – 33.0	1.09
1 1/2"	23.1 – 67.0	1.09
2"	37.1 – 107.0	1.09
3"	70.1 – 200.0	1.09
4"	117.1 – 333.0	1.09

4. TIER 2 QUANTITY CHARGE

The monthly charge (in addition to the Base Rate and the Tier 1 Rate) per HCF water usage greater than the Tier 1 allocation.

The Tier 2 charge equals the Tier 1 charge plus the Groundwater Sustainability Surcharge as defined in the Malaga Code. The Groundwater Sustainability Surcharge is \$ 0.58/HCF.

<u>Meter Size</u>	<u>Allocation HCF</u>	<u>Cost per HCF</u>
3/4"	> 20.0	\$ 1.67
1" – 1 1/4"	> 33.0	1.67

<u>Meter Size</u>	<u>Allocation HCF</u>	<u>Cost per HCF</u>
1 ½"	> 67.0	\$ 1.67
2"	> 107.0	1.67
3"	> 200.0	1.67
4"	> 333.0	1.67

5. PRIVATE FIRELINE SERVICES - Base Rate

The monthly rate per area in square feet of the building being serviced.

<u>Meter Size</u>	<u>Area Allocation (sq ft)</u>	<u>Monthly Cost</u>
2" Meter	8,000	\$ 22.85
3" Meter	15,000	42.84
4" Meter	25,000	71.40
6" Meter	40,000	142.80
8" Meter	64,000	228.48
10" Meter	92,000	328.44

Additional charge per thousand square feet of building over allowance: \$ 2.76

6. CONNECTION FEE: WATER SERVICE

The fee to install a new water service connection.

<u>Meter Size</u>	<u>Fee</u>
Single Family Dwelling	\$ 1,307.75 each
¾"	\$ 1,867.45 each
1"	\$ 3,175.20 each
1 ¼"	\$ 4,482.96 each
1 ½"	\$ 6,165.88 each
2"	\$ 9,902.35 each
3"	\$ 18,681.85 each
4"	\$ 31,199.74 each
6" and greater	Determined at time of application

7. CONNECTION FEE: FIRE SERVICE

The fee to install a new water connection for fire suppression service.

<u>Size</u>	<u>Fee</u>
2"	\$ 742.61 each
3"	\$ 1,111.02 each
4"	\$ 1,460.20 each
6"	\$ 2,547.48 each
8"	\$ 3,822.82 each
10"	\$ 4,159.06 each
12"	\$ 4,390.86 each

8. WATER METER FEE

The cost of a water meter supplied by the District. Only approved water meters are permitted. If the District provides the water meter, the cost is the same as the District's cost.

9. MISCELLANEOUS WATER FEES, PERMITS, AND DEPOSITS

The cost of miscellaneous fees, permits, and deposits. All new water service accounts require a water use permit fee and a deposit in addition to the rates and fees listed above in items 1, 2, 5, 6, and 7.

Temporary hydrant use requires the use of a District approved backflow prevention device (BPD) and meter. A deposit is required for a District supplied meter with BPD.

<u>Item</u>	<u>Cost</u>
Water Permit	\$ 33.90 each
Deposit: New Residential Account	\$ 19.50 each
Deposit: New Commercial Account	\$ one month's base rate per meter size
Connection Inspection	\$ 33.90 each
Temporary Hydrant Use	\$ 173.30 each
Deposit: District hydrant meter with BPD	\$ 1,637.60 each
Temporary Hydrant Minimum Charge	\$ 235.90 each

10. METER TEST DEPOSIT

Upon a customer's request, the fee to test a water meter. The deposit shall be refunded if the meter registers more than two percent (2.0%) higher than it should. The deposit for the meter test is \$133.50 per meter tested.

11. WATER SERVICE RECONNECTION FEE

The fee to resume water service that has been terminated. Water service can be terminated for failure to pay the water bill, or misuse of water as described in the Malaga Code. Other penalties and fines related to misuse of water contained in the Malaga Code may also apply. The water service reconnection penalty is \$ 66.75.

12. LATE PENALTY FEE

The fee for paying the District water/sewer/trash utility bill after the due date is \$10.

13. PRIVATE FIRE PROTECTION INSTALLATION CHARGE- DISTRICT

Installation cost if by District , plus 30% (administration and overhead).

14. PIPELINE INSTALLATION CHARGE - DISTRICT

Installation cost if by District, plus 30% (administration and overhead).

15. TEMPORARY WATER SERVICE FEES

Temporary water service may be provided at the discretion of the General Manager for water service that has been terminated or for other reasons. For water service that has been terminated, the following fees are in addition to the water service reconnection fee in item 11 above.

A. Application

A non-refundable application fee is required at the time the application is submitted. The application for temporary water service will not be processed without payment of the application fee. The application fee for processing an application for temporary water service is twenty-five dollars (\$25.00).

B. Deposit

A deposit of four hundred dollars (\$400) or an amount determined by the Manager must be paid before a permit for temporary water service may be issued.

C. Rate

The rate for temporary water service is \$16.58 for the first HCF and \$ 1.15 per HCF > 1.0 HCF.

MALAGA COUNTY WATER DISTRICT

MASTER SCHEDULE OF FEES, CHARGES, PENALTIES AND RECOVERED COSTS

CHAPTER THREE

PARK AND RECREATION FACILITIES: FEES, RENTALS, AND DEPOSITS

<u>FACILITY</u>	<u>RATE</u>	<u>DEPOSIT</u>
1. Multi-Purpose Room	\$75/Hr (4 hour minimum) \$50/Hr set-up/cleaning (2 hour min/max per day) \$125/Hr after 8 hours and Holidays	\$ 400
2. Annex Room	\$25/Hr with #1, \$50/Hr alone (4 hour minimum) \$50/Hr set-up/clean-up (2 hours min/max per day) \$100/Hr after 8 hours and Holidays	200 \$100 w/#1
3. Kitchen	\$25/Hr with #1 or #2, \$50/Hr alone (4 hour minimum)	100
4. La Cantina	\$25/Hr with #1 or #2, \$50/Hr alone (4 hour minimum)	50
5. Meeting Room	\$25/Hr with #1 or #2, \$50/Hr alone (2 hour minimum)	50
6. Picnic Area and BBQ	\$25/Hr (4 hour minimum)	50
7. Unsheltered Picnic Area	\$25/Hr (4 hour minimum)	50
8. Gazebo	\$25/Hr (4 hour minimum)	50
9. Park Table #1	\$25 daily rate	25
10. Park Table #2	\$25 daily rate	25
11. Park Table #3	\$50 daily rate	50
12. Park Table #4	\$50 daily rate	50
13. Park Table #5	\$50 daily rate	50
14. Park Table #6	\$50 daily rate	50
15. Park Table #7	\$25 daily rate	25
16. Playground Area	\$25/Hr (4 hour minimum)	50

<u>FACILITY</u>	<u>RATE</u>	<u>DEPOSIT</u>
17. Pool	\$50/Hr (2 hour minimum) *Lifeguards additional at cost	50
18. General Field Area And Baseball Fields (each)	\$25/Hr no lights \$40/Hr with lights (2 hour minimum)	25
19. <u>Multi-Purpose Room or Other Facilities for Memorial Services</u>		

Subject to the approval of the General Manager, a resident of Malaga, or a deceased resident's immediate family, may use the Multi-Purpose Room or other facilities without charge for memorial or similar services for a deceased grandparent, parent, child, spouse or domestic partner, or sibling.

MALAGA COUNTY WATER DISTRICT

SCHEDULE OF FEES, CHARGES, PENALTIES, AND RECOVERED COSTS

CHAPTER FOUR

SOLID WASTE

1. RESIDENTIAL

\$ 24.97 PER MONTH

**MALAGA COUNTY WATER DISTRICT
MASTER SCHEDULE OF FEES, CHARGES, PENALTIES AND RECOVERED COSTS**

CHAPTER FIVE

PENALTIES AND CITATIONS

1. General Penalties. The penalties for violating any provision of the Malaga Ordinance Code are set forth in Chapter 7 of Title One of the Malaga Code. Nothing set forth in this Master Schedule of Fees, Charges, Penalties and Recovered Costs shall limit or restrict the District's authority or ability to utilize any other penalty or remedy available to it at law.

2. Administrative Citations. The violation of any provision of the Malaga Code is subject to an Administrative Citation and administrative fine. The administrative fines for violating the Malaga Code are as follows:
 - a. Every violation of the Malaga Code, unless otherwise defined, is punishable by:
 - (1) a fine not exceeding \$100 for a first violation;
 - (2) a fine not exceeding \$200 for a second violation of the same ordinance within one (1) year; and
 - (3) a fine not exceeding \$500 for each additional violation of the same ordinance within one (1) year;

 - b. Notwithstanding the foregoing, any violation of an Individual Wastewater Discharge Permit, Pretreatment Standard, compliance order, or any other order is subject to the following penalties:
 - (1) a fine of \$1,000 per day, per violation. Each day a violation exists shall constitute a separate violation and in the case of a monthly or a long-term average violation of a Discharge limit, fines shall accrue for each day during the period of the violation.

 - c. Watering/Water Wasting Violations:
 - (1) penalties for violating the District's Water Waste Ordinance Section 2.07.070 shall be as follows:
 - (a) first violation, warning;
 - (b) second violation within a one (1) year period - \$25 fine;
 - (c) third violation within one (1) year - \$50 fine;
 - (d) fourth violation within one (1) year - \$100 fine;
 - (e) fifth violation within one (1) year - \$200 fine;
 - (f) for the sixth and each additional violation within one (1) year - \$500 fine.

MALAGA COUNTY WATER DISTRICT

MASTER SCHEDULE OF FEES, CHARGES, PENALTIES AND RECOVERED COSTS

CHAPTER SIX

CHARGES FOR ADMINISTRATIVE, LEGAL AND ENGINEERING SERVICES

The following charges for administrative, legal and engineering costs incurred by the District in processing requests/applications for services by private individuals/developers, unless otherwise indicated, are as follows:

1. Water Service. The following fees shall apply to applications or requests by individuals/developers related to water service:
 - a. Review contracts, plans or miscellaneous research/reviews:
 - i. legal fees \$200/hour;
 - ii. engineering fees \$200/hour
 - iii. staff fees \$100/hour.
2. Sewer Service. The following fees shall apply to all requests by individuals/developers for services related to sewer service:
 - a. Review/draft contracts/agreements:
 - i. legal fees \$200/hour;
 - ii. engineering fees \$200/hour;
 - iii. staff fees \$100/hour.
 - b. Review plans:
 - i. legal fees \$200/hour;
 - ii. engineering fees \$200/hour;
 - iii. staff fees \$100/hour.
 - c. Miscellaneous research/reviews:
 - i. legal fees \$200/hour;
 - ii. engineering fees \$200/hour;
 - iii. staff fees \$100/hour.
3. Annexation. Fees related to annexations shall be as follows:
 - a. District annexation application fee \$200 per acre to be annexed.
 - b. \$ 10.85 per frontage foot existing water main; construction cost of new water main.
 - c. \$ 13.15 per frontage foot existing sewer main; construction cost of new sewer main.
 - d. Administrative, engineer, and legal review costs per items 1, 2, and 4.
 - e. LAFCo annexation fees at District cost
4. Construction Review. Fees for review of construction shall be based on the District Engineer's approved estimate of construction costs as follows:

Estimated Construction Costs As Approved by District Engineer	Estimated Construction Review Fee
\$0 - \$5,000	10% of cost
\$5,000 - \$25,000	\$600 + 6% of amount over \$5,000
\$25,000 - \$100,000	\$2,000 + 6% of amount Over \$25,000
\$100,000 - \$250,000	\$6,000 + 6% of amount Over \$100,000
Over \$250,000	\$15,000 + 5% of amount Over \$250,000

NOTE:

The Schedule of Construction Review Fees is provided as reference only. Construction activities are not directed by the District and are not under the control of the District. The District is due the fees incurred during the course of review of construction activities.

5. Additional Costs.

- a. Any meeting or conference held between the District and requesting party or his or her representative(s) and District staff shall be reimbursed by the individual requesting the service. The District staff, engineer and legal counsel will be reimbursed at the rates set forth above.
- b. Other Items. Costs incurred by the District related to requests for services not covered herein shall be determined, by the Board, at the time of the request.

6. Deposits. The District may require deposits for the processing of requests for services as set forth in this Chapter at an amount determined by the District. If, in the course of the project it is determined that the costs for the services requested will be in excess of the amount deposited, the requesting party shall be notified and will be required to make an additional deposit in an amount requested before any further work on the request proceeds. Failure of the requesting party or property Owner to make or maintain a deposit as required by the District shall result in the cessation of work on the request/project.

1 Neal E. Costanzo SBN 122352
2 Michael G. Slater SBN 247302
3 Costanzo & Associates
4 A Professional Corporation
5 575 E. Locust Avenue, Suite 115
6 Fresno CA 93720
7 Telephone: (559) 261-0163
8 Facsimile: (559) 261-0706

9 Attorneys for Malaga County Water District

10 **CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD**
11 **CENTRAL VALLEY REGION**

12) Complaint No. R5-2016-0512
13)
14 In the Matter of the Administrative) **REPLY TO PROSECUTION TEAM'S**
15 Civil Liability Complaint) **OBJECTION TO DISCHARGER'S**
16) **EVIDENCE AND WITNESS LIST**
17)
18) Hearing: April 21 / 22, 2016
19)
20)
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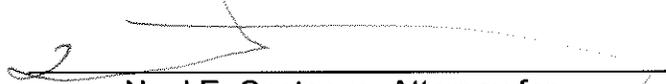
20 The Malaga County Water District ("District"), hereby replies to the Prosecution
21 Team's objection to the "Discharger's" evidence and Witness List. The objection is, by
22 its terms, "aimed only at the time limits listed in the "Discharger's" submittal . . ." and
23 appears to be made on only two grounds: (1). That the District failed to timely object to
24 the hearing procedures; and (2). The amount of time estimated by the District amounts
25 to a "waste of the Central Valley Water Board's and Staff's time and resources." The
26 objection does not set forth any legal support for the Prosecution Team's objections.
27 As set forth in the District's objections to the hearing procedures, the hearing
28 procedures, in addition to not being properly served, are unreasonable, and are not

1 authorized by any statute, and violate the District's statutory and Constitutional due
2 process rights to a full, fair and meaningful opportunity to be heard. Further, as set
3 forth in the District's objection to the hearing procedures, the District is entitled by
4 Government Code §11425.10, to the right to be heard including the opportunity to
5 present and rebut evidence. Limiting the District to 60 minutes of time to present
6 evidence, cross-examine witnesses, and rebut evidence presented by the Prosecution
7 Team or any time limit imposed upon the District prior to the hearing constitutes a
8 violation of the statute, is an unauthorized impairment of or qualification to that
9 statutory right, and plainly violates the District's Constitutional due process rights
10 particularly in light of the fact that the purported decision maker, the Regional Water
11 Quality Control Board (RWQCB), did not establish any hearing procedures for this case
12 and all pre-hearing determinations are being made by unidentified staff of RWQCB.
13 (See *Night Life Partners v. City of Beverly Hills* (2003) 108 Cal.4th 81, 90-92; *Sabey v.*
14 *City of Pomona* (2013) 215 Cal.App.4th 489).

15 For the foregoing reasons, the District's objections to the hearing procedures
16 should have been sustained instead of overruled by a staff attorney and the current
17 objection of the "Prosecution Team" is meritless and must be overruled.

18 //

19 Dated: March 30, 2016

20 
21 _____
22 Neal E. Costanzo, Attorney for
23 Malaga County Water District
24
25
26
27
28

1 **PROOF OF ELECTRONIC SERVICE**

2 The undersigned declares:

3 Shirlene R. Capuchino, the undersigned, declare that:

4 I am employed in the County of Fresno, State of California. I am over the age of eighteen
5 years, and am not a party to the within action. My business address is 575 E. Locust Avenue,
6 Suite 115, Fresno California 93720.

7 My electronic mail address is: scapuchino@costanzolaw.com

8 On March 30, 2016, at 11:30 (am/pm), I served the following documents described
9 below via electronic mail:

- 10 1. REPLY TO PROSECUTION TEAMS OBJECTION TO DISCHARGER'S
11 EVIDENCE AND WITNESS LIST

12 on all parties to this action as addressed below:

13 Adam Laputz
14 Adam.Laputz@waterboards.ca.gov

15 Partick Pulupa
16 Partick.Pulupa@waterboards.ca.gov

17 Dale Harvey
18 Dale.Harvey@waterboards.ca.gov

19 Naomi Kaplowitz
20 Naomi.Kaplowita@waterboards.ca.gov

21 Melissa Hall
22 Melissa.Hall@waterboards.ca.gov

23 I declare under penalty of perjury under the laws of the State of California that the
24 foregoing is true and correct.

25 Date: March 30, 2016

26 
27 Shirlene R. Capuchino
28